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Presidential Documents

Title 3—

The President

Executive Order 13817 of December 20, 2017

A Federal Strategy To Ensure Secure and Reliable Supplies of Critical Minerals

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Findings.* The United States is heavily reliant on imports of certain mineral commodities that are vital to the Nation's security and economic prosperity. This dependency of the United States on foreign sources creates a strategic vulnerability for both its economy and military to adverse foreign government action, natural disaster, and other events that can disrupt supply of these key minerals. Despite the presence of significant deposits of some of these minerals across the United States, our miners and producers are currently limited by a lack of comprehensive, machine-readable data concerning topographical, geological, and geophysical surveys; permitting delays; and the potential for protracted litigation regarding permits that are issued. An increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals, and support for efforts to identify more commonly available technological alternatives to these minerals, will reduce our dependence on imports, preserve our leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation's most significant consumers of critical minerals.

Sec. 2. *Definition.* (a) A ''critical mineral'' is a mineral identified by the Secretary of the Interior pursuant to subsection (b) of this section to be (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security.

(b) The Secretary of the Interior, in coordination with the Secretary of Defense and in consultation with the heads of other relevant executive departments and agencies (agencies), shall publish a list of critical minerals in the *Federal Register* not later than 60 days after the date of this order, and disseminate such list to the appropriate agencies.

Sec. 3. *Policy.* It shall be the policy of the Federal Government to reduce the Nation's vulnerability to disruptions in the supply of critical minerals, which constitutes a strategic vulnerability for the security and prosperity of the United States. The United States will further this policy for the benefit of the American people and in a safe and environmentally responsible manner, by:

(a) identifying new sources of critical minerals;

(b) increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals;

(c) ensuring that our miners and producers have electronic access to the most advanced topographic, geologic, and geophysical data within U.S. territory to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, including appropriate limitations to protect critical infrastructure data such as those related to national security areas; and

(d) streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals.

Sec. 4. *Implementation.* (a) Within 180 days of the date that the Secretary of the Interior publishes a list of critical minerals under section 2 of this order, the Secretary of Commerce, in coordination with the Secretaries of Defense, the Interior, Agriculture, and Energy, and the United States Trade Representative, shall submit a report to the President through the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy. The report shall include:

(i) a strategy to reduce the Nation's reliance on critical minerals;

(ii) an assessment of progress toward developing critical minerals recycling and reprocessing technologies, and technological alternatives to critical minerals;

(iii) options for accessing and developing critical minerals through investment and trade with our allies and partners;

(iv) a plan to improve the topographic, geologic, and geophysical mapping of the United States and make the resulting data and metadata electronically accessible, to the extent permitted by law and subject to appropriate limitations for purposes of privacy and security, to support private sector mineral exploration of critical minerals; and

(v) recommendations to streamline permitting and review processes related to developing leases; enhancing access to critical mineral resources; and increasing discovery, production, and domestic refining of critical minerals.

(b) Agencies shall implement subsection (a) of this section in a manner consistent with, and when possible complementary to, implementation of Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs), Executive Order 13783 of March 28, 2017 (Promoting Energy Independence and Economic Growth), Executive Order 13807 of August 15, 2017 (Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects), and Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review).

Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

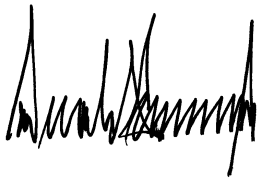
(i) the authority granted by law to an executive department or agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals; or

(iii) existing treaties or international agreements relating to mineral production, imports, or exports.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
December 20, 2017.

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Presidential Documents

Executive Order 13818 of December 20, 2017

Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the Global Magnitsky Human Rights Accountability Act (Public Law 114–328) (the ''Act''), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)) (INA), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that the prevalence and severity of human rights abuse and corruption that have their source, in whole or in substantial part, outside the United States, such as those committed or directed by persons listed in the Annex to this order, have reached such scope and gravity that they threaten the stability of international political and economic systems. Human rights abuse and corruption undermine the values that form an essential foundation of stable, secure, and functioning societies; have devastating impacts on individuals; weaken democratic institutions; degrade the rule of law; perpetuate violent conflicts; facilitate the activities of dangerous persons; and undermine economic markets. The United States seeks to impose tangible and significant consequences on those who commit serious human rights abuse or engage in corruption, as well as to protect the financial system of the United States from abuse by these same persons.

I therefore determine that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby determine and order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order;

(ii) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(A) to be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse;

(B) to be a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in:

(1) corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or

(2) the transfer or the facilitation of the transfer of the proceeds of corruption;

(C) to be or have been a leader or official of:

(1) an entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section relating to the leader's or official's tenure; or

(2) an entity whose property and interests in property are blocked pursuant to this order as a result of activities related to the leader's or official's tenure; or

(D) to have attempted to engage in any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section; and

(iii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:

(A) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) any activity described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section that is conducted by a foreign person;

(2) any person whose property and interests in property are blocked pursuant to this order; or

(3) any entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section, where the activity is conducted by a foreign person;

(B) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or

(C) to have attempted to engage in any of the activities described in subsections (iii)(A) or (B) of this section.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the effective date of this order.

Sec. 2. The unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1 of this order would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

Sec. 3. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. The prohibitions in section 1 include:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

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

Sec. 6. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

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

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA and the Act as may be necessary to implement this order and section 1263(a) of the Act with respect to the determinations provided for therein. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions to other officers and agencies of the United States. All agencies shall take all appropriate measures within their authority to implement this order.

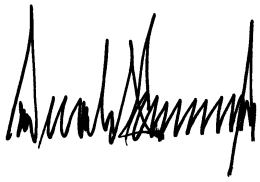
Sec. 9. The Secretary of State is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA, the INA, and the Act as may be necessary to carry out section 2 of this order and, in consultation with the Secretary of the Treasury, the reporting requirement in section 1264(a) of the Act with respect to the reports provided for in section 1264(b)(2) of that Act. The Secretary of State may, consistent with applicable law, redelegate any of these functions to other officers and agencies of the United States consistent with applicable law.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 12. This order is effective at 12:01 a.m., Eastern Standard Time, December 21, 2017.

Sec. 13. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,

December 20, 2017.

Billing code 3295–F8–P

ANNEX

1. Mukhtar Hamid Shah; Date of Birth (DOB) August 11, 1939; alt. DOB November 8, 1939; nationality, Pakistan

2. Angel Rondon Rijo; DOB July 16, 1950; nationality, Dominican Republic

3. Dan Gertler; DOB December 23, 1973; nationality, Israel; alt. nationality, Democratic Republic of the Congo

4. Maung Maung Soe; DOB March 1964; nationality, Burma

5. Yahya Jammeh; DOB May 25, 1965; nationality, The Gambia

6. Sergey Kusiuk; DOB December 1, 1966; nationality, Ukraine; alt. nationality, Russia

7. Benjamin Bol Mel; DOB January 3, 1978; alt. DOB December 24, 1978; nationality, South Sudan; alt. nationality, Sudan

8. Julio Antonio Juárez Ramírez; DOB December 1, 1980; nationality, Guatemala

9. Goulnora Islamovna Karimova; DOB July 8, 1972; nationality, Uzbekistan

10. Slobodan Tesic; DOB December 21, 1958; nationality, Serbia

11. Artem Yuryevich Chayka; DOB September 25, 1975; nationality, Russia

12. Gao Yan; DOB April 1963; nationality, China

13. Roberto Jose Rivas Reyes; DOB July 6, 1954; nationality, Nicaragua

[FR Doc. 2017–27925

Filed 12–22–17; 8:45 am]

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Rules and Regulations

Federal Register

Vol. 82, No. 246

Tuesday, December 26, 2017

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

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0057]

Energy Conservation Program: Energy Conservation Standards for Rough Service Lamps and Vibration Service Lamps

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this final rule in order to codify in the Code of Federal Regulations certain backstop requirements for rough service lamps and vibration service lamps that Congress prescribed in the Energy Policy and Conservation Act. These backstop requirements apply as a result of the subject lamps exceeding sales thresholds specified in the statute. In particular, this rule applies a statutorily-established 40-watt maximum energy use and packaging limitation to rough service lamps and vibration service lamps.

DATES: The effective date of this rule is January 25, 2018. The incorporation by reference of a certain publication listed in this rulemaking is approved by the Director of the **Federal Register** on January 25, 2018.

ADDRESSES: The docket 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 *http://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-STD-0057.* The docket web page will contain simple instructions on how to access all documents in the docket.

FOR FURTHER INFORMATION CONTACT: 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.*

Appliance Standards staff, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into 10 CFR part 430 the following commercial standard: NSF/ANSI 51–2007 (''NSF/ANSI 51''), Food equipment materials, revised and adopted April 2007. Copies of NSF/ANSI 51 may be purchased from NSF International, P.O. Box 130140, 789 North Dixboro Road, Ann Arbor, MI 48113–0140, 1–800–673–6275, or go to *http://www.nsf.org.*

For a further discussion of this standard, see section IV.M.

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I. Background

Pursuant to 42 U.S.C. 6295(l)(4) of the Energy Policy and Conservation Act of 1975 (EPCA),[1] Public Law 94–163 (42 U.S.C. 6291–6317, as codified), DOE is required to collect unit sales data for calendar years 2010 through 2025, in consultation with the National Electrical Manufacturers Association (NEMA), for rough service, shatter-resistant, 3-way incandescent lamps, 2,601–3,300 lumen general service incandescent lamps, and vibration service lamps. For each of these five lamp types, DOE, in consultation with NEMA, must also construct a model based on coincident economic indicators that closely match the historical annual growth rates of each lamp type to provide a neutral comparison benchmark estimate of future unit sales. (42 U.S.C. 6295(l)(4)(B). Section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (EISA 2007) in part amends paragraph 325(l) of EPCA by adding paragraphs (4)(D) through (H), which direct DOE to initiate an accelerated rulemaking to establish an energy conservation standard for these lamps if the actual annual unit sales of any of the lamp types in any year between 2010 and 2025 exceed the benchmark estimate of unit sales by at least 100 percent (*i.e.,* are greater than 200 percent of the anticipated sales). (42 U.S.C. 6295(l)(4)(D)–(H)) If the Secretary of Energy (Secretary) does not complete the accelerated rulemakings within one year from the end of the previous calendar year during which predicted sales were exceeded, there is a ''backstop requirement'' for each lamp type, which would establish, by statute, energy conservation standard levels and related requirements. *Id.* For 2,601–3,300 lumen general service incandescent lamps, this backstop is automatically imposed once the benchmark unit sales estimates are exceeded.

By this action, DOE is placing in the Code of Federal Regulations (CFR) the statutory backstop requirements for rough service lamps and vibration service lamps prescribed in 42 U.S.C. 6295(l)(4)(D)(ii) and (E)(ii). These sections, which were added by EISA 2007, establish energy conservation standard levels and related requirements for rough service lamps and vibration service lamps if DOE does not complete a rulemaking in an accelerated 1 year period after issuing a

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

finding that the specified benchmark unit sales estimates had been exceeded.

II. Summary of This Action

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of ''vibration service lamp.'' A ''vibration service lamp'' means a lamp that—(i) has filament configurations that are C–5, C–7A, or C–9, as listed in Figure 6–12 of the 9th Edition of the IESNA [Illuminating Engineering Society of North America] Lighting Handbook or similar configurations; (ii) has a maximum wattage of 60 watts; (iii) is sold at retail in packages of 2 lamps or less; and (iv) is designated and marketed specifically for vibration service or vibration-resistant applications, with—(I) the designation appearing on the lamp packaging; and (II) marketing materials that identify the lamp as being vibration service only. (42 U.S.C. 6291(30)(AA))

Section 321(a)(1)(B) of EISA 2007 amended section 321(30) of EPCA by adding the definition of ''rough service lamp.'' A ''rough service lamp'' means a lamp that—(i) has a minimum of 5 supports with filament configurations that are C–7A, C–11, C–17, and C–22 as listed in Figure 6–12 of the 9th edition of the IESNA Lighting handbook, or similar configurations where lead wires are not counted as supports; and (ii) is designated and marketed specifically for ''rough service'' applications, with—(I) the designation appearing on the lamp packaging; and (II) marketing materials that identify the lamp as being for rough service. (42 U.S.C. 6291(30)(X))

DOE published a notice of data availability (NODA) in April 2016, which indicated that the shipments of vibration service lamps were over 7 million units in 2015. This equates to 272.5 percent of the benchmark estimate, which was 2,594,000 units. 81 FR 20261, 20263 (April 7, 2016). Therefore, vibration service lamps exceeded the statutory threshold for the first time, thus triggering an accelerated rulemaking to be completed no later than December 31, 2016. *Id.* Furthermore, NEMA submitted revised data for rough service lamps following the publication of the April 2016 NODA at 81 FR 20261. The revised data showed sales of 10,914,000 rough service lamps in 2015, which exceeded 100% of the benchmark estimate of 4,967,000 units for 2015.[2] This resulted in a requirement for DOE to initiate an accelerated rulemaking for rough service lamps. In an October 2016 notice of proposed definition and data availability (NOPDDA), DOE indicated it must conduct an energy conservation standards rulemaking for rough service lamps to be completed no later than the end of the 2016 calendar year. 81 FR 71794, 71800 (Oct. 18, 2016).

If the Secretary does not complete these accelerated rulemakings within the one year time frame accorded by EPCA, the statute provides a backstop requirement that becomes an energy conservation standard for vibration service and rough service lamps. This backstop requirement would require vibration service lamps to: (1) Have a maximum 40-watt limitation and (2) be sold at retail only in a package containing one lamp. 42 U.S.C. 6295(l)(4)(E)(ii). For rough service lamps, the backstop requires that the lamps: (1) Have a shatter-proof coating or equivalent technology that complies with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp; (2) have a maximum 40-watt limitation; and (3) be sold at retail only in a package containing one lamp. 42 U.S.C. 6295(l)(4)(D)(ii).

Since unit sales for vibration service lamps and rough service lamps exceeded 200 percent of the benchmark estimate in 2015, and DOE did not complete an energy conservation standards rulemaking for these lamps by the end of calendar year 2016, the backstop requirement was triggered, without discretion, and is now applicable. For this final rule, DOE codifies at 10 CFR 430.32 the statutory requirements that apply to rough service lamps and vibration service lamps in 42 U.S.C. 6295(l)(4)(D)(ii) and (E)(ii). These energy conservation levels and requirements apply to rough service lamps and vibration service lamps manufactured on or after January 25, 2018. While DOE did not meet its statutory deadline to complete an accelerated rulemaking by the end of calendar year 2016, an effective date of January 25, 2018, remains generally consistent with the intent of Congress to provide for a one calendar year period between imposition of the energy conservation standard and compliance with such standard. The Secretary will continue to collect and model data for rough service lamps and vibration service lamps for two years after this effective date, in accordance with 42 U.S.C. 6295(l)(4)(I)(ii).

III. Final Action

DOE has determined, pursuant to 5 U.S.C. 553(b)(B), that prior notice and an opportunity for public comment on this final rule are unnecessary. DOE is merely placing in the CFR, verbatim, certain requirements and wattage limitations for rough service lamps and vibration service lamps prescribed by Congress in EPCA. DOE is not exercising any of the discretionary authority that Congress has provided to the Secretary of Energy in EPCA. As such, prior notice and an opportunity for comment would serve no purpose in this instance. DOE, therefore, finds that good cause exists to waive prior notice and an opportunity to comment for this rulemaking.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

This final rule is a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563. Accordingly, this action was subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

Regulatory Impact Analysis

Summary

The purpose of this Regulatory Impact Analysis (RIA) is to describe the range of potential costs related to applying the statutorily-established 40 watt maximum energy use and packaging limitation to rough and vibration service lamps as well as the shatter-proof coating requirement for rough service lamps. This RIA presents three separate consumer substitution scenarios due to the elimination of greater than 40 watt rough and vibration service lamps from the market. These three scenarios provide lower and upper bounds of the range of potential monetized costs, but they do not take into account lost utility caused by the substitutions. DOE estimates this rule to eliminate 80% of the rough and vibration service lamp market. DOE took this bounding approach because data are unavailable to forecast consumer response to the rule.

In the first scenario, consumers are assumed to substitute rough and vibration service lamps greater than 40 watts with rough and service lamps less than 40 watts. In the second scenario, consumers are assumed to substitute greater than 40 watt rough and vibration service lamps with shatter-resistant lamps greater than 40 watts. In the third scenario, consumers are assumed to substitute greater than 40 watt rough and vibration service lamps with LEDs

[2] See ex parte memorandum published in the docket at *https://www.regulations.gov/document?D=EERE-2013-BT-STD-0051-0075.*

emitting equivalent lumens as the lamps they would replace. In all three scenarios, consumers would still have access to rough and vibration service lamp less than 40 watts but would pay more per unit due to the new packaging limitations and shatter proofing requirements.

Table 1 summarizes the three substitution scenarios as potential incremental costs and market value associated with this rulemaking. For a lower bound, the rule could increase aggregate consumer spending by $14.7 million if all consumers substituted greater than 40 watt rough and vibration service lamps with those less than 40 watts. For an upper bound, the rule could increase consumer spending by $72.8M if all consumers substituted greater than 40 watt rough and vibration service lamps with LEDs that emit equivalent lumens. In practice, there will likely be a mix of market responses across consumers. In the lower bound estimated especially there is likely to be additional, non-quantified lost utility because consumers are substituting lower wattage bulbs that deliver less light.

TABLE 1

	Substitution scenarios *		
	<40W rough/vibration service lamps	Shatterproof lamps (>40W)	LEDs (equivalent lumens)
Incremental Cost	$1.33 (rough) $0.02 (vibration)	$1.31	$2.91
Market Value	$14.7M	49.8M	72.8M

* Includes increased cost for packaging and shatter proofing for <40W rough and vibration service lamps. A more detailed summary of those costs are provided in the Consumer Impacts section.

Background

These requirements apply as a result of these lamps exceeding sales thresholds specified as required by EPCA.

Pursuant to reporting and tracking requirements in 42 U.S.C. 6295(l)(4)(D) and (E), NEMA reported to DOE the following figures for rough service lamp and vibration service lamp shipments for the year 2015:

Rough Service Lamps 10,914,000
Vibration Service Lamps 7,071,000

Because unit sales for rough service and vibration service lamps exceeded 100 percent of the neutral benchmark estimate of unit sales in 2015,[3] and DOE did not complete an accelerated rulemaking establishing standards for these lamps within the statutorily required timeframe, EPCA mandates the following backstop requirement that becomes an energy standard for vibration and rough service lamps. This backstop requirement requires vibration service lamps to: (1) Have a maximum 40-watt limitation and (2) be sold at retail only in a package containing one lamp. 42 U.S.C. 6295(l)(4)(E)(ii). For rough service lamps, the backstop requires that the lamps: (1) Have a shatter-proof coating or equivalent technology that complies with NSF/ANSI 51 and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp; (2) have a maximum 40-watt limitation; and (3) be sold at retail only in a package containing one lamp. 42 U.S.C. 6295(l)(4)(D)(ii). These energy conservation levels and requirements apply to rough service and vibration service lamps manufactured on or after January 25, 2018.

Market Impacts

The practical effect of the backstop requirement is to remove rough and vibration service lamps over 40 watts from the market starting on January 25, 2018. DOE conducted an order of magnitude analysis to assess the likely costs associated with this action. As a first step, DOE looked at the revenue of the lamps above 40 watts that will no longer be generated by industry.

Because DOE was previously prohibited from collecting data regarding incandescent lamps, including the subject lamps, DOE does not have data regarding the percentage of lamps sold of both types above 40 watts. DOE estimates that about 80 percent of rough and vibration service lamps are over 40 watts and will therefore no longer be available. Based on a review of home center prices, DOE concluded that these lamps sell for an average of $1.95 per lamp. Using this average sales price of $1.95, at the volumes reported in 2015, the market for rough and vibration service lamps greater than 40 watts was just over $28 million, out of a total market value of just over $35 million for all rough and vibration service lamps. Table 2 summarizes estimated current revenue associated with the subject lamps greater than 40 watts.

TABLE 2

	Rough service lamps	Vibration service lamps
Shipments in 2015	10,914,000	7,071,000
Average Sales Price	$1.95	
Percent of Sales >40W	80%	
Lost total revenue from >40W lamp removal from market	$17,026,000	$11,031,000
Total	$28,057,000	

[3] *See https://www.regulations.gov/document?D=EERE-2011-BT-NOA-0013-0002.*

Consumer Impacts

In the absence of rough and vibration service lamps above 40 watts, DOE believes that all or most consumers of these lamps will purchase a replacement product because the demand for light bulbs is expected to remain constant and not diminish significantly as a result of certain products exiting the market, even though substitute bulbs may be more costly. Consumers have multiple replacement options presented in the following three scenarios: (1) Rough or vibration service lamps less than 40 watts, (2) shatter-resistant lamps greater than 40 watts or (3) LED lamps emitting equivalent lumens. DOE does not attempt here to account for the reasons behind a consumer's choice to purchase a specific lamp type, hence a set of scenarios that represent lower and upper bounds of the incremental monetized cost of this final rule are presented. For rough and vibration service lamps less than 40 watts, consumers will pay more per unit via pass though costs due to the backstop packaging and shatterproof coating requirements. These costs are built into the three scenarios, but are detailed here for transparency.

For the cost of packaging and shatter proofing requirement of the backstop provisions, DOE estimates imposition of the required backstop standard would result in a modest market cost increase related to the new packaging requirements for vibration and rough service lamps, of approximately $0.02 per unit, and to the new shatterproof coating requirements for rough service lamps of approximately $1.31 per unit. For vibration service lamps, DOE estimates additional packaging costs to be roughly $28,000. For rough service lamps, DOE estimates additional packaging costs totaling $44,000. For rough service lamps, DOE estimates shatterproof coating costs to be about $2,852,000.

Table 3 summarizes these incremental costs for packaging and shatterproofing rough and vibration service lamps less than 40 watts under the estimated current 20 percent market profile when the rule is effective.

TABLE 3

	Rough service lamps	Vibration service lamps
Shipments in 2015	10,914,000	7,071,000
Percent of Sales for <40W	20%	
Unit Cost for Packaging	$0.02	
Unit Cost for Shatter proofing	$1.31	NA
Increased total cost for packaging for <40W	$44,000	$28,000
Increased total cost for shatter proofing for <40W	$2,852,000	NA
Total	$2,924,000	

Substitution Scenario 1: Rough or Vibration Service Lamps Less Than 40 Watts

Any lost opportunity to purchase rough service and vibration service lamps over 40 watts is diminished by the fact that consumers will still be able to purchase the 40 watt versions of these lamps after the backstop requires compliance. These lamps will require the same packaging and shatter proofing provisions so the substitution cost will increase. There is some utility lost associated with this substitution, primarily due to the fact that the lumen output from a 40 watt lamp is typically less than it would be for a lamp at a higher wattage. However, utility is not included in the calculation. Table 4 summarizes the incremental costs of the rule under this substitution scenario. Note that the costs for packaging and shatter proofing are higher than those shown in Table 3 because in this scenario, all bulbs will need to have these costs added, not just the ones currently <40 watts.

TABLE 4

	Rough service lamps	Vibration service lamps
Shipments in 2015	10,914,000	7,071,000
Percent of Sales >40W and <40W	100%	
Unit Cost for Packaging	$0.02	
Unit Cost for Shatter proofing	$1.31	NA
Increased total cost for packaging for <40W	$218,000	$141,000
Increased total cost for shatter proofing for <40W	$14,297,000	NA
Subtotal	$14,516,000	$141,000
Total	$14,657,000	

Substitution Scenario 2: Shatter-Resistant Lamps Greater Than 40 Watts

Consumers could choose to purchase an existing shatter-resistant lamp over 40 watts as there is significant overlap in application among rough service, vibration service, and shatter-resistant lamps. Many of these products are already co-named (*e.g.,* a rough service and vibration service lamp or a rough service and shatter-resistant lamp) and the requirement to add a shatter-proof coating as part of the backstop requirement is evidence that shatter-

resistant lamps can be used in the same applications as rough service lamps. DOE expects minimal loss in consumer utility from this substitution. Shatter-resistant lamp sales have not exceeded their specified threshold. As a result, DOE has not been obligated to establish standards for this lamp type. Therefore, they are available using incandescent technology and are the lowest cost replacement option. Compared to a rough or vibration service lamp, a shatter-resistant lamp is about 67 percent more expensive, or an incremental increase of $1.31.[4] Table 5 summarizes the incremental costs for shatter-resistant lamps (inclusive of cost increases for rough and vibration service lamps less than 40 watts currently purchased) under this scenario.

TABLE 5

	Rough service lamps	Vibration service lamps
Shipments in 2015	10,914,000	7,071,000
Percent of Sales >40W	80%	
Percent of Sales <40W	20%	
Average Sales Price	$1.95	
Shatter-resistant lamp sales price	$3.26	
Incremental sales price increase	$1.31	
Increased cost for shatter-resistant lamps due to >40W removal from market	$28,433,000	$18,421,000
Increased total cost for packaging for <40W	$44,000	$28,000
Increased total cost for shatter proofing for <40W	$2,852,000	NA
Subtotal	$31,329,000	$18,450,000
Total	$49,778,000	

Substitution Scenario 3: LED Lamps With Equivalent Lumens

Alternatively, consumers could choose to purchase a more efficient light-emitting diode (LED) lamp as a replacement. LED lamps can be used without modification in rough service applications, vibration service applications, or applications that require shatter-resistance because of the materials used in their construction and the absence of a filament. While LED lamps are currently about 149 percent more expensive,[5] or an incremental increase of $2.91, than rough and vibration service lamps, they are more widely available than shatter-resistant lamps and also have features that consumers would find desirable, such as longer lifetimes and lower wattages (while maintaining the same amount of light). Further, DOE notes that prices for LED lamps continue to decrease in the marketplace. Table 6 summarizes the incremental costs for LED lamps (inclusive of cost increases for rough and vibration service lamps less than 40 watts) under this scenario.

TABLE 6

	Rough service lamps	Vibration service lamps
Shipments in 2015	10,914,000	7,071,000
Percent of Sales >40W	80%	
Percent of Sales <40W	20%	
Average Sales Price	$1.95	
LED lamp sales price	$4.86	
Incremental sales price increase	$2.91	
Increased cost for shatter-resistant lamps due to >40W removal from market	$42,394,000	$27,467,000
Increased total cost for packaging for <40W	$44,000	$28,000
Increased total cost for shatter proofing for <40W	$2,852,000	NA
Subtotal	$45,290,000	$27,495,000
Total	$72,785,000	

Lifecycle Costs

In addition to considering the upfront cost of purchasing the lightbulb, DOE also considered the lifecycle costs over the expected lifetime of the lamps. The factors that the agency considered for the lifecycle cost estimate were the upfront price of the lamp, lifetime of the lamp, usage time of the lamp, and the cost of electricity. DOE estimated the lifecycle costs for rough service lamps compared to LED lamps (unnecessary for the incandescent substitution scenarios) under the following scenario.

[4] This value was based on a comparison of Home Center prices of rough service lamps and shatter-resistant lamps. The manufacturer, wattage, shape, and correlated color temperature (CCT) were the same between the lamps being compared.

[5] This value was based on a comparison of Home Center prices of rough service lamps and LED lamps. The manufacturer, wattage-equivalency, shape, and CCT were the same between the lamps being compared.

If the LED bulb can be used for the rough service applications, the cost of operating it for 3 hours a day is $1.32 per year (3 hours a day at $.11 a kilowatt hour). The bulb is expected to have a life of about 13 years. The lifecycle cost of buying the bulb and using it for its life would be about $22.00. A 75 watt rough service incandescent bulb costs $.50 up front, but $9.03 a year to use 3 hours a day (see the lighting facts here: *https://www.lightbulbs.com/product/bulbrite-107275#*). The life of the rough service lamp is 4.6 years. Over that time its lifecycle costs approximately $42.00 to buy and use a rough service lamp, and it only lasts on average about as third as long.

In this example, the LED lifecycle costs are $22.00 to use it 3 hours a day for 13 years vs. $42.00 for the rough service incandescent for only 4.6 years. The lower LED lifecycle costs suggests that consumers are buying rough service incandescent lamps for reasons that may not be easily quantified. For example, consumers could purchase these lamps and put them in places where they are rarely used, such as a pantry or a closet. Then it makes sense to buy an inexpensive bulb because what matters is the upfront cost, not the cost of operating it. Consumers may have other reasons for choosing incandescent bulbs as well. The uncertainty surrounding these decisions are why it is difficult to model macro consumer response to this rule.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *http://energy.gov/gc/office-general-counsel.* DOE today is revising the Code of Federal Regulations to incorporate and implement, verbatim, energy conservation standards for rough service lamps and vibration service lamps prescribed by EPCA. Because this is an amendment for which a general notice of proposed rulemaking is not required under 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

C. Review Under the Paperwork Reduction Act

This rulemaking imposes no new information or record keeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. (See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and App. B, B(1)–(5).) The rule fits within this category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at *http://energy.gov/nepa/categorical-exclusion-cx-determinations-cx.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the

private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE has concluded that this final rule does not require expenditures of $100 million or more in any one year by the private sector, so the Unfunded Mandates Reform Act does not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action is not a significant energy action because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this final rule.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

M. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference a commercial standard published by NSF International, NSF/ANSI 51 Food equipment materials. This standard applies specifically to materials and coatings used in the manufacturing of equipment and objects designed for contact with foodstuffs. Copies of NSF/ANSI 51 are reasonably available and may be purchased from NSF International, P.O. Box 130140, 789 North Dixboro Road, Ann Arbor, MI 48113–0140, 1–800–673–6275, or go to *http://www.nsf.org.*

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on December 18, 2017.

Daniel R Simmons,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.3 [Amended]

■ 2. In § 430.3, paragraph (s)(1) is amended by removing ''§ 430.2.'' and adding in its place ''§§ 430.2 and 430.32.''

■ 3. Section 430.32 is amended by adding paragraph (bb) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(bb) *Rough service lamps and vibration service lamps.* (1) Rough service lamps manufactured on or after January 25, 2018 must:

(i) Have a shatter-proof coating or equivalent technology that is compliant with NSF/ANSI 51 (incorporated by reference; see § 430.3) and is designed to contain the glass if the glass envelope of the lamp is broken and to provide effective containment over the life of the lamp;

(ii) Have a rated wattage not greater than 40 watts; and

(iii) Be sold at retail only in a package containing one lamp.

(2) Vibration service lamps manufactured on or after January 25, 2018 must:

(i) Have a rated wattage no greater than 40 watts; and

(ii) Be sold at retail only in a package containing one lamp.

[FR Doc. 2017–27744 Filed 12–22–17; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Chapter I

[Notice 2017–17]

Change of Address; Technical Amendments

AGENCY: Federal Election Commission.

ACTION: Final rule.

SUMMARY: The Federal Election Commission (''FEC'' or ''Commission'') will relocate to a building with a different street address in 2018 and is amending its regulations referencing its current street address to reflect this change in location.

DATES: This rule is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Buckley, Attorney, or Mr. Eugene Lynch, Paralegal, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On March 5, 2018, the Federal Election Commission will officially relocate to a new street address: 1050 First Street NE, Washington, DC 20463. Until March 5, 2018, the Commission will continue to reside and accept mail at 999 E Street NW, Washington, DC 20463.

The Commission is promulgating these amendments without advance notice or an opportunity for comment because they fall under the ''good cause'' exemption of the Administrative Procedure Act. 5 U.S.C. 553(b)(B). The Commission finds that notice and comment are unnecessary here because these amendments are merely technical; they effect no substantive changes to any rule. For the same reason, these amendments fall within the ''good cause'' exception to the delayed effective date provisions of the Administrative Procedure Act and the Congressional Review Act. 5 U.S.C. 553(d)(3), 808(2). Moreover, because these amendments are exempt from the notice and comment procedure of the Administrative Procedure Act under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these amendments for congressional review under the Federal Election Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act, as amended, or the Presidential Primary Matching Payment Account Act, as amended. *See* 52 U.S.C. 30111(d)(1), (4) (providing for congressional review when Commission ''prescribe[s]'' a ''rule of law''); 26 U.S.C. 9009(c)(1), (4), 9039(c)(1), (4) (same).

List of Subjects

11 CFR Part 1

Privacy.

11 CFR Part 2

Sunshine Act.

11 CFR Part 4

Freedom of information.

11 CFR Part 5

Archives and records.

11 CFR Part 6

Civil rights, Individuals with disabilities.

11 CFR Part 7

Administrative practice and procedure, Conflict of interests, Government employees, Political activities (government employees).

11 CFR Part 100

Elections.

11 CFR Part 102

Political activities (government employees), Reporting and recordkeeping requirements.

11 CFR Part 104

Campaign funds, Political activities (government employees), Reporting and recordkeeping requirements.

11 CFR Part 111

Administrative practice and procedure, Elections, Law enforcement, Penalties.

11 CFR Part 112

Administrative practice and procedure, Elections.

11 CFR Part 200

Administrative practice and procedure.

11 CFR Parts 9002 and 9032

Campaign funds.

11 CFR Part 9008

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR chapter I as follows:

PART 1—PRIVACY ACT

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

Authority: 5 U.S.C. 552a.

■ 2. Amend § 1.2 by revising the definition for ''Commission'' to read as follows:

§ 1.2 Definitions.

* * * * *

Commission means the Federal Election Commission, its Commissioners and employees. Until March 5, 2018, the Commission is located at 999 E Street NW, Washington, DC 20463. Beginning on March 5, 2018, the Commission will be located at 1050 First Street NE, Washington, DC 20463. The Commission's internet website address (*www.fec.gov*) remains unchanged.

* * * * *

§ 1.3 [Amended]

■ 3. Amend § 1.3(b) by removing ''Chief Privacy Officer, Federal Election Commission, 999 E Street NW, Washington, DC 20463 during the hours of 9 a.m. to 5:30 p.m.'' and adding in its place ''Commission's Chief Privacy Officer during the hours of 9 a.m. to 5:30 p.m. at the street address identified in the definition of ''Commission'' in § 1.2.''

§ 1.4 [Amended]

■ 4. Amend § 1.4(a) by removing '', 999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2,''.

PART 2—SUNSHINE REGULATIONS; MEETINGS

■ 5. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 552b.

§ 2.2 [Amended]

■ 6. Amend § 2.2(a) by removing '', 999 E Street NW, Washington, DC 20463''.

PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

■ 7. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 552, as amended.

§ 4.5 [Amended]

■ 8. Amend § 4.5(a)(4)(i) and (iv) by removing ''999 E Street NW,

Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 4.7 [Amended]

■ 9. Amend § 4.7(b)(1) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 4.8 [Amended]

■ 10. Amend § 4.8(c) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 5—ACCESS TO PUBLIC DISCLOSURE AND MEDIA RELATIONS DIVISION DOCUMENTS

■ 11. The authority citation for part 5 continues to read as follows:

Authority: 52 U.S.C. 30108(d), 30109(a)(4)(B)(ii), 30111(a); 31 U.S.C. 9701.

§ 5.5 [Amended]

■ 12. Amend § 5.5 as follows:

■ a. In paragraph (a), remove ''on the first floor, 999 E Street NW, Washington, DC 20463''; and add in its place ''at the Federal Election Commission at the street address identified in the definition of ''Commission'' in § 1.2''.

■ b. In paragraph (c), remove ''999 E Street NW, Washington, DC 20463''and add in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL ELECTION COMMISSION

■ 13. The authority citation for part 6 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 6.103 [Amended]

■ 14. Amend § 6.103(b) by removing '', 999 E Street NW, Washington, DC 20463''.

§ 6.170 [Amended]

■ 15. Amend § 6.170 as follows:

■ a. In paragraph (d)(3), remove ''999 E Street NW, Washington, DC 20463''; and add in its place ''Federal Election Commission, at the street address identified in the definition of ''Commission'' in § 1.2''.

■ b. In paragraph (i), remove ''999 E Street NW, Washington, DC 20463''and add in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 7—STANDARDS OF CONDUCT

■ 16. The authority citation for part 7 continues to read as follows:

Authority: 52 U.S.C. 30106, 30107, and 30111; 5 U.S.C. 7321 *et seq.* and app. 3.

§ 7.2 [Amended]

■ 17. Amend § 7.2(a) by removing '', 999 E Street NW, Washington, DC 20463''.

PART 100—SCOPE AND DEFINITIONS (52 U.S.C. 30101)

■ 18. The authority citation for part 100 continues to read as follows:

Authority: 52 U.S.C. 30101, 30104, 30111(a)(8), and 30114(c).

§ 100.9 [Amended]

■ 19. Amend § 100.9 by removing '', 999 E Street NW, Washington, DC 20463''.

§ 100.19 [Amended]

■ 20. Amend § 100.19(a) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (52 U.S.C. 30103)

■ 21. The authority citation for part 102 continues to read as follows:

Authority: 52 U.S.C. 30102, 30103, 30104(a)(11), 30111(a)(8), and 30120.

§ 102.2 [Amended]

■ 22. Amend § 102.2(a)(1) introductory text by removing '', 999 E Street NW, Washington, DC 20463''.

PART 104—REPORTS BY POLITICAL COMMITTEES AND OTHER PERSONS (52 U.S.C. 30104)

■ 23. The authority citation for part 104 continues to read as follows:

Authority: 52 U.S.C. 30101(1), 30101(8), 30101(9), 30102(i), 30104, 30111(a)(8) and (b), 30114, 30116, 36 U.S.C. 510.

§ 104.2 [Amended]

■ 24. Amend § 104.2(b) by removing '', 999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 104.3 [Amended]

■ 25. Amend § 104.3(e)(5) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 104.21 [Amended]

■ 26. Amend § 104.21(c)(3) by removing '', 999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 111—COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(A))

■ 27. The authority citation for part 111 continues to read as follows:

Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 note; 31 U.S.C. 3701, 3711, 3716–3719, and 3720A, as amended; 31 CFR parts 285 and 900–904.

§ 111.4 [Amended]

■ 28. Amend § 111.4(a) by removing ''General Counsel, Federal Election Commission, 999 E Street NW, Washington, DC 20463''and adding in its place ''General Counsel of the Federal Election Commission at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 111.15 [Amended]

■ 29. Amend § 111.15(a) by removing ''General Counsel, Federal Election Commission, 999 E Street NW, Washington, DC 20463''and adding in its place ''General Counsel of the Federal Election Commission at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 111.16 [Amended]

■ 30. Amend § 111.16(c) by removing from the first and second sentences ''999 E Street NW, Washington, DC 20463''and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 112—ADVISORY OPINIONS (52 U.S.C. 30108)

■ 31. The authority citation for part 112 continues to read as follows:

Authority: 52 U.S.C. 30108, 30111(a)(8).

§ 112.1 [Amended]

■ 32. Amend § 112.1(e) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

§ 112.3 [Amended]

■ 33. Amend § 112.3(d) by removing ''999 E Street NW, Washington, DC 20463''and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 200—PETITIONS FOR RULEMAKING

■ 34. The authority citation for part 200 is revised to read as follows:

Authority: 52 U.S.C. 30107(a)(8), 30111(a)(8); 5 U.S.C. 553(e).

§ 200.2 [Amended]

■ 35. Amend § 200.2(b)(5) by removing ''999 E Street NW, Washington, DC 20463'' and adding in its place ''at the street address identified in the definition of ''Commission'' in § 1.2''.

PART 9002—DEFINITIONS

■ 36. The authority citation for part 9002 continues to read as follows:

Authority: 26 U.S.C. 9002 and 9009(b).

§ 9002.3 [Amended]

■ 37. Amend § 9002.3 by removing '', 999 E Street NW, Washington, DC 20463''.

PART 9008—FEDERAL FINANCING OF PRESIDENTIAL NOMINATING CONVENTIONS

■ 38. The authority citation for part 9008 continues to read as follows:

Authority: 52 U.S.C. 30105, 30111(a)(8), 30125; 26 U.S.C. 9008, 9009(b).

§ 9008.2 [Amended]

■ 39. Amend § 9008.2(a) by removing '', 999 E Street NW, Washington, DC 20463''.

PART 9032—DEFINITIONS

■ 40. The authority citation for part 9032 continues to read as follows:

Authority: 26 U.S.C. 9032 and 9039(b).

§ 9032.3 [Amended]

■ 41. Amend § 9032.3 by removing '', 999 E Street NW, Washington, DC 20463''.

Dated: December 19, 2017.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–27683 Filed 12–22–17; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2017–1110; Special Conditions No. 33–021–SC]

Special Conditions: Light Helicopter Turbine Engine Company (LHTEC), CTS800–4AT; 30-Minute All Engines Operating Power Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Light Helicopter Turbine Engine Company (LHTEC), CTS800–4AT turboshaft engine model. This engine model will have a novel or unusual design feature associated with a 30-minute all engines operating (AEO) power rating. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is January 10, 2018. We must receive your comments by January 25, 2018.

ADDRESSES: Send comments identified by docket number FAA–2017–1110 using any of the following methods:

- *Federal eRegulations 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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *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: Christopher Richards, AIR–6A2, Engine and Propeller Standards Branch, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts 01803–5213; telephone (847) 361–0837; facsimile (781) 238–7199; email *Christopher.J.Richards@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the Type Certificate approval and thus, delivery of the affected engines.

In addition, the substance of these special conditions has been subjected to the notice and comment period in prior instances, and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the engine, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On April 14, 2017, LHTEC applied for an amendment to Type Certificate No. TE2CH to include the new CTS800–4AT turboshaft engine model. The CTS800–4AT turboshaft engine model is a derivative model in the CTS800 turboshaft engine series. The CTS800–

4AT is a free-turbine turboshaft engine and will incorporate a novel or unusual design feature, which is a 30-minute AEO power rating. LHTEC has requested this rating to support helicopter search and rescue missions that require hover operations at high power.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) § 21.101, LHTEC must show that the CTS800–4AT turboshaft engine model meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. TE2CH or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TE2CH are as follows: 14 CFR part 33 dated June 3, 1964, as amended by Amendments 33–1 through 33–18 inclusive.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the LHTEC, CTS800–4AT turboshaft engine model because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the engine model(s) for which they are issued. Should the type certificate for that engine model be amended later to include any other engine model(s) that incorporates the same novel or unusual design feature, or should any other engine model(s) already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other engine model(s) under § 21.101.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17 or § 21.101.

Novel or Unusual Design Features

The CTS800–4AT turboshaft engine model will incorporate a novel or unusual design feature, which is a 30-minute AEO power rating. This rating will be used to support helicopter search and rescue missions that require hover operations at high power.

Discussion

Under the provisions of 14 CFR 21.17(a)(1) and 21.101(a), LHTEC must show that the CTS800–4AT turboshaft engine meets the provisions of the applicable regulations in effect on the date of application, unless otherwise specified by the FAA. The type certification basis for the derivative model CTS800–4AT turboshaft engine is 14 CFR part 33, Amendments 33–1 through 33–18 effective August 19, 1996, which does not contain adequate safety standards concerning a 30-minute AEO power rating. Therefore, these special conditions will add requirements to the rating definition, instructions for continued airworthiness (ICA), engine ratings and operating limitations, instrument connection, and endurance testing.

The 30-minute time limit applies to each instance the rating is used. In addition, there is no limit to the number of times the rating can be used during any one flight, and there is no cumulative time limitation. The ICA requirement is intended to address the unknown nature of the actual rating usage and associated engine deterioration. LHTEC will assess the expected usage and publish ICAs with airworthiness limitations section (ALS) limits in accordance with those assumptions, such that engine deterioration is not excessive. Because the CTS800–4AT engine has a continuous one engine inoperative (OEI) rating and limits equal to or higher than the 30-minute AEO power rating, the test time performed at the continuous OEI rating may be credited toward the 25-hour requirement. However, test time spent at other rating elements of the test, such as takeoff or other OEI ratings (that may be equal to or higher), may not be counted toward the 25 hours of required running. Therefore, special conditions are issued under the provisions of 14 CFR 11.19, 21.16, and 21.17(a)(2).

Applicability

As discussed above, these special conditions are applicable to the CTS800–4AT turboshaft engine model. Should LHTEC apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the CTS800–4AT turboshaft engine. It is not a rule of general applicability and applies only to LHTEC, who requested FAA approval of this engine feature.

List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for LHTEC, CTS800–4AT turboshaft engine model.

In addition to the requirements of § 1.1, the following definition applies to this special condition: ''Rated 30-minute all engines operating (AEO) power means the approved brake horsepower developed under static conditions at the specified altitude and temperature, and within the operating limitations under part 33, and limited in use to periods not exceeding 30 minutes each.''

In addition to the airworthiness standards in 14 CFR part 33, the following special conditions apply:

(a) Sections 33.1, Applicability and 33.3, General. As applicable, all documentation, testing and analysis required to comply with the part 33 type certification basis must account for the 30-minute AEO power rating, limits, and usage.

(b) Section 33.4, Instructions for Continued Airworthiness. In addition to the requirements of § 33.4, the ICA must:

(1) Include instructions to ensure that in-service engine deterioration due to the rated 30-minute AEO power usage will not exceed that assumed for establishing the engine maintenance program and all other approved ratings, including OEI, are available (within associated limits and assumed usage) for every flight.

(2) Validate the adequacy of the maintenance actions required under paragraph (b)(1) of this special condition.

(3) Include in the airworthiness limitations section any mandatory inspections and serviceability limits related to the use of the 30-minute AEO power rating.

(c) Section 33.7, Engine ratings and operating limitations. In addition to the ratings provided in § 33.7(a) and (c), a rated 30-minute AEO power and operating limitations are established relating to the following:

(1) Horsepower, torque, shaft speed (r.p.m), and gas temperature.

(2) The rated 30-minute AEO power and associated limitations must not exceed the rated takeoff power and associated limitations.

(d) Section 33.29, Instrument connection. If dependence is placed on instrumentation needed to monitor the rating's use, the applicant must make provision for the installation of that instrumentation, specify the provisions for instrumentation in the engine installation instructions, and declare them mandatory in the engine approval documentation.

(e) Section 33.87, Endurance test. In addition to the requirements of § 33.87(a) and (d), the overall test run must include a minimum of 25 hours of operation at rated 30-minute AEO power and limits, divided into periods of not less than 30 minutes, but not more than 60 minutes at rated 30-minute AEO power, and alternate periods at maximum continuous power or less.

(1) Each § 33.87(d) continuous OEI rating test period of 60 minutes duration, run at power and limits equal to or higher than the 30-minute AEO power rating, may be credited toward this requirement. Note that the test time required for the takeoff or other OEI ratings may not be counted toward the 25 hours of testing required at the 30-minute AEO power rating.

Issued in Burlington, Massachusetts, on December 15, 2017.

Robert J. Ganley,

Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2017–27774 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31171; Amdt. No. 3780]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective December 26, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 26, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff

Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on December 15, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1-Feb-18	CA	Santa Maria	Santa Maria Pub/Capt G Allan Hancock Fld.	7/0260	12/6/17	RNAV (GPS) RWY 12, Amdt 1B.
1-Feb-18	ID	Idaho Falls	Idaho Falls Rgnl	7/0469	12/6/17	ILS OR LOC RWY 20, Amdt 11H.
1-Feb-18	ID	Idaho Falls	Idaho Falls Rgnl	7/0562	12/6/17	RNAV (GPS) Y RWY 20, Amdt 1C.
1-Feb-18	PA	Lock Haven	William T Piper Memorial	7/1509	12/6/17	RNAV (GPS)-A, Orig-A.
1-Feb-18	IN	Gary	Gary/Chicago Intl	7/1676	12/6/17	RNAV (GPS) Y RWY 30, Amdt 1A.
1-Feb-18	AK	Palmer	Palmer Muni	7/2504	12/4/17	Takeoff Minimums and Obstacle DP, Amdt 2.
1-Feb-18	AK	Grayling	Grayling	7/2532	12/5/17	RNAV (GPS) RWY 17, Orig.
1-Feb-18	MO	Monroe City	Capt Ben Smith Airfield—Monroe City.	7/2581	12/4/17	RNAV (GPS) RWY 9, Orig.
1-Feb-18	MO	Monroe City	Capt Ben Smith Airfield—Monroe City.	7/2583	12/4/17	RNAV (GPS) RWY 27, Orig.
1-Feb-18	MO	Monroe City	Capt Ben Smith Airfield—Monroe City.	7/2584	12/4/17	VOR/DME–A, Amdt 2.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2660	12/4/17	RNAV (GPS) RWY 4, Amdt 1B.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2661	12/4/17	RNAV (GPS) RWY 12R, Amdt 2B.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2664	12/4/17	RNAV (GPS) RWY 22, Amdt 1B.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2666	12/4/17	RNAV (GPS) RWY 30L, Amdt 2B.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2668	12/4/17	VOR RWY 12R, AMDT 14C.
1-Feb-18	FL	Vero Beach	Vero Beach Muni	7/2670	12/4/17	VOR/DME RWY 30L, Amdt 4B.
1-Feb-18	AR	Pine Bluff	Grider Field	7/2693	12/6/17	VOR/DME RWY 36, Amdt 12A.
1-Feb-18	AR	Pine Bluff	Grider Field	7/2694	12/6/17	RNAV (GPS) RWY 36, Amdt 1B.
1-Feb-18	AR	Pine Bluff	Grider Field	7/2697	12/6/17	RNAV (GPS) RWY 18, Amdt 1B.
1-Feb-18	AR	Pine Bluff	Grider Field	7/2700	12/6/17	ILS OR LOC RWY 18, Amdt 3B.
1-Feb-18	AR	Pine Bluff	Grider Field	7/2702	12/6/17	Takeoff Minimums and Obstacle DP, Orig.
1-Feb-18	WI	Baraboo	Baraboo Wisconsin Dells	7/2704	12/4/17	RNAV (GPS) RWY 1, Amdt 1B.
1-Feb-18	WI	Baraboo	Baraboo Wisconsin Dells	7/2705	12/4/17	RNAV (GPS) RWY 19, Amdt 2.
1-Feb-18	WI	Baraboo	Baraboo Wisconsin Dells	7/2707	12/4/17	VOR–A, Amdt 12.
1-Feb-18	WI	Baraboo	Baraboo Wisconsin Dells	7/2709	12/4/17	LOC/DME RWY 1, Amdt 2.
1-Feb-18	WI	Baraboo	Baraboo Wisconsin Dells	7/2712	12/6/17	Takeoff Minimums and Obstacle DP, Amdt 1.
1-Feb-18	GA	Augusta	Augusta Rgnl At Bush Field.	7/2715	12/6/17	RNAV (GPS) RWY 17, Amdt 2B.
1-Feb-18	IA	Cedar Rapids	The Eastern Iowa	7/2724	12/6/17	ILS OR LOC RWY 27, Amdt 6E.
1-Feb-18	MN	Rushford	Rushford Muni	7/2744	12/4/17	RNAV (GPS) RWY 34, Orig.
1-Feb-18	MN	Rushford	Rushford Muni	7/2745	12/4/17	VOR/DME–A, Amdt 2.
1-Feb-18	MN	Rushford	Rushford Muni	7/2747	12/4/17	Takeoff Minimums and Obstacle DP, Amdt 2.
1-Feb-18	AL	Monroeville	Monroe County	7/2764	12/4/17	RNAV (GPS) RWY 21, Orig-A.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1-Feb-18	AL	Monroeville	Monroe County	7/2765	12/4/17	Takeoff Minimums and Obstacle DP, Orig.
1-Feb-18	AL	Monroeville	Monroe County	7/2766	12/4/17	RNAV (GPS) RWY 3, Orig-C.
1-Feb-18	AL	Monroeville	Monroe County	7/2767	12/4/17	VOR RWY 21, Amdt 10A.
1-Feb-18	AL	Monroeville	Monroe County	7/2769	12/4/17	VOR RWY 3, Amdt 10A.
1-Feb-18	MO	St Louis	Spirit Of St Louis	7/2772	12/6/17	RNAV (GPS) RWY 26L, Orig-C.
1-Feb-18	MO	St Louis	Spirit Of St Louis	7/2780	12/6/17	RNAV (GPS) RWY 8R, Orig-B.
1-Feb-18	AR	Newport	Newport Muni	7/2783	12/4/17	VOR/DME RWY 18, Amdt 4A.
1-Feb-18	AR	Newport	Newport Muni	7/2784	12/4/17	Takeoff Minimums and Obstacle DP, Orig.
1-Feb-18	AR	Newport	Newport Muni	7/2786	12/4/17	RNAV (GPS) RWY 18, Orig
1-Feb-18	AR	Newport	Newport Muni	7/2790	12/4/17	RNAV (GPS) RWY 36, Orig.
1-Feb-18	NC	Winston Salem	Smith Reynolds	7/2880	12/6/17	RNAV (GPS) RWY 33, Orig-B.
1-Feb-18	OK	Muskogee	Davis Field	7/2888	12/5/17	RNAV (GPS) RWY 13, Orig-B.
1-Feb-18	OK	Muskogee	Davis Field	7/2890	12/5/17	RNAV (GPS) RWY 22, Orig-B.
1-Feb-18	OK	Muskogee	Davis Field	7/2892	12/5/17	RNAV (GPS) RWY 31, Amdt 1C.
1-Feb-18	OK	Muskogee	Davis Field	7/2896	12/5/17	RNAV (GPS) RWY 4, Amdt 1B.
1-Feb-18	CO	Denver	Denver Intl	7/3082	12/6/17	RNAV (RNP) Z RWY 34L, Orig-B.
1-Feb-18	NY	New York	Long Island Mac Arthur	7/3146	12/6/17	RNAV (GPS) RWY 6, Amdt 2A.
1-Feb-18	NY	New York	Long Island Mac Arthur	7/3149	12/6/17	ILS OR LOC RWY 6, Amdt 25.
1-Feb-18	CO	Denver	Denver Intl	7/3175	12/6/17	RNAV (RNP) Z RWY 34R, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3176	12/6/17	RNAV (RNP) Z RWY 17R, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3178	12/6/17	RNAV (RNP) Z RWY 16R, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3179	12/6/17	RNAV (RNP) Z RWY 17L, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3180	12/6/17	RNAV (RNP) Z RWY 35L, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3181	12/6/17	RNAV (RNP) Z RWY 35R, Orig-B.
1-Feb-18	CO	Denver	Denver Intl	7/3182	12/6/17	RNAV (RNP) Z RWY 16L, Orig-B.
1-Feb-18	MA	Provincetown	Provincetown Muni	7/3526	12/5/17	NDB RWY 25, Amdt 2B.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3610	12/5/17	RNAV (RNP) Z RWY 16R, Amdt 1A.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3611	12/5/17	RNAV (RNP) Z RWY 16L, Amdt 1A.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3613	12/5/17	RNAV (GPS) X RWY 16R, Amdt 1C.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3614	12/5/17	RNAV (GPS) X RWY 16L, Amdt 1C.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3615	12/5/17	RNAV (GPS) X RWY 34R, Amdt 1.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3616	12/5/17	RNAV (GPS) X RWY 34L, Amdt 1.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3617	12/5/17	RNAV (GPS) Y RWY 34L, Orig-A.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3618	12/5/17	RNAV (GPS) Y RWY 34R, Orig-A.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3619	12/5/17	ILS OR LOC/DME RWY 34L, Orig-B.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3620	12/5/17	VOR–D, Amdt 7.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3621	12/5/17	ILS X OR LOC X RWY 16R, Orig.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3622	12/5/17	ILS Z OR LOC Z RWY 16R, Orig.
1-Feb-18	NV	Reno	Reno/Tahoe Intl	7/3623	12/5/17	LOC Y RWY 16R, Orig.

[FR Doc. 2017–27680 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31168; Amdt. No. 3777]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective December 26, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 26, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION:

This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 1, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 4 January 2018

Sacramento, CA, Sacramento Intl, ILS OR LOC RWY 34L, Amdt 7F

Effective 1 February 2018

Anchorage, AK, Ted Stevens Anchorage Intl, ILS RWY 15, Amdt 6D
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 7L, Amdt 2D
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) RWY 15, Amdt 2D
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (GPS) Y RWY 7R, Amdt 4D
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (RNP) RWY 33, Orig-C
Anchorage, AK, Ted Stevens Anchorage Intl, RNAV (RNP) Z RWY 7R, Orig-C
Klawock, AK, Klawock, KLAWOCK TWO, Graphic DP
Prattville, AL, Prattville—Grouby Field, RNAV (GPS) RWY 9, Amdt 2E
Helena/West Helena, AR, Thompson-Robbins, RNAV (GPS) RWY 17, Amdt 1
Helena/West Helena, AR, Thompson-Robbins, RNAV (GPS) RWY 35, Amdt 1
Helena/West Helena, AR, Thompson-Robbins, VOR RWY 35, Amdt 1
Merced, CA, Merced Rgnl/Macready Field, RNAV (GPS) RWY 12, Orig-B
Red Bluff, CA, Red Bluff Muni, RNAV (GPS) RWY 33, Orig-A
Pahokee, FL, Palm Beach Co Glades, RNAV (GPS) RWY 18, Amdt 1
Pahokee, FL, Palm Beach Co Glades, RNAV (GPS) RWY 36, Amdt 1
Pahokee, FL, Palm Beach Co Glades, Takeoff Minimums and Obstacle DP, Amdt 2
Pahokee, FL, Palm Beach Co Glades, VOR/DME–A, Orig-A, SUSPENDED
Albany, GA, Southwest Georgia Rgnl, ILS OR LOC RWY 4, Amdt 13
Albany, GA, Southwest Georgia Rgnl, LOC BC RWY 22, Amdt 8A, CANCELED
Albany, GA, Southwest Georgia Rgnl, RNAV (GPS) RWY 4, Amdt 1C
Albany, GA, Southwest Georgia Rgnl, RNAV (GPS) RWY 16, Amdt 1B
Albany, GA, Southwest Georgia Rgnl, RNAV (GPS) RWY 22, Amdt 1B
Albany, GA, Southwest Georgia Rgnl, RNAV (GPS) RWY34, Amdt 2B
Albany, GA, Southwest Georgia Rgnl, Takeoff Minimums and Obstacle DP, Orig-A
Albany, GA, Southwest Georgia Rgnl, VOR RWY 16, Amdt 27B
Independence, KS, Independence Muni, ILS OR LOC RWY 35, Amdt 2
Independence, KS, Independence Muni, RNAV (GPS) RWY 17, Amdt 2
Independence, KS, Independence Muni, RNAV (GPS) RWY 35, Amdt 1
Independence, KS, Independence Muni, VOR–A, Amdt 3
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 17, Amdt 3
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 22, Amdt 1C
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 35, Amdt 3
Pittsburg, KS, Atkinson Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Topeka, KS, Philip Billard Muni, Takeoff Minimums and Obstacle DP, Amdt 1A
Saginaw, MI, MBS Intl, ILS OR LOC RWY 5, Amdt 11
Saginaw, MI, MBS Intl, ILS OR LOC RWY 23, Amdt 5
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 5, Amdt 2
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 14, Amdt 2
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 23, Amdt 2
Saginaw, MI, MBS Intl, RNAV (GPS) RWY 32, Amdt 2
Saginaw, MI, MBS Intl, VOR RWY 14, Amdt 14
Glencoe, MN, Glencoe Muni, RNAV (GPS) RWY 13, Orig-A
St Joseph, MO, Rosecrans Memorial, Takeoff Minimums and Obstacle DP, Amdt 8
Lovelock, NV, Derby Field, RNAV (GPS) RWY 2, Amdt 1A
Prineville, OR, Prineville, RNAV (GPS) RWY 10, Amdt 2
Prineville, OR, Prineville, RNAV (GPS) RWY 28, Amdt 2
Norfolk, VA, Norfolk Intl, ILS OR LOC RWY 5, Amdt 26C
Norfolk, VA, Norfolk Intl, ILS OR LOC RWY 23, Amdt 8
Norfolk, VA, Norfolk Intl, RNAV (GPS) RWY 14, Amdt 1
Norfolk, VA, Norfolk Intl, RNAV (GPS) Z RWY 5, Amdt 2
Norfolk, VA, Norfolk Intl, RNAV (GPS) Z RWY 23, Amdt 2
Norfolk, VA, Norfolk Intl, RNAV (RNP) Y RWY 5, Amdt 1
Norfolk, VA, Norfolk Intl, RNAV (RNP) Y RWY 23, Amdt 1
Norfolk, VA, Norfolk Intl, VOR RWY 14, Amdt 3

RESCINDED: On November 20, 2017 (82 FR 55047), the FAA published an Amendment in Docket No. 31161, Amdt No. 3771 to Part 97 of the Federal Aviation Regulations under section 97.37. The following entry for Buckland, AK, and Billings, MT, effective December 7, 2017, are hereby rescinded in its entirety:

Buckland, AK, Buckland, Takeoff Minimums and Obstacle DP, Amdt 2
Billings, MT, Billings Logan Intl, Takeoff Minimums and Obstacle DP, Amdt 7A

[FR Doc. 2017–27676 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31169; Amdt. No. 3778]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective December 26, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 26, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 1, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1-Feb-18	ND	Grand Forks	Grand Forks Intl	7/0618	11/28/17	ILS OR LOC RWY 35L, Amdt 12A.
1-Feb-18	AK	Palmer	Palmer Muni	7/1266	11/28/17	RNAV (GPS) RWY 9, Amdt 1B.
1-Feb-18	AK	Palmer	Palmer Muni	7/1268	11/28/17	RNAV (GPS)-A, Orig-A.
1-Feb-18	IL	Moline	Quad City Intl	7/1731	11/28/17	RNAV (GPS) RWY 27, Amdt 1B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
1-Feb-18	IL	Moline	Quad City Intl	7/1733	11/28/17	RNAV (GPS) RWY 9, Amdt 1B.
1-Feb-18	OR	Corvallis	Corvallis Muni	7/2996	11/28/17	ILS OR LOC RWY 17, Amdt 4.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/3029	11/28/17	RNAV (GPS) RWY 4L, Amdt 2C.
1-Feb-18	IL	Belleville	Scott AFB/MidAmerica	7/4638	11/28/17	RNAV (GPS) RWY 32R, Orig-D.
1-Feb-18	TX	Beaumont/Port Arthur	Jack Brooks Rgnl	7/4714	11/28/17	ILS OR LOC RWY 12, Amdt 23B.
1-Feb-18	CT	Groton (New London)	Groton-New London	7/5034	11/28/17	RNAV (GPS) RWY 5, Orig-E.
1-Feb-18	OK	Perry	Perry Muni	7/5421	11/28/17	VOR/DME RWY 17, Amdt 3B.
1-Feb-18	MT	Stevensville	Stevensville	7/6446	11/28/17	RNAV (GPS)-A, Orig-C.
1-Feb-18	ND	Rolla	Rolla Muni	7/6537	11/28/17	RNAV (GPS) RWY 32, Orig-A.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7200	11/28/17	ILS OR LOC RWY 11, Amdt 2D.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7201	11/28/17	RNAV (GPS) RWY 11, Orig-E.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7204	11/28/17	RNAV (GPS) RWY 22R, Amdt 1D.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7208	11/28/17	RNAV (GPS) X RWY 29, Orig.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7210	11/28/17	RNAV (GPS) Y RWY 4R, Amdt 1E.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7211	11/28/17	RNAV (GPS) Z RWY 22L, Amdt 2A.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7214	11/28/17	ILS OR LOC RWY 22L, ILS RWY 22L (SA CAT I), ILS RWY 22L (CAT II AND III), Amdt 13B.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7218	11/28/17	ILS OR LOC RWY 4R, ILS RWY 4R (CAT II AND III), Amdt 13.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7220	11/28/17	ILS OR LOC RWY 4L, ILS RWY 4L (SA CAT I AND II), Amdt 15.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7225	11/28/17	VOR RWY 11, Amdt 2D.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/7316	11/28/17	ILS OR LOC RWY 22R, Amdt 6A.
1-Feb-18	PA	Reedsville	Mifflin County	7/7469	11/28/17	RNAV (GPS) RWY 24, Orig-A.
1-Feb-18	TX	Pecos	Pecos Muni	7/9148	11/28/17	RNAV (GPS) RWY 32, Orig-A.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/9751	11/28/17	GLS RWY 22R, Orig-D.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/9752	11/28/17	GLS RWY 22L, Orig-C.
1-Feb-18	NJ	Newark	Newark Liberty Intl	7/9753	11/28/17	GLS RWY 4L, Orig-D.
1-Feb-18	MD	Easton	Easton/Newnam Field	7/9798	11/28/17	ILS OR LOC RWY 4, Amdt 2.

[FR Doc. 2017–27677 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31170; Amdt. No. 3779]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective December 26, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 26, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4,

8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 15, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me,

Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 1 February 2018

Buckland, AK, Buckland, Takeoff Minimums and Obstacle DP, Amdt 2
Sitka, AK, Sitka Rocky Gutierrez, BIORKA FOUR, Graphic DP
Atmore, AL, Atmore Muni, RNAV (GPS) RWY 18, Amdt 2
Atmore, AL, Atmore Muni, RNAV (GPS) RWY 36, Amdt 2
Atmore, AL, Atmore Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Helena/West Helena, AR, Thompson-Robbins, Takeoff Minimums and Obstacle DP, Amdt 1
San Martin, CA, San Martin, RNAV (GPS) RWY 32, Orig-C
Santa Monica, CA, Santa Monica Muni, TOPANGA TWO, Graphic DP
Stockton, CA, Stockton Metropolitan, RNAV (GPS) RWY 11L, Amdt 1A
Stockton, CA, Stockton Metropolitan, RNAV (GPS) RWY 29R, Amdt 1A
Vacaville, CA, Nut Tree, RNAV (GPS) RWY 20, Amdt 1A
Burlington, CO, Kit Carson County, LOC RWY 33, Amdt 1
Burlington, CO, Kit Carson County, NDB RWY 15, Amdt 2
Burlington, CO, Kit Carson County, RNAV (GPS) RWY 15, Amdt 1
Burlington, CO, Kit Carson County, Takeoff Minimums and Obstacle DP, Orig-A
Colorado Springs, CO, City of Colorado Springs Muni, ILS OR LOC RWY 35L, ILS RWY 35L (SA CAT II), Amdt 39
Rifle, CO, Rifle Garfield County, SQUAT FOUR, Graphic DP
Rifle, CO, Rifle Garfield County, Takeoff Minimums and Obstacle DP, Amdt 11
West Palm Beach, FL, North Palm Beach County General Aviation, ILS OR LOC RWY 9R, Amdt 2
West Palm Beach, FL, North Palm Beach County General Aviation, RNAV (GPS) RWY 9R, Amdt 2
West Palm Beach, FL, North Palm Beach County General Aviation, RNAV (GPS) RWY 14, Amdt 1
West Palm Beach, FL, North Palm Beach County General Aviation, RNAV (GPS) RWY 27L, Amdt 2
West Palm Beach, FL, North Palm Beach County General Aviation, Takeoff Minimums and Obstacle DP, Amdt 1
West Palm Beach, FL, North Palm Beach County General Aviation, VOR RWY 8R, Amdt 1D, CANCELED
Des Moines, IA, Des Moines Intl, ILS OR LOC RWY 5, Amdt 1
Des Moines, IA, Des Moines Intl, ILS OR LOC RWY 13, Amdt 10
Des Moines, IA, Des Moines Intl, ILS OR LOC RWY 31, ILS RWY 31 (SA CAT I), ILS RWY 31 (CAT II), ILS RWY 31 (CAT III), Amdt 24
Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 5, Amdt 2
Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 13, Amdt 2
Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 23, Amdt 1
Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 31, Amdt 2
Des Moines, IA, Des Moines Intl, Takeoff Minimums and Obstacle DP, Amdt 11A
Topeka, KS, Topeka Rgnl, ILS OR LOC RWY 31, Amdt 10
Topeka, KS, Topeka Rgnl, NDB RWY 13, Amdt 7C, CANCELED
Wichita, KS, Colonel James Jabara, ILS OR LOC RWY 18, Orig-B
Jackson, MI, Jackson County-Reynolds Field, Takeoff Minimums and Obstacle DP, Amdt 6

South St Paul, MN, South St Paul Muni-Richard E Fleming Fld, RNAV (GPS) RWY 34, Amdt 2
Billings, MT, Billings Logan Intl, ILS OR LOC RWY 28R, Amdt 3
Billings, MT, Billings Logan Intl, ILS Y OR LOC Y RWY 10L, Amdt 26
Billings, MT, Billings Logan Intl, NDB RWY 10L, Amdt 19A, CANCELED
Billings, MT, Billings Logan Intl, RNAV (GPS) RWY 7, Amdt 2
Billings, MT, Billings Logan Intl, RNAV (GPS) RWY 10L, Amdt 4
Billings, MT, Billings Logan Intl, RNAV (GPS) RWY 25, Amdt 2
Billings, MT, Billings Logan Intl, RNAV (GPS) Y RWY 28R, Amdt 4
Billings, MT, Billings Logan Intl, RNAV (RNP) Z RWY 28R, Amdt 1
Billings, MT, Billings Logan Intl, Takeoff Minimums and Obstacle DP, Amdt 7A
Twin Bridges, MT, Twin Bridges, BRIDGES ONE, Graphic DP
Twin Bridges, MT, Twin Bridges, DILLON ONE, Graphic DP
Twin Bridges, MT, Twin Bridges, RNAV (GPS) RWY 17, Orig
Twin Bridges, MT, Twin Bridges, RNAV (GPS) RWY 35, Orig
Twin Bridges, MT, Twin Bridges, Takeoff Minimums and Obstacle DP, Orig
Bismarck, ND, Bismarck Muni, ILS OR LOC RWY 31, Amdt 34
Columbus, OH, John Glenn Columbus Intl, RNAV (GPS) Y RWY 28L, Amdt 3D
Columbus, OH, John Glenn Columbus Intl, RNAV (RNP) Z RWY 28L, Amdt 1C
Eugene, OR, Mahlon Sweet Field, RNAV (GPS) Y RWY 16R, Amdt 2A
Eugene, OR, Mahlon Sweet Field, RNAV (GPS) Y RWY 34R, Amdt 3A
Eugene, OR, Mahlon Sweet Field, RNAV (RNP) Z RWY 16R, Amdt 1A
The Dalles, OR, Columbia Gorge Rgnl/The Dalles Muni, RNAV (GPS)-A, Amdt 1A
Philadelphia, PA, Philadelphia Intl, ILS OR LOC RWY 9L, Amdt 4D
Philadelphia, PA, Philadelphia Intl, ILS OR LOC RWY 26, Amdt 4C
Philadelphia, PA, Philadelphia Intl, ILS OR LOC RWY 27L, Amdt 14A
Philadelphia, PA, Philadelphia Intl, ILS OR LOC RWY 27R, ILS RWY 27R (SA CAT I), ILS RWY 27R (SA CAT II), Amdt 10G
Philadelphia, PA, Philadelphia Intl, ILS V RWY 17, Amdt 6C (CONVERGING)
Philadelphia, PA, Philadelphia Intl, ILS Z OR LOC RWY 17, Amdt 8B
Philadelphia, PA, Philadelphia Intl, ILS Z OR LOC Z RWY 9R, ILS Z RWY 9R (SA CAT I), ILS Z RWY 9R (CAT II), ILS Z RWY 9R (CAT III), Amdt 10A
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) RWY 17, Amdt 3B
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) RWY 26, Amdt 1C
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) RWY 27L, Amdt 3A
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) RWY 27R, Amdt 1C
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) RWY 35, Amdt 4A
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) Y RWY 9L, Amdt 1B
Philadelphia, PA, Philadelphia Intl, RNAV (GPS) Y RWY 9R, Amdt 3A
Philadelphia, PA, Philadelphia Intl, RNAV (RNP) Z RWY 9L, Orig-D
Philadelphia, PA, Philadelphia Intl, RNAV (RNP) Z RWY 9R, Orig-D
Pittsburgh, PA, Allegheny County, ILS OR LOC RWY 10, Amdt 7
Sumter, SC, Sumter, ILS OR LOC RWY 23, Amdt 1
Sumter, SC, Sumter, RNAV (GPS) RWY 23, Amdt 1
Sumter, SC, Sumter, RNAV (GPS) Z RWY 23, Amdt 1, CANCELED
College Station, TX, Easterwood Field, ILS OR LOC RWY 34, Amdt 14
College Station, TX, Easterwood Field, LOC BC RWY 16, Amdt 8
College Station, TX, Easterwood Field, RNAV (GPS) RWY 10, Amdt 1C
College Station, TX, Easterwood Field, RNAV (GPS) RWY 16, Amdt 1B
College Station, TX, Easterwood Field, RNAV (GPS) RWY 28, Amdt 1A
College Station, TX, Easterwood Field, RNAV (GPS) RWY 34, Amdt 1B
College Station, TX, Easterwood Field, Takeoff Minimums and Obstacle DP, Amdt 4
College Station, TX, Easterwood Field, VOR RWY 28, Amdt 14
College Station, TX, Easterwood Field, VOR OR TACAN RWY 10, Amdt 19D
Laredo, TX, Laredo Intl, ILS OR LOC RWY 18R, Amdt 12
Laredo, TX, Laredo Intl, LOC BC RWY 36L, Amdt 3
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 14, Amdt 1
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 18L, Amdt 1
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 18R, Amdt 2
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 32, Amdt 2
Laredo, TX, Laredo Intl, RNAV (GPS) RWY 36L, Amdt 3
Provo, UT, Provo Muni, ILS OR LOC RWY 13, Amdt 4
Rock Springs, WY, Rock Springs-Sweetwater County, RNAV (GPS) RWY 9, Orig-A
Rock Springs, WY, Rock Springs-Sweetwater County, RNAV (GPS) RWY 27, Amdt 1B

RESCINDED: On December 4, 2017 (82 FR 57115), the FAA published an Amendment in Docket No. 31166, Amdt No. 3775, to Part 97 of the Federal Aviation Regulations under section 97.23, 97.29, and 97.33. The following entries for Price, UT, effective February 1, 2018, are hereby rescinded in their entirety:

Price, UT, Carbon County Rgnl/Buck Davis Field, ILS OR LOC RWY 1, Amdt 1B
Price, UT, Carbon County Rgnl/Buck Davis Field, RNAV (GPS) RWY 1, Amdt 2B
Price, UT, Carbon County Rgnl/Buck Davis Field, VOR RWY 1, Amdt 1B

[FR Doc. 2017–27679 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Rules of General Application

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: The United States International Trade Commission (''Commission'') amends provisions of its Rules of Practice and Procedure concerning the Privacy Act. The amendment is designed to delete certain exemptions that pertain only to systems of records that the Commission has removed and to add exemptions that pertain to a new system of records.

DATES: This final rule is effective January 25, 2018.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, telephone (202) 205–2000, or Clara Kuehn, Office of the General Counsel, telephone (202) 205–3012, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. This rulemaking amends provisions of the Commission's existing Rules of Practice and Procedure that concern the Privacy Act.

On September 27, 2017, the Commission published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. 82 FR 44982, September 27, 2017. In the NPRM, the Commission proposed to revise 19 CFR 201.32, which governs exemptions to certain Privacy Act requirements. Pursuant to 5 U.S.C. 552a(k), the Commission proposed to delete two exemptions that pertain only to Privacy Act systems of records that were being removed, add exemptions for a new Privacy Act system of records, and correct a typographical error.

In the NPRM, the Commission requested public comment on the proposed revisions to its rules, but no comments were received. The Commission found no reason to change the proposed rules before adopting them as final rules, which are republished below. A more detailed analysis of the

rules can be found at 82 FR 44982 (September 27, 2017).

Regulatory Analysis of Amendments to the Commission's Rules

The Commission certifies that these amendments to the Commission's rules will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it does not create an economic impact and does not affect small entities. The amendments are concerned only with the administration of Privacy Act systems of records within the Commission.

The amendments to the Commission's rules do not contain any information collection requirements subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

No actions are necessary under title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1531–1538) because the amendments to the Commission's rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year (adjusted annually for inflation), and will not significantly or uniquely affect small governments.

The Commission has determined that these rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993) and thus do not constitute a ''significant regulatory action'' for purposes of the Executive Order.

The amendments to the Commission's rules do not have Federalism implications warranting the preparation of a federalism summary impact statement under Executive Order 13132 (64 FR 43255, August 10, 1999).

The amendments to the Commission's rules are not ''major rules'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*).

List of Subjects in 19 CFR Part 201

Administrative practice and procedure.

For the reasons stated in the preamble, under the authority of 19 U.S.C. 1335, the United States International Trade Commission amends 19 CFR part 201 as follows:

PART 201—RULES OF GENERAL APPLICATION

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 19 U.S.C. 1335; 19 U.S.C. 2482, unless otherwise noted.

■ 2. In § 201.32, remove paragraphs (a) and (b); redesignate paragraph (c) as paragraph (a); revise the first sentence of newly redesignated paragraph (a); and add paragraph (b) to read as follows:

§ 201.32 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k)(1), (5) and (6), records contained in the system entitled ''Personnel Security Investigative Files'' have been exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. * * *

(b) Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), records contained in the system entitled ''Freedom of Information Act and Privacy Act Records'' have been exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. Pursuant to section 552a(k)(1) of the Privacy Act, the Commission exempts records that contain properly classified information pertaining to national defense or foreign policy. Application of exemption (k)(1) may be necessary to preclude individuals' access to or amendment of such classified information under the Privacy Act. Pursuant to section 552a(k)(2) of the Privacy Act, and in order to protect the effectiveness of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, the Commission exempts records insofar as they include investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit to which he is otherwise entitled under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

By order of the Commission.

Issued: December 19, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–27671 Filed 12–22–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. FDA–2017–N–6568]

Medical Devices; Anesthesiology Devices; Classification of the External Negative Pressure Airway Aid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

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

DATES: This order is effective December 26, 2017. The classification was applicable on December 23, 2015.

FOR FURTHER INFORMATION CONTACT: Todd Courtney, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2530, Silver Spring, MD 20993–0002, 301–796–6371, *Todd.Courtney@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the external negative pressure airway aid as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device

(see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

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

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

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

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

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

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

II. De Novo Classification

On August 18, 2014, Sommetrics submitted a request for De Novo classification of the cNEP Airway Management System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 23, 2015, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 868.5105. We have named the generic type of device external negative pressure airway aid, and it is identified as a prescription device that applies negative pressure to a patient's neck to aid in providing a patent airway during procedures requiring anesthesia.

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

TABLE 1—EXTERNAL NEGATIVE PRESSURE AIRWAY AID RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Impaired blood flow	Clinical performance testing.
Failure of device or negative pressure mechanism	Non-clinical performance testing.
Adverse tissue reaction	Biocompatibility.
Dislodging of plaque, leading to possible stroke	Labeling.
Inadequate collar fit	Labeling.
Use error	Labeling.

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

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 868

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 868 is amended as follows:

PART 868—ANESTHESIOLOGY DEVICES

■ 1. The authority citation for part 868 is revised to read as follows:

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

■ 2. Add § 868.5105 to subpart F to read as follows:

§ 868.5105 External negative pressure airway aid.

(a) *Identification.* An external negative pressure airway aid is a prescription device that applies negative pressure to a patient's neck to aid in providing a patent airway during procedures requiring anesthesia.

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

(1) Clinical performance testing must document any adverse events observed during clinical use, including impaired blood flow, and demonstrate that the device performs as intended under anticipated conditions.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated patient positions, does not fail during use, and does not lose negative pressure capability. The following testing should be performed:

(i) Ability of the device to maintain a seal during various patient positions;

(ii) Device leakage testing to demonstrate the device maintains vacuum;

(iii) Drop testing to ensure the device does not incur functional damage after dropping the device; and

(iv) Functional testing after high and low storage temperature.

(3) All patient contacting components must be demonstrated to be biocompatible.

(4) Labeling must include:

(i) A summary of clinical testing results, including any adverse events and evidence that effectiveness has been achieved.

(ii) Technical specifications of the device, including collar sizes, maximum duration of use, operating temperature, and storage temperature range.

(iii) Technical specifications of the vacuum source, including maximum vacuum level and operational vacuum level.

(iv) Instructions for use that includes how to place the device, determination of size, verification of suction, reference to training materials, and information on troubleshooting the device if it does not attach properly.

(v) A warning to screen patients for carotid artery disease due to the probable risk of the device to dislodge arterial plaques in the carotid artery.

(vi) A warning to exclude patients with anatomical abnormalities.

(vii) A warning not to use the device during medical procedures involving medications that contain propofol.

Dated: December 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27784 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS TULSA (LCS 16) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective December 26, 2017 and is applicable beginning December 7, 2017.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Kyle Fralick, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE, Suite 3000, Washington Navy Yard, DC 20374–5066, telephone number: 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS TULSA (LCS 16) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 2 (a)(i), pertaining to the height of the forward masthead light above the hull; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead light; Rule 27(b)(i) and Annex I, paragraph 9(b)(i), pertaining to the arc of visibility of middle tasks lights. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, the DoN amends part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended by:

■ a. In Table One, adding, in alpha numerical order, by vessel number, an entry for USS TULSA (LCS 16);

■ b. In Table Four, under paragraph 15, adding, in alpha numerical order, by vessel number, an entry for USS TULSA (LCS 16);

■ c. In Table Four, under paragraph 16, adding, in alpha numerical order, by vessel number, an entry for USS TULSA (LCS 16);

■ d. In Table Four, under paragraph 27, adding, in alpha numerical order, by vessel number, an entry for USS TULSA (LCS 16); and

■ e. In Table Five, adding, in alpha numerical order, by vessel number, an entry for USS TULSA (LCS 16).

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height § 2(a)(i) Annex I
* * * * *	*	*
USS TULSA	LCS 16	4.2
* * * * *	*	*

* * * * *

Table Four

* * * * *

15. * * *

Vessel	Number	Horizontal distances from the fore and aft centerline of the vessel in the athwartship direction
* * * * *	*	*
USS TULSA	LCS 16	Upper—0.20 meters. Middle—1.32 meters. Lower—1.40 meters.
* * * * *	*	

16. * * *

Vessel	Number	Obstruction angle relative ship's headings
* * * * *	*	
USS TULSA	LCS 16	72° thru 74°. 286° thru 288°.
* * * * *	*	

27. * * *

Vessel	Number	Obstruction angle relative ship heading
* * * * *	*	
USS TULSA	LCS 16	47° thru 59°. 301° thru 313°.

Vessel	Number	Obstruction angle relative ship heading
* * * * *	*	

* * * * *

TABLE FIVE

Vessel	Number	Mastheadlights not over all other lights and obstructions annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS TULSA	LCS 16	.....	X	X	15.0
*	*	*	*	*	*

Approved: December 7, 2017.

A.S. Janin,

Captain, USN, JAGC, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

Dated: December 13, 2017.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–27759 Filed 12–22–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0967]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Alligator River, Columbia, NC

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 US 64/Alligator River Bridge which carries US 64 over the Atlantic Intracoastal Waterway (AICW), Alligator River, mile 84.2, near Columbia, NC. The deviation is necessary to facilitate bridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: This deviation is effective without actual notice from December 26, 2017 through 6 p.m. on March 29, 2018. For the purposes of enforcement, actual notice will be used from 7 a.m. on November 6, 2017, until December 26, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0967, 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 Mr. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: On November 1, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Alligator River, Columbia, NC'' in the **Federal Register** (82 FR 50577). That document resulted from North Carolina Department of Transportation's request for a temporary deviation, occurring from 7 a.m. on November 6, 2017, through 7 p.m. on November 17, 2017, from normal operation of the drawbridge to facilitate bridge maintenance. Subsequent to the approval of that request, North Carolina Department of Transportation requested a modification, extending the temporary deviation from 7:01 p.m. on November 17, 2017, through 6 p.m. on March 29, 2018, to allow more time to perform and complete additional bridge maintenance discovered during the previous temporary deviation. Therefore, through this document, the Coast Guard modifies the dates of the previously approved temporary deviation to allow the US 64/Alligator River Bridge that carries US 64 over the AICW, Alligator River, mile 84.2, at near Columbia, NC, to remain in the closed-to-navigation position from 7 a.m. to 7 p.m., on Wednesday, December 27, 2017, through Saturday, December 30, 2017; Monday, January 1, 2018, through Saturday, January 5, 2018; and Monday, January 8, 2018, through Tuesday, January 9, 2018. During these closure periods the bridge will open on signal, if at least 2 hours notice is given. The bridge will also remain in the closed-to-navigation position 24 hours a day, 7 days a week, from 6 a.m. on Wednesday, January 10, 2018, through 6 p.m. on Wednesday, January 17, 2018; and from 6 a.m. on Wednesday, March 14, 2018, through 6 p.m. on Wednesday, March 21, 2018. Alternative work dates for these closure periods will be from noon on Thursday, January 18, 2018, through 6 p.m. on Wednesday, January 24, 2018; and from noon on Thursday, March 22, 2018, through 6 p.m. on Thursday, March 29, 2018. If the alternative work dates from noon on Thursday, January 18, 2018, through 6 p.m. on Wednesday, January 24, 2018 are used, the bridge will also remain in the closed-to-navigation position from 7 a.m. to 6 p.m., Monday through Saturday, from January 22, 2018, through March 14, 2018; except for scheduled daily openings at noon, if at least 2 hours notice is given. If the alternative work dates from noon on Thursday, January 18, 2018, through 6 p.m. on Wednesday, January 24, 2018 are not used, the bridge will also remain in the closed-to-navigation position from 7 a.m. to 6 p.m., Monday through Saturday, from January 17, 2018, through March 14, 2018; except for scheduled daily openings at noon, if at least 2 hours notice is given. The Coast Guard will inform the users of the waterway through our Broadcast Notices to Mariners, if the alternative work dates

will be used. The bridge has a vertical clearance of 14 feet above mean high water in the closed position and unlimited feet above mean high water in the open position. The bridge will open on signal at all other times. The current operating schedule is set out in 33 CFR 117.5.

The AICW, Alligator River is used by a variety of vessels including, small commercial vessels, tug and barge traffic, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. During the closure periods, the bridge will not be able to open for emergencies and the Croatan Sound to the Pamlico Sound can be used as an alternative route for vessels unable to pass through the bridge in the closed position. During the closure periods with scheduled openings at noon, the bridge will be able to open up for emergencies, if at least one hour notice is given. The Coast Guard will also inform the users of the waterway through our Local Notice and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 18, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–27718 Filed 12–22–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0695, FRL–9972–39–Region 1]

Finding of Failure To Submit a Section 110 State Implementation Plan for Interstate Transport for the 2012 Annual National Ambient Air Quality Standards for Fine Particles; Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action finding that Massachusetts failed to submit an infrastructure State Implementation Plan (SIP) to satisfy certain interstate transport requirements of the Clean Air Act (CAA) with respect to the 2012 annual fine particles ($PM_{2.5}$) national ambient air quality standard (NAAQS). Specifically, these requirements pertain to significant contribution to nonattainment, or interference with maintenance, of the 2012 annual $PM_{2.5}$ NAAQS in other states. This finding of failure to submit establishes a 2-year deadline for the EPA to promulgate a Federal Implementation Plan (FIP) to address the interstate transport SIP requirements pertaining to significant contribution to nonattainment, interference with maintenance, interference with Prevention of Significant Deterioration, and interference with visibility protection, unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements.

DATES: This final rule is effective on January 25, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R01–OAR–2017–0695. All documents in the dockets are listed on *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available at *http://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. The EPA requests that if at all possible, you contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. 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: Alison C. Simcox, Environmental Scientist, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912; (617) 918–1684; *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Notice and Comment Under the Administrative Procedures Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

B. How is the Preamble Organized?

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V. Statutory and Executive Order Reviews

II. Background and Overview

A. Interstate Transport SIPs

CAA section 110(a) imposes an obligation upon states to submit SIPs that provide for the implementation, maintenance and enforcement of a new or revised NAAQS within three years following the promulgation of that NAAQS. Section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. The EPA refers to this type of SIP submission as the ''infrastructure'' SIP because it ensures that states can implement, maintain and enforce the air standards. Within these requirements, section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP revision submitted for this sub-section is referred to as an ''interstate transport SIP.'' In turn, section 110(a)(2)(D)(i)(I) requires that such a plan contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (''prong 1'') or interfere with maintenance of the NAAQS in any other state (''prong 2''). Section

110(a)(2)(D(i)(II) requires that such a plan contain adequate provisions to prohibit emissions from the state that will interfere with measures required of any other state to prevent significant deterioration of air quality (''prong 3'') or that will interfere with measures required of any other state to protect visibility (''prong 4''). These are the requirements relevant to this finding.

Pursuant to CAA section 110(k)(1)(B), the EPA must determine no later than six months after the date by which a state is required to submit a SIP whether a state has made a submission that meets the minimum completeness criteria established per section 110(k)(1)(A). The EPA refers to the determination that a state has not submitted a SIP submission that meets the minimum completeness criteria as a ''finding of failure to submit.'' If the EPA finds a state has failed to submit a SIP to meet its statutory obligation to address section 110(a)(2)(D)(i), pursuant to section 110(c)(1) the EPA has not only the authority, but the obligation, to promulgate a FIP within two years to address the CAA requirement. This finding therefore starts a two-year clock for promulgation by the EPA of a FIP, in accordance with section 110(c)(1), unless prior to such promulgation the state submits, and the EPA approves, a submittal to meet the requirements of section 110(a)(2)(D)(i) for the 2012 annual $PM_{2.5}$ NAAQS. The EPA will work with the state subject to this finding of failure to submit and provide assistance as necessary to help the state develop an approvable submittal in a timely manner. The EPA notes this action does not start a mandatory sanctions clock pursuant to CAA section 179 because this finding of failure to submit does not pertain to a part D plan for nonattainment areas required under section 110(a)(2)(I) or a SIP call pursuant to section 110(k)(5).

B. Background on the 2012 Annual $PM_{2.5}$ NAAQS

On December 14, 2012, the EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS to provide increased protection of public health and welfare from fine particle pollution.[1] In that action, the EPA revised the primary annual $PM_{2.5}$ standard, strengthening it from 15.0 micrograms per cubic meter ($\mu g/m^3$) to 12.0 $\mu g/m^3$, which is attained when the three-year average of the annual arithmetic means does not exceed 12.0 $\mu g/m^3$. Infrastructure SIPs addressing the revised standard were due on December 14, 2015. CAA § 110(a)(1).

III. Finding of Failure To Submit for Massachusetts

To date, Massachusetts has not submitted a good neighbor SIP for the 2012 annual $PM_{2.5}$ NAAQS. Accordingly, the EPA is issuing a finding that Massachusetts has failed to submit a SIP addressing the requirements of section 110(a)(2)(D)(i) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i) (prongs 1–4), for the 2012 annual $PM_{2.5}$ NAAQS.

IV. Environmental Justice Considerations

This notice is making a procedural finding that Massachusetts has failed to submit a SIP to address CAA section 110(a)(2)(D)(i) for the 2012 annual $PM_{2.5}$ NAAQS. The EPA did not conduct an environmental analysis for this rule, because this rule would not directly affect the air emissions from particular sources. Because this rule will not directly affect the air emissions from particular sources, it does not affect the level of protection provided to human health or the environment. Therefore, this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

V. Statutory and Executive Order Reviews

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

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

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

This action is not an Executive Order 13771 regulatory action, because it is not a significant regulatory action under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* This final rule does not establish any new information collection requirement apart from what is already required by law.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements, because the agency has invoked the APA ''good cause'' exemption under 5 U.S.C. 553(b).

E. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in the CAA under section 110(a) without the exercise of any policy discretion by the EPA.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. This rule responds to the requirement in the CAA for states to submit SIPs under section 110(a) to address CAA section 110(a)(2)(D)(i) for the 2012 annual $PM_{2.5}$ NAAQS. No tribe is subject to the requirement to submit an implementation plan under section 110(a) within 3 years of promulgation of a new or revised NAAQS. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045, because it does not concern an environmental health risk or safety risk.

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

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

[1] 78 FR 3086; January 15, 2013.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations, because it does not affect the level of protection provided to human health or the environment. The EPA's evaluation of environmental justice considerations is contained in section IV of this notice.

L. Congressional Review Act (CRA)

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

M. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 26, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Dated: December 11, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–27625 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2017–0509; FRL–9972–52–Region 3]

Full Withdrawal of Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; City of Philadelphia; Control of Emissions From Existing Sewage Sludge Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 26, 2017 direct final rule (DFR) that approved a negative declaration submitted by the City of Philadelphia. The negative declaration certified that no existing sewage sludge incineration (SSI) units exist within the City of Philadelphia. EPA stated in the direct final rule that if EPA received adverse comments by November 27, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. This withdrawal action is being taken under sections 129 and 111(d) of the Clean Air Act.

DATES: The direct final rule published at 82 FR 49511 on October 26, 2017, is withdrawn effective December 26, 2017.

ADDRESSES: EPA has established docket number EPA–R03–OAR–2017–0509 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Gordon, (215) 814–2039, or by email at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION: Philadelphia Air Management Services submitted a negative declaration letter to EPA certifying on March 28, 2012 that there are no SSI units subject to the requirements of sections 111(d) and 129 of the CAA in its respective air pollution control jurisdiction. The negative declaration letter and EPA's technical support document for this action are available in the docket for this rulemaking and available online at *www.regulations.gov.*

Please see additional information provided in the direct final action published in the **Federal Register** on October 26, 2017 (82 FR 49511) and in the companion proposed rule which was also published on October 26, 2017 (82 FR 49563). In the DFR, we stated that if we received adverse comment by November 27, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on October 26, 2017. EPA will not institute a second comment period on this action. As a result of the comment received, EPA is withdrawing the direct final rule approving the negative declaration submitted by the City of Philadelphia for existing SSI units.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: December 15, 2017.

Cosmo Servidio

Regional Administrator, Region III.

■ Accordingly, the amendments to 40 CFR 62.9665, published on October 26, 2017 (82 FR 49511), are withdrawn effective December 26, 2017.

[FR Doc. 2017–27795 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2017–0484; FRL–9972–55-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Opacity Monitoring Requirements for Municipal Waste Combustors; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the November 6, 2017 direct final rule (DFR) that approved revisions to the State of Maryland's Clean Air Act (CAA) section 111(d)/129 State Plan for municipal waste combustors (MWCs). The revisions contain Maryland's amendments to Regulations .07 and .08 under the Code of Maryland Regulations (COMAR) 26.11.08. This withdrawal

action is being taken under sections 129 and 111(d) of the CAA.

DATES: The direct final rule published at 82 FR 51350 on November 6, 2017 is withdrawn effective December 26, 2017.

ADDRESSES: EPA has established docket number EPA–R03–OAR–2017–0484 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Emily Linn, (215) 814–5273, or by email at *linn.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: On May 10, 2016, the State of Maryland submitted a formal revision (MD Submittal #16–05) to its CAA section 111(d)/129 State Plan for MWCs. The revisions contain Maryland's amendments to COMAR 26.11.08, ''Requirements for an Existing Large MWC with a Capacity Greater Than 250 Tons Per Day.'' These amendments update the MWC references to opacity compliance previously made by the Maryland Department of the Environment. The Maryland state submittal is available in the docket for this rulemaking and available online at *www.regulations.gov.*

Please see additional information provided in the direct final action published in the **Federal Register** on November 6, 2017 (82 FR 51350) and in the companion proposed rule which was also published on November 6, 2017 (82 FR 51380). In the DFR, we stated that if we received adverse comment by December 6, 2017, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. As a result of the comment received, EPA is withdrawing the DFR approving the revisions submitted by the State of Maryland to their CAA section 111(d)/129 State Plan for MWCs. EPA will address the comment received in a subsequent final action based upon the proposed action also published on November 6, 2017. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 15, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

■ Accordingly, the amendments to 40 CFR 62.5110 and 40 CFR 62.5112, published on November 6, 2017 (82 FR 51350), are withdrawn effective December 26, 2017.

[FR Doc. 2017–27796 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–1042; FRL–9972–44–OAR]

RIN 2060–AT13

National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; Rotary Spin Lines Technology Review and Revision of Flame Attenuation Lines Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action completes the final residual risk and technology reviews (RTR) that the Environmental Protection Agency (EPA) conducted for the Wool Fiberglass Manufacturing source category regulated under the national emission standards for hazardous air pollutants (NESHAP). In this action, the EPA is readopting the existing emission limits for formaldehyde, establishing emission limits for methanol, and a work practice standard for phenol emissions from bonded rotary spin (RS) lines at wool fiberglass manufacturing facilities. In addition, the EPA is revising the emission standards promulgated on July 29, 2015, for flame attenuation (FA) lines at wool fiberglass manufacturing facilities by creating three subcategories of FA lines and establishing emission limits for formaldehyde and methanol emissions, and either emission limits or work practice standards for phenol emissions for each subcategory of FA lines.

DATES: This final rule is effective on December 26, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–1042. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Brian Storey, Sector Policies and Programs Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1103; fax number: (919) 541–4991; and email address: *storey.brian@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Sara Ayres, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (312) 353–6266; and email address: *ayres.sara @epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

BDL below the detection limit
CAA Clean Air Act
CBI confidential business information
CD–ROM Compact Disc Read-Only Memory
CDX Central Data Exchange
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FA flame attenuation
FR Federal Register
HAP hazardous air pollutants(s)
ICR information collection request
lbs/ton pounds per ton
MACT maximum achievable control technology
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PF phenol-formaldehyde
ppmv parts per million by volume

PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RS rotary spin
RTR Risk and Technology Review
tpy tons per year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
UPL upper prediction limit

Background information. On August 29, 2017, the EPA proposed revisions to the Wool Fiberglass Manufacturing NESHAP based on our technology review of the source category's bonded RS lines. In addition, the proposal included certain revisions to the July 29, 2015, emission standards for the bonded FA lines. In this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in the document titled, *National Emissions Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing (40 CFR part 63, subpart NNN)—Technology Review, Final Amendments: Response to Public Comments on August 29, 2017 Proposal,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2010–1042). A ''track changes'' version of the regulatory language that incorporates the changes in this action is also available in the docket.

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

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I. General Information

A. Does this action apply to me?

Regulated entities. Table 1 includes the categories and entities potentially regulated by this action.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [1] code
Wool Fiberglass Manufacturing	327993

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

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

Additional information is available on the RTR website at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project websites for the RTR source categories, and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by February 26, 2018. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised

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

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). In conducting this review, the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (DC Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (DC Cir. 2013). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] Additionally, CAA section 112(h) allows the agency to adopt a work practice standard in lieu of a numerical emission standard only if it is ''not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant.'' This phrase is defined as applying where ''the Administrator determines that the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' CAA section 112(h)(1) and (2).

In this action, the EPA is finalizing the technology review for RS lines in accordance with section 112(d)(6) of the CAA. In addition, the EPA is amending certain emission standards promulgated on July 29, 2015, for FA lines at wool fiberglass manufacturing facilities.

B. What is the Wool Fiberglass Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Wool Fiberglass Manufacturing NESHAP on June 14, 1999 (62 FR 31695). The standards are codified at 40 CFR part 63, subpart NNN. The Wool Fiberglass Manufacturing source category consists of facilities that produce wool fiberglass from sand, feldspar, sodium sulfate, anhydrous borax, boric acid, or any other materials. This source category currently comprises three wool fiberglass manufacturing facilities operating bonded RS lines, and two facilities operating bonded FA lines. The EPA is not currently aware of any planned or potential new or reconstructed bonded RS or FA lines.

On July 29, 2015, we published the final rule amendments to the Wool Fiberglass Manufacturing NESHAP resulting from our completion of certain aspects of the CAA section 112(f)(2) residual risk review and the CAA section 112(d)(6) technology review for that NESHAP RTR. 80 FR 45280. Specifically, the July 29, 2015, final rule:

- Established a chromium emission limit for gas-fired, glass-melting furnaces under CAA section 112(f)(2);
- Revised the particulate matter emission limit for gas-fired, glass-

[1] The U.S. Court of Appeals for the District of Columbia Circuit has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (DC Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

melting furnaces at major sources under CAA section 112(d)(6);

• Established work practice standards for hydrogen chloride and hydrogen fluoride emissions from glass-melting furnaces at wool fiberglass manufacturing facilities under CAA section 112(h);

• Eliminated the use of formaldehyde as a surrogate and established revised limits for formaldehyde and first-time limits for methanol and phenol emitted from FA lines under CAA sections 112(d)(2) and (d)(3);

• Eliminated FA line subcategories;

• Removed the exemption for startup and shutdown periods and established work practice standards that apply during startup and shutdown periods; and

• Established chromium emission limits for both new and existing gas-fired, glass-melting furnaces at area sources in the Wool Fiberglass Manufacturing source category under CAA section 112(d)(5).

In the July 2015 rule, we did not finalize proposed emission limits for formaldehyde, methanol, and phenol emissions from forming, cooling, and collection processes on bonded RS lines under CAA sections 112(d)(2) and (3). We explained that this decision was based on comments we received on our various proposals indicating that the proposed limits likely relied on incorrect data. We explained that we had issued an Information Collection Request (ICR) under CAA section 114 for purposes of obtaining the requisite data. 80 FR 45293.

C. What changes did we propose for the Wool Fiberglass Manufacturing source category in our August 29, 2017, notice?

On August 29, 2017, the EPA published a proposed rule in the **Federal Register** for the Wool Fiberglass Manufacturing NESHAP, 40 CFR part 63, subpart NNN, that took into consideration the new data received in response to the ICR. We also explained that since our July 29, 2015, final rule, we had received new information and data from a facility that operates FA lines that cast doubts on information and data that the agency relied on in promulgating the July 2015 final rule emission limits for FA lines. In the August 29, 2017, **Federal Register**, we proposed the following:

• Readopting the formaldehyde emission limits for bonded RS lines that were in the original 1999 NESHAP under CAA section 112(d)(6);

• Establishing new emission limits for methanol from bonded RS lines under CAA section 112(d)(2) and (3);

• Establishing work practice standards for phenol from bonded RS lines under CAA section 112(h);

• Amending the incinerator operating limits to include cooling emissions from both RS and FA limits under CAA section 112(d)(2) and (3);

• Establishing new subcategories of FA lines under CAA section 112(d)(1), defined as: (1) Aerospace, Air Filtration, and Pipe Products; (2) Heating, Ventilation, and Air Conditioning (HVAC); and (3) Original Equipment Manufacturer (OEM);

• Establishing new emission limits for formaldehyde, methanol, and phenol from most of the newly proposed FA line subcategories under CAA section 112(d)(2) and (3); and

• Setting work practice standards for phenol from one newly proposed FA line subcategory under CAA section 112(h).

III. What is included in this final rule?

This action finalizes the EPA's determinations, as proposed, pursuant to the CAA section 112(d)(6) review for the Wool Fiberglass Manufacturing source category and amends the Wool Fiberglass Manufacturing NESHAP based on those determinations. This action also finalizes, with minor revisions to our proposals, other changes to the NESHAP, including establishing first-time limits for methanol emissions from forming, cooling, and collection processes on new and existing bonded RS lines at wool fiberglass manufacturing facilities under CAA sections 112(d)(2) and (3), and establishing work practices standards for phenol emissions from forming, cooling, and collection processes on new and existing bonded RS lines at wool fiberglass manufacturing facilities under CAA section 112(h).

Additionally, consistent with our proposal, this action finalizes our decision to create three subcategories of FA lines at wool fiberglass manufactuirng facilities based on the type of product that is manufactured. This action also finalizes, as proposed, emission limits for formaldehyde, methanol, and phenol emissions under CAA section 112(d)(2) and (3) for two of these subcategories, and finalizes emission limits for formaldehyde and methanol under CAA section 112(d)(2) and (3), and work practices standards for phenol emissions under CAA section 112(h), for the third subcategory.

A. What are the final rule amendments for formaldehyde emissions from RS lines based on the technology review for the Wool Fiberglass Manufacturing source category?

We are readopting the current emissions standards for formaldehyde from forming, cooling, and collection processes on existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities under CAA section 112(d)(6) as the result of our technology review.

B. What are the final rule amendments pursuant to CAA sections 112(d)(2) and (3) for RS lines in the Wool Fiberglass Manufacturing source category?

Under CAA sections 112(d)(2) and (d)(3), we are establishing emission limits for methanol from forming, cooling, and collection processes on existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities.

C. What are the final rule amendments pursuant to CAA section 112(h) for RS lines in the Wool Fiberglass Manufacturing source category?

We are establishing work practice standards for phenol emissions from combined fiber/collection, curing, and cooling processes on existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities under CAA section 112(h).

D. What other changes have been made to the NESHAP?

Other changes to the NESHAP include:

• Finalizing the proposed subcategories for FA lines and their associated emissions standards for existing, new, and reconstructed bonded FA lines at wool fiberglass manufacturing facilities;

• Adding an annual operating requirement for designating the appropriate subcategory for FA lines;

• Clarifying that the Aerospace subcategory includes pipe products;

• Establishing the compliance period for both RS and FA lines; and

• Revising the recordkeeping requirement for free-formaldehyde and free-phenol content of binders.

E. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on December 26, 2017. The compliance date for existing RS and FA manufacturing lines is December 26, 2020. New sources must comply with the all of the standards immediately upon the effective date of the standard,

December 26, 2017, or upon startup, whichever is later.

CAA section 112(i)(3) requires that existing sources must comply as expeditiously as practicable, but no later than 3 years after promulgation of standards under CAA section 112(d). (''Section 112(i)(3)'s three-year maximum compliance period applies generally to any emissions standard . . . promulgated under CAA [section 112].'' *Ass'n of Battery Recyclers* v. *EPA,* 716 F.3d 667, 672 (DC Cir. 2013)). Additionally, we may not reset compliance deadlines for revisions that are unaccompanied by changes to a MACT standard. *NRDC* v. *EPA,* 489 F.3d 1364, 1374 (DC Cir. 2007) (EPA may not revise compliance deadlines ''for compliance with Section 112 standards anytime it adjusts reporting terms.''). This final action reflects our conclusion that sources will need the 3-year period to comply with the various final rule requirements, which are not just reporting requirements. For instance, with regard to FA lines, subcategories have been newly created, and numerical emission limits for formaldehyde and methanol emissions are being promulgated. Thus, owners or operators of affected sources will need to conduct performance tests in order to demonstrate initial compliance with these final standards. Additionally, as explained at proposal, the work practice standards for phenol emisisons from both RS and FA lines call for vendor specifications, which will likely require vendor bids and selections, and the likely institution of new practices to address the final recordkeeping requirements.

F. What are the requirements for submission of performance test data to the EPA?

As we proposed, the EPA is taking steps to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is finalizing the requirement for owners or operators of wool fiberglass manufacturing facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description of the ERT and instructions for using ERT can be found at *http://www3.epa.gov/ttn/chief/ert/index.html.* CEDRI can be accessed through the CDX website (*http://www.epa.gov/cdx*). Once submitted, a performance test report will be available to the public through the EPA WebFIRE database (*https://cfpub.epa.gov/webfire/*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT website. With electronic reporting, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local, and tribal air agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, and tribal air agencies, and the EPA significant time, money, and effort.

IV. What is the rationale for our final decisions and amendments for the Wool Fiberglass Manufacturing source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses are contained in the comment summary and response document available in the docket for this action.

A. Technology Review for the Wool Fiberglass Manufacturing Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Wool Fiberglass Manufacturing source category?

In the August 29, 2017, action (82 FR 40970), we proposed readopting the current NESHAP emission limits for formaldehyde from forming, cooling, and collection processes on existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities under CAA section 112(d)(6).

2. How did the technology review change for the Wool Fiberglass Manufacturing source category?

We are not changing our technology review findings from the August 29, 2017, proposal.

3. What key comments did we receive on the technology review, and what are our responses?

One commenter disagreed with our proposal to readopt the current formaldehyde emission limits for existing and new sources. The commenter stated that the EPA's refusal to increase protections against formaldehyde emissions from RS lines is unlawful and irrational and is not consistent with 42 U.S.C. 7412(d)(6), which is intended to drive pollution reductions. The commenter said that the EPA's proposal to retain the current NESHAP emission limits for formaldehyde from RS lines, even though the EPA identified developments in practices, processes, and control technologies under the technology review, does not meet the requirements of 42 U.S.C. 7412(d)(6) which requires the EPA to ''account'' for such developments consistent with the CAA. The commenter asserted that failing to strengthen the emission limits will allow sources to emit at higher levels without consequence, and will remove a strong incentive for the industry to complete the transition to non-phenol formaldehyde (PF) binders.

We disagree with the commenter. As explained in the August 29, 2017, action (82 FR 40975), we considered mandating the use of non-PF binders for lines currently using PF binders, and/or mandating the use of non-PF binders for all bonded lines as part of the required CAA section 112(d)(6) technology review. We did not propose this option, however, and, instead, we proposed to readopt the current limits because the source category has already achieved approximately 95-percent reduction in formaldehyde emissions due to the

replacement of the PF binders with non-PF binders. We explained that this industry trend would likely continue given industry indications that non-PF binders are less expensive than PF binders and, as also explained at proposal, that cost considerations will move the industry in the direction of complete elimination of PF binders in the absence of regulation. However, as also noted at proposal, the remaining sources that continue to operate RS lines using PF binders manufacture products for customers with specifications that preclude the use of any currently available non-PF binders and, therefore, if PF binders were banned, these facilities would likely no longer be able to produce these products. Furthermore, we noted that mandating non-PF binders would likely be viewed as penalizing sources that continued to utilize PF binders. Therefore, we continue to conclude that it would be inappropriate to ban PF binders at this time. We also explained that our review of the 2015 ICR indicated that all bonded RS lines are equipped with air pollution control devices for formaldehyde emissions as compared to the time of promulgation of the 1999 MACT standards. Specifically, we found that formaldehyde emissions were significantly below the 1999 MACT and we attributed these reductions to both control technologies in use and the phase out of PF binders. We expressed our belief that sources would maintain these control technologies and, thus, that the lower emissions remain somewhat assured, even without our lowering of the existing MACT standards. We continue to believe that sources will maintain control technologies that address formaldehyde emissions from the various processes on RS lines post promulgation of standards that they are already meeting, partly because most (or potentially all) of these sources would likely not be able to comply with the current formaldehyde limits or the new methanol limits without these controls. We also note that because we were confident of the continued use of existing control technologies that achieve formaldehyde emissions reductions that are well below the existing MACT, we also did not propose requiring initial compliance demonstration, but rather proposed to allow sources to use test reports submitted in response to the 2015 ICR as a means of demonstrating initial compliance with the proposed emission limits, when finalized (82 FR 40976). This final rule contains this requirement, as proposed. Additionally, these existing MACT limits are reflected in operating permits for these sources and, thus, remain enforceable until otherwise revised.

4. What is the rationale for our final approach for the technology review?

As noted in the proposal preamble (82 FR 40974), this source category has already achieved approximately 95-percent reduction in formaldehyde emissions due to the replacement of PF binders with non-PF binders. We conclude that the industry will continue this trend without the need for tighter regulation due to cost considerations (*i.e.,* non-PF binders are less expensive than PF binders). Additionally, as explained above, facilities are currently using PF binders because of customers' specifications for certain products and, thus, would be unable to manufacture such products if we mandate the use of non-PF binders. Therefore, we are finalizing our proposal to readopt the current NESHAP formaldehyde emission limits for existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities.

B. Amendments Pursuant to CAA Sections 112(d)(2) and (3) for the Wool Fiberglass Manufacturing Source Category

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the Wool Fiberglass Manufacturing source category?

In the August 29, 2017, action (82 FR 40970), we proposed first-time standards for methanol emitted from forming, cooling, and collection processes on existing, new, and reconstructed bonded RS lines at wool fiberglass manufacturing facilities. We established the MACT floor for methanol emissions based on application of the upper prediction limit (UPL) method to the best-performing five sources in the test data collected under Part 2 of the 2015 ICR. We considered beyond-the-floor options for methanol for all combined collection and curing operation designs as required by CAA section 112(d)(2); however, we did not propose any limits based on the beyond-the-floor analyses because of the potential adverse impacts of additional controls, including the cost of control devices, non-air environmental impacts, and energy implications associated with use of these additional controls.

2. How did our findings pursuant to CAA sections 112(d)(2) and (3) review change for the Wool Fberglass Manufacturing source category?

In this final action, we are revising the methanol emission limits for new and existing bonded RS lines by reflecting just two significant figures, based on comments received on the August 29, 2017, proposal. This is consistent with current bonded RS line emission limits.

3. What key comments did we receive on our findings pursuant to CAA sections 112(d)(2) and (3), and what are our responses?

One commenter stated that the EPA's proposal illegally and arbitrarily relied on the UPL, instead of following the CAA's requirement to set an emission limitation that is not less stringent than the ''average emission limitation achieved'' by the relevant best-performing sources. The commenter also argued that there was ample support in the record for proposal and adoption of beyond-the-floor limits such as material switching.

We disagree with the commenter. Section 112(d)(3) of the CAA requires the EPA to promulgate standards for major sources of HAP that are based on MACT performance. For existing sources, MACT standards must be at least as stringent as the average emission limitation achieved by the best-performing 12 percent of existing sources (for which the Administrator has emissions information) or the best-performing five sources for source categories with less than 30 sources. For new sources, the MACT standards must be at least as stringent as the control level achieved in practice by the best-controlled similar source. MACT standards also have to be continuously achievable as specified by CAA section 302(k).

Although CAA section 112(d) includes language such as ''existing source,'' ''best performing,'' and ''achieved in practice'' in referring to source operations, the CAA language does not address whether sources' emission levels should be evaluated over time or be based on a single test result. In fact, the D.C. Circuit has long recognized the ambiguity in the term ''average emission limitation.'' See *NACWA* v. *EPA,* 734 F.3d at 1131 (noting that the court has accorded Chevron deference to the EPA's interpretation of CAA sections 129 MACT floor requirement) and 112 (''the phrase 'average emission limitation achieved by the best performing 12 percent of units' could be interpreted several different ways, with several

different variations of what the MACT floor is supposed to represent''). The phrase ''average emission limitation achieved by the best performing 12 percent of units'' does not specify the methodology that the EPA should use to determine the emissions levels achieved by the best-performing sources. Therefore, the EPA has discretion to interpret the phrase ''average emission limitation achieved'' by the best performing source or sources. Further, the D.C. Circuit has held repeatedly that the EPA may take the variability of best-performing sources into account in establishing MACT floors. *Sierra Club* v. *EPA,* 479 F.3d 875, 881–882 (D.C. Cir. 2007). See also, *Cement Kiln Recycling Coalition* v. *EPA,* 255 F. 3d 861, 865 (D.C. Cir. 2001); *National Lime Ass'n* v. *EPA,* 627 F.2d 416, 431 n.46, 443 (D.C. Cir. 1980). Consequently, we apply the UPL approach in developing numeric emission standards when using short-term test data, rather than calculating a straight average of test runs which does not address the performance of a source over time. The UPL is a statistical method to compensate for limited data and account for variability in emissions in determining what emission limitations have been achieved by the best-performing sources. The EPA's use of the UPL has been upheld based on explanations previously provided in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 632–637 (D.C. Cir. 2016). ''We believe that the EPA has carried its burden of demonstrating that the UPL reflect[s] a reasonable estimate of the emissions achieved in practice by the best performing sources.'' *Id.,* at 635 (Internal citations omitted).

With regard to the comment that we should have set beyond-the-floor limits in light of evidence of material switching, as explained at proposal, there are potential adverse impacts of additional controls for methanol, such as control devices costs, non-air quality health impacts, and energy implications (82 FR 40976). Additionally, as also previously explained, customer specifications preclude the use of products with any currently available non-PF binders and, therefore, requiring non-PF binders as a beyond-the-floor measure would result in these products likely no longer being produced. (''Nothing in section 7429(a)(2) requires the agency to impose a cost so disproportionate to the expected gains.'' *Id.,* at 640).

4. What is the rationale for our final approach pursuant to CAA sections 112(d)(2) and (3)?

We based the final methanol emission limits for the forming, cooling, and collection processes on existing, new, and reconstructed RS lines at wool fiberglass manufacturing facilities on data collected under Part 2 of the 2015 ICR. We conclude that, based on the UPL for the best-performing five sources, these limits represent the MACT level of control for methanol emissions currently being achieved on RS line processes by using add-on control devices (*e.g.,* gas scrubbers, thermal oxidizers). In response to the proposed rule, we did not receive any additional emissions and process data for consideration.

C. Amendments Pursuant to CAA Section 112(h) for the Wool Fiberglass Manufacturing Source Category

1. What did we propose pursuant to CAA sections 112(h) for the Wool Fiberglass Manufacturing source category?

In the August 29, 2017, action (82 FR 40970), we proposed establishing work practice standards under CAA section 112(h) that represent MACT for phenol emissions from forming, cooling, and collection processes on bonded RS lines. We concluded that it was not feasible to prescribe or enforce an emission limit for these processes due to the prevalence of emission test values reported as below the detection limit (BDL) of the test method.

2. How did our findings pursuant to CAA section 112(h) change for the Wool Fiberglass Manufacturing source category?

We did not change our proposal to establish work practice standards for phenol emissions under CAA section 112(h) for RS lines. However, based on our evaluation of public comments, we concluded that methods for determining the free-formaldehyde and free-phenol content of binder formulations does not exist. We have, therefore, removed the proposed requirement for facilities to record the free-formaldehyde and free-phenol content of binder formulations, and instead revised the proposed requirement for facilities to record and maintain records of the free-formaldehyde and free-phenol content of the resin purchased. In addition, facilities are required to record and maintain records of the formaldehyde and phenol content of the product binder formulations.

3. What key comments did we receive on our findings pursuant to CAA section 112(h), and what are our responses?

One commenter noted that the proposed rule requires owners or operators to record the free-formaldehyde and free-phenol content of binder, but did not specify the method for determining these values. The proposed rule did not specify the procedures for determining the binder free-formaldehyde and free-phenol content because we were unaware of a published method for conducting the measurement. Based on discussions with the commenter, the industry does not have methods for assessing these parameters in binder formulations. Consequently, we are removing the requirement in the final rule to record the free-formaldehyde and free-phenol content of binder formulations. We have revised the rule to require facilities to record and maintain records of the free-formaldehyde and free-phenol content of the resin purchased.

One commenter said that the EPA failed to meet the required tests for setting only work practice standards instead of numerical emission limits. The commenter noted that the EPA may promulgate work practice standards instead of numerical standards ''only if measuring emission levels is technologically or economically impracticable'' (*Sierra Club* v. *EPA,* 479 F.3d 875, 883–84 (D.C. Cir. 2007)) and only if doing so ''is consistent with the provisions of subsection (d) or (f).'' 42 U.S.C. 7412(h)(1). The commenter stated that the presence of BDL values in the test data does not provide an excuse for the EPA to evade the requirement to set numeric standards.

We disagree with the commenter that numerical standards are appropriate for phenol emissions from RS lines. Sections 112(h)(1) and (h)(2)(B) of the CAA provide the EPA with the discretion to adopt a work practice standard, rather than a numeric standard, when ''the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' The ''application of measurement methodologies'' (described in CAA section 112(h)(2)(B)) means not only conducting a measurement, but also that a measurement has some reasonable relation to what the source is emitting (*i.e.,* that the measurement yields a meaningful value). That is not the case here. Therefore, as proposed, we concluded that it is not feasible to establish a numerical standard for phenol emissions from RS lines. Moreover, a numerical limit established at some level greater than the detection limit (which would be a necessity since any numeric standard would have to be measurable) could authorize and allow more emissions of these HAP than would otherwise be the case.

4. What is the rationale for our final approach pursuant to CAA section 112(h)?

As explained in the proposal preamble, approximately 60 percent of the phenol concentration values were reported as BDL values. Under these circumstances, it is not technologically and economically feasible to measure reliably phenol emissions from RS lines. This is also consistent with our approach in previous rulemakings (*e.g.,* NESHAP for Coal- and Oil-Fired Electric Utility Steam Generating Units, NESHAP for Primary Aluminum Reduction Plants) where test results were predominantly found to be BDL (*e.g.,* more than 55 percent of the test run results). In these instances, the EPA established work practice standards for the pollutants in question from the subject sources because we concluded that emissions of the pollutants are too low to reliably measure and quantify. Similarly, we are finalizing work practice standards for phenol emissions from FA lines.

D. Amendments for FA Lines in the Wool Fiberglass Manufacturing Source Category

1. What amendments did we propose for FA lines in the Wool Fiberglass Manufacturing source category?

In the August 29, 2017, action (82 FR 40976), we proposed three subcategories for FA lines under CAA section 112(d)(1) based on recent information indicating that there are technical or design differences that distinguish FA lines that manufacture different wool fiberglass products: (1) Aerospace and Air Filtration; (2) HVAC; and (3) OEM. (See also proposed 40 CFR 63.1381.) We also proposed revisions to the formaldehyde, methanol, and phenol emission limits for FA lines promulgated on July 29, 2015 (80 FR 45280), to reflect these new subcategories and proposed a 1-year compliance period. In a separate action on July 6, 2017 (82 FR 34858), we proposed extending the compliance period for the July 29, 2015, final rule requirements for existing FA lines to 3 years in order to allow the EPA time to review corrected data provided by the industry.

2. How did our findings regarding the FA line proposal change for the Wool Fiberglass Manufacturing source category?

Consistent with our August 29, 2017, proposal, we revised the formaldehyde, methanol, and phenol limits for FA lines to incorporate updated production data received from the industry. We also revised the definition of the Aerospace subcategory to include FA lines that manufacture pipe products to reflect comments we received on our proposal. Table 2 shows the final emission limits for the FA line subcategories.

TABLE 2—FINAL EMISSION LIMITS FOR FA LINE SUBCATEGORIES

[lb/ton]

Subcategory	Pollutant	Existing sources	New and reconstructed sources
Aerospace, Air Filtration, and Pipe Products	Formaldehyde	27	18.0
	Methanol	8.9	4.0
HVAC	Formaldehyde	2.8	2.4
	Methanol	7.3	1.5
	Phenol	0.4	0.4
OEM	Formaldehyde	5.0	2.9
	Methanol	5.7	1.1
	Phenol	31	22

3. What key comments did we receive regarding the FA line proposal?

One commenter noted that we did not use the correct production rate values in calculating the test run values (expressed in terms of pounds of pollutant per ton of glass pulled) that we used in the UPL analysis. We acknowledge the error in the industry data, and the emission limits for FA lines in the final rule, reflects the updated production values.

One commenter noted that the Aerospace and Air Filtration Products subcategory should include pipe products because the same base resin is used in manufacturing these products. We agree with the commenter that it is appropriate for pipe products and the Aerospace and Air Filtration Products subcategory to meet the same emission limits; therefore, we revised the Table 2 to 40 CFR part 63, subpart NNN in the final rule.

Another commenter stated that the EPA's proposal to subcategorize FA lines so that each individual source is its own subcategory is irrational and unlawful and does not meet the statutory test for subcategorization specified in CAA section 112(d)(1), which is based on the ''classes, types, and sizes'' of sources. The commenter said that the EPA failed to provide the necessary determination to subcategorize, including a demonstration of: (1) Why these different products make the different lines somehow appropriate to divide into subcategories; (2) why the different products require the use of different binders, some with greater amounts of pollutants; or (3) why the EPA is changing its prior proposal not to subcategorize FA lines. The commenter also stated that there was no support for the work practice standard for phenol emissions from the Aerospace, Air Filtration, and Pipe Products subcategory.

We disagree with the commenter. In the April 15, 2013, proposal (78 FR 22387), we proposed to eliminate the heavy density and pipe subcategories of FA manufacturing lines because we no longer believe that a technical basis exists to distinguish these subcategories, and, in the July 29, 2015, action, we finalized emission limits for FA lines that apply to all types of products. However, as noted in the August 29, 2017, proposal (82 FR 40977), the data (that we used to determine that FA line emission limits) contained errors in the analytical results for formaldehyde, methanol, and phenol. In fact, the data used to set the 2015 emission limits did not represent every product manufactured by the source category. Our review of the corrected FA line data received from the industry identified that the phenol emission from certain FA production lines were 1- to 2-orders of magnitude higher than other FA lines. In addition, we found that some FA lines, due to their lower pull rates, were never represented in the data used to set the 2015 emission limits for FA

lines. Based on discussions with Johns Manville (the only company currently operating FA lines), we were able to attribute the differences in phenol emissions to the use of different binder formulations in the manufacture of different wool fiberglass products for specific customer demands and end uses. We had also explained that PF binder application varies with the result that phenol emissions are either higher or lower depending on the product being manufactured (82 FR 40977). Additionally, proposed 40 CFR 63.1381 presented the proposed subcategories. Based on our proposal, we conclude that the different products manufactured, and their represented manufacturing processes are an acceptable basis that Congress intended for distinguishing between classes or types of sources. We also note that ''type'' is ''undefined and unrestricted'' in CAA section 112(d)(1). *U.S. Sugar Corp.,* 830 F.3d at 656.

One commenter noted that the final rule should include criteria for designating the appropriate subcategory for individual FA lines and suggested that the subcategory be assigned based on the type of product manufactured for 75 percent of the FA line's operating hours. We agree with the commenter. Therefore, we have revised the subcategory definitions in the final rule to include the percent-operating time criteria.

One commenter objected to the EPA's proposal to extend the compliance date for FA lines because the EPA's action violates: (1) The clear compliance deadline requirements for air toxics standards provided in 40 U.S.C. 7412(i)(3); (2) the prohibition on a delay of effectiveness of more than 3 months for the purpose of reconsideration according to 40 U.S.C. 7607(d)(7)(B); and (3) the core public notice-and-comment requirements of the CAA and reasoned decision-making because the EPA did not provide any information, data, or documents related to the erroneous data in the public docket. The commenter also asserted that the EPA's proposed action is arbitrary and capricious because it is unsupported by evidence in the record and it conflicts with evidence in the record. The commenter argued that the EPA is changing its prior determination of the 2-year compliance date without the required acknowledgment and a reasoned explanation, including a justification for disregarding the facts previously found. The commenter also said EPA has given no indication that the concern it raised applies to more than one facility or a sufficient number of facilities to justify considering a new compliance date for all sources, as opposed to evaluating a request for a single compliance date extension of 1 year under the statutory mechanism for that purpose. In addition, the EPA has failed to consider or address in any way the health and environmental effects of the compliance delay it proposes.

We disagree with the commenter. The direct final action did not stay the effectiveness of the July 29, 2015, final rule but rather extended the compliance date for FA lines by one year. (82 FR 34858). Moreover, because the EPA received adverse comments, the direct final notice was subsequently withdrawn and did not go into effect. Additionally, in a separate action, of August 29, 2017, the EPA proposed a different approach that was based on new data and information provided by Johns Manville, which can be found in the docket for this rulemaking. In this document, the EPA is taking action to finalize the approach presented in the August 29, 2017, that includes the creation of subscategories for FA lines. As such, assertions that the approach presented in the direct final and parallel proposal were insufficiently supported by the record are not relevant to this action. The final action is consistent with the statutory mandate and fully supported by the rulemaking record. As previously explained, CAA section 112(i)(3)(A) specifies that the compliance date for existing sources must provide for compliance as expeditiously as practicable, no later than 3 years after the effective date of the standard. The compliance deadline in this final rule does not exceed the 3-year period allowed under CAA section 112(i)(3)(A). As also previously explained, it reflects the period the EPA believes sources need to comply with these revised standards and conduct the necessary compliance tests (refer to section III.E of this action).

We also disagree that the 3-month period for staying the effectiveness of a rule is relevant. The compliance extension contained within this action does not stay the effectiveness of a rule by altering the effective date. Instead, it simply extends the compliance date—an action which has its own effective date. Moreover, the CAA requirements at 40 U.S.C. 7607(d)(7)(B) specify the conditions for submitting and the requirements for responding to a petition for reconsideration. As we explained in the July 2017 action, we extended the compliance date on our own initiative because we discovered that the data on which the July 2015 final rule was based contained errors. We were not proceeding in response to a petition for reconsideration of the rule.

As previously discussed regarding the response to comments on our proposed work practice standards for phenol emissions from RS lines, in section IV.C of this preamble, we disagree with the commenter that numerical standards are appropriate for phenol emissions from FA lines. For the reasons provided in section IV.C, we conclude that it is not feasible to establish a numerical standard for phenol emissions from FA lines manufacturing aerospace, air filtration, and pipe products.

4. What is the rationale for our final approach for FA lines?

Based on the corrected phenol emissions data and the different binder formulations used, we conclude it is appropriate to establish the Aerospace, HVAC, and OEM subcategories and their associated emission standards for FA lines in this final rule. We are providing a period of 3 years to allow owners and operators of FA lines sufficient time to plan and conduct compliance tests, submit notifications and compliance status reports, and to evaluate current control technology conditions, if needed.

E. Other Amendments to the Wool Fiberglass Manufacturing NESHAP

1. What other amendments did we propose to the Wool Fiberglass Manufacturing NESHAP?

In the August 29, 2017, action we proposed amendments to the incinerator operating limits specified in 40 CFR 63.1382(c)(6) to clearly indicate that the subsection applies to total RS or FA line emissions. In addition, we proposed revisions to 40 CFR 63.1383(g)(1) to include this clarification as it relates to monitoring requirements.

In the August 29, 2017, proposed rule, we revised 40 CFR 63.1382(c)(8)(i) to include corrective action requirements as they apply to the new RS line emission limits, and the revised FA line emission limits. Similarly, we proposed revisions to 40 CFR 63.1383(h) to reflect monitoring requirements applicable to the new RS line emission limits, and the revised FA line emission limits. In addition, we revised 40 CFR 63.1383(i)(1) to address owner or operators who use process modifications to control both formaldehyde and methanol emissions.

The August 29, 2017, proposed rule included clarification for performance test requirements, as included in 40 CFR 63.1384(a)(3), and revised 40 CFR 63.1384(a)(9) to require the requirement to monitor and record the free-phenol content of the binder formulation.

Lastly, we proposed to allow owners or operators that conducted emissions tests in 2016 in response to the EPA's ICR to submit those performance test results to demonstrate initial compliance with the new methanol emission limits for RS lines, rather than conducting additional tests.

2. How did our findings change for the Wool Fiberglass Manufacturing NESHAP?

Based on comments received, we reiterate in this final action that the incinerator operating limits of 40 CFR 63.1382(c)(6) apply to total emissions from forming, cooling, and collection for RS lines and to total emissions from forming, cooling, and collection for FA lines.

3. What key comments did we receive regarding the Wool Fiberglass Manufacturing NESHAP in general?

One commenter noted that in the August 29, 2017, proposed rule preamble the EPA stated that ''We are also proposing amendments to the incinerator operating limits specified in 40 CFR 63.1382(c)(6) to clearly indicate that the subsection applies to cooling emissions. Incinerators would be required to control the final formaldehyde, methanol, and, where applicable, phenol emissions from forming, curing, and cooling processes for both FA and bonded RS lines.'' 82 FR 40976. The commenter suggested that the EPA should make clear that an owner or operator must meet the incinerator requirements *in the event* the cooling section on a particular line uses incineration as a means of control. The commenter indicated that the rule text revision was acceptable, but the preamble language was contradictory.

We have finalized 40 CFR 63.1382(c)(g) as proposed, but have provided clarification in this preamble to indicate that the incinerator operating limit applies to the total emissions from the production line, and does not apply to individual incinerators used for each of the processes within the production line.

As noted in section IV.C.2 of this preamble, one commenter noted that the proposed rule requires owners or operators to record the free-phenol content of binder, but did not specify the method for determining free-phenol content of the binders. Based on discussions with the commenter, the industry does not have a method for assessing this parameter in binder formulations. We have, therefore, revised 40 CFR 63.1384(a)(9) to require facilities to record and maintain records of the free-phenol content of the resin purchased. In addition, the facilities are required to maintain records of the formaldehyde and phenol content of the binder formulations used in the products.

4. What is the rationale for our final approach for the additional amendments to the Wool Fiberglass Manufacturing NESHAP?

We have revised the requirement for monitoring and recording the free-phenol content to specify that facilities must monitor and record the free-phenol content of the resin purchased, and not of the binder formulation. All other proposed rule revisions are finalized as proposed. We provide clarification in this preamble the intent of the incinerator operating limits included in the final rule, and indicate they are applicable to the RS and FA lines at wool fiberglass manufacturing facilities.

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

A. What are the affected facilities?

Currently, only three wool fiberglass manufacturing facilities continue to use RS lines to manufacture a bonded product. These three facilities operate six bonded RS lines that would be affected by the revised emission limits. Additionally, two facilities continue to use FA lines to manufacture a bonded product. The EPA is not currently aware of any planned or potential new or reconstructed bonded RS or FA lines.

B. What are the air quality impacts?

Based on the test data received in response to the 2015 ICR, the three facilities with bonded RS lines currently meet the final emission limits for formaldehyde and methanol. Furthermore, based on available information, we expect the two facilities with bonded FA lines will be able to meet the emission limits for formaldehyde, methanol and phenol without additional controls. Therefore, the emission limits for formaldehyde, methanol and phenol will likley not result in further HAP emissions reductions. Also, we do not anticipate secondary environmental impacts from the final amendments to the Wool Fiberglass Manufacturing NESHAP because we expect that owners or operators will not need to install additional control devices to meet any of the standards.

C. What are the cost impacts?

Because the existing facilities will not need to install add-on control devices or implement process modifications to comply with the final emissions standards, and because the EPA is allowing facilities to use the test reports submitted in response to Part 2 of the ICR to demonstrate initial compliance with the final emission limits for RS lines, the five facilities that are subject to the final emission standards will not incur increased costs for installing or upgrading emissions control systems. However, the facilities that are subject to this final action will each incur costs related to the testing and notifications requirements related to emission limits, and additional monitoring and recordkeeping activities related to work practice standards. The total annual cost of this final action is approximately $13,131/year (2016 dollars).

D. What are the economic impacts?

Economic impact analyses evaluate changes in market prices and output levels. If changes in market prices and output levels in the directly affected markets are significant, impacts on other markets are also examined. Both the magnitude of costs needed to comply with the rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a rule.

The final standards for RS lines at wool fiberglass manufacturing facilities do not impose control costs or additional testing costs on affected facilities. However, affected facilities will have reporting requirements (*i.e.,* an initial notification and a notification of compliance status) associated with the final formaldehyde and methanol emission limits and monitoring and recordkeeping requirements associated with the phenol work practice standard. We estimate that the total annual cost of this final action is approximately $13,131/year (2016 dollars). The economic impacts associated with the costs of this final action are quite low; each affected firm is estimated to experience an impact of less than 0.01 percent of their revenues.

E. What are the benefits?

Based on the data collected under Part 2 of the ICR, the actual formaldehyde emissions from all bonded RS lines are lower than the level allowed under the 1999 NESHAP. Although the final standards for formaldehyde from RS lines do not achieve further emissions reductions, the final emission limits for methanol and the work practice standards for phenol ensure that the emissions reductions that have been achieved since the 1999 NESHAP will persist into the future and that emissions will not increase.

F. What analysis of environmental justice did we conduct?

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), and it does not establish an environmental health or safety standard.

G. What analysis of children's environmental health did we conduct?

This final action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

VI. Statutory and Executive Order Reviews

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

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

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

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

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 1160.10. This action does not change the information collection requirements.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. None of the five entities affected by this action are small entities, using the Small Business Administration definition of small business for the affected NAICS code (327993), which is 1,500 employees for the ultimate parent company.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. This action readopts the existing emission limit for formaldehyde and establishes new emission limits for methanol and a work practice standard for phenol emissions for RS lines. This action also includes revisions to the standards for FA lines. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. Therefore, the EPA conducted searches for the Wool Fiberglass Manufacturing Area Source NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases.

As discussed in the November 2014 supplemental proposal (79 FR 68029), under 40 CFR part 63, subpart NNN, we conducted searches for EPA Methods 5, 318, 320, 29, and 0061 of 40 CFR part 60, Appendix A. These searches did not identify any VCS that were potentially applicable for this rule in lieu of EPA reference methods.

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

The EPA believes that this action does *not* have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). It does not establish an environmental health or safety standard.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Wool fiberglass manufacturing.

Dated: December 15, 2017.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, the EPA is amending title 40, chapter I, part 63 of the Code of the Federal Regulations as follows:

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

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

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

Subpart NNN—National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

■ 2. Section 63.1381 is amended by adding the definitions, in alphabetical order, for ''Aerospace and air filtration

products''; ''Heating, ventilation, and air conditioning (HVAC) products''; and ''Original equipment manufacturer (OEM) products'' and revising the definition of ''Pipe product'' to read as follows:

§ 63.1381 Definitions.

* * * * *

Aerospace and air filtration products means bonded wool fiberglass insulation manufactured for the thermal and acoustical insulation of aircraft and/or the air filtration markets. For the purposes of this subpart, a production line that manufactures these types of products for 75 percent or more of the line's annual operating hours is considered to be an aerospace and air filtration products line.

* * * * *

Heating, ventilation, and air conditioning (HVAC) products means bonded wool fiberglass insulation manufactured for use in HVAC systems for the distribution of air or for thermal and acoustical insulation of HVAC distribution lines. For the purposes of this subpart, a production line that manufactures these types of products for 75 percent or more of the line's annual operating hours is considered to be an HVAC products line.

* * * * *

Original equipment manufacturer (OEM) products means bonded wool fiberglass insulation manufactured for OEM entities that fabricate the insulation into parts used as thermal or acoustical insulation in products including, but not limited to, appliances, refrigeration units, and office interior equipment. For the purposes of this subpart, a production line that manufactures these types of products for 75 percent or more of the line's annual operating hours is considered to be an OEM products line.

Pipe product means bonded wool fiberglass insulation manufactured on a flame attenuation manufacturing line and having a loss on ignition of 8 to 14 percent and a density of 48 to 96 kg/m^3 (3 to 6 lb/ft^3). For the purposes of this subpart, a production line that manufactures these types of products for 75 percent or more of the line's annual operating hours is considered to be a pipe product line.

* * * * *

■ 3. Section 63.1382 is amended by revising paragraphs (c)(6), (c)(8)(i), and (c)(9) to read as follows:

§ 63.1382 Emission standards.

* * * * *

(c) * * *

(6) The owner or operator must operate each incinerator used to comply with the emission limits for rotary spin or flame attenuation lines specified in Table 2 to this subpart such that any 3-hour block average temperature in the firebox does not fall below the average established during the performance test as specified in § 63.1384.

* * * * *

(8)(i) The owner or operator must initiate corrective action within 1 hour when the monitored process parameter level(s) is outside the limit(s) established during the performance test as specified in § 63.1384 for the process modification(s) used to comply with the emission limits for rotary spin or flame attenuation lines specified in Table 2 to this subpart, and complete corrective actions in a timely manner according to the procedures in the operations, maintenance, and monitoring plan.

* * * * *

(9) The owner or operator must use a resin in the formulation of binder such that the free-formaldehyde and free-phenol contents of the resin used do not exceed the respective ranges contained in the specification for the resin used during the performance test as specified in § 63.1384.

* * * * *

■ 4. Section 63.1383 is amended by revising paragraphs (g)(1), (h), (i)(1), and (j) to read as follows:

§ 63.1383 Monitoring requirements.

* * * * *

(g)(1) The owner or operator who uses an incinerator to comply with the emission limits for rotary spin or flame attenuation lines specified in Table 2 to this subpart must install, calibrate, maintain, and operate a monitoring device that continuously measures and records the operating temperature in the firebox of each incinerator.

* * * * *

(h) The owner or operator who uses a wet scrubbing control device to comply with the emission limits for rotary spin or flame attenuation lines specified in Table 2 to this subpart must install, calibrate, maintain, and operate monitoring devices that continuously monitor and record the gas pressure drop across each scrubber and the scrubbing liquid flow rate to each scrubber according to the procedures in the operations, maintenance, and monitoring plan. The pressure drop monitor must be certified by its manufacturer to be accurate within ±250 pascals (±1 inch water gauge) over its operating range, and the flow rate monitor must be certified by its manufacturer to be accurate within ±5 percent over its operating range. The owner or operator must also continuously monitor and record the feed rate of any chemical(s) added to the scrubbing liquid.

(i)(1) The owner or operator who uses process modifications to comply with the emission limits for rotary spin or flame attenuation lines specified in Table 2 to this subpart must establish a correlation between formaldehyde, methanol, and phenol emissions, as appropriate, and the process parameter(s) to be monitored.

* * * * *

(j) The owner or operator must monitor and record the free-formaldehyde and free-phenol content of each resin shipment received and of each resin used in the formulation of binder.

* * * * *

■ 5. Section 63.1384 is amended by revising paragraphs (a) introductory text, (a)(3), (a)(9), and (c) introductory text to read as follows:

§ 63.1384 Performance test requirements.

(a) The owner or operator subject to the provisions of this subpart shall conduct a performance test to demonstrate compliance with the applicable emission limits in § 63.1382. Compliance is demonstrated when the emission rate of the pollutant is equal to or less than each of the applicable emission limits in § 63.1382. The owner or operator shall conduct the performance test according to the procedures in 40 CFR part 63, subpart A and in this section. If the owner or operator conducted an emissions test in 2016 according to the procedures specified in § 63.1384(a)(9) and § 63.1385 in response to the EPA's Information Collection Request, the owner or operator can use the results of the emissions test to demonstrate initial compliance with the emission limits for rotary spin lines specified in Table 2 to this subpart.

* * * * *

(3) During each performance test, the owner or operator must monitor and record the glass pull rate for each glass-melting furnace and, if different, the glass pull rate for each rotary spin manufacturing line and flame attenuation manufacturing line. Record the glass pull rate every 15 minutes during any performance test required by this subpart and determine the arithmetic average of the recorded measurements for each test run and calculate the average of the three test runs. If a rotary spin or flame attenuation line shares one or more emissions points with another rotary spin or flame attenuation line(s), owners or operators can conduct the

performance test while each of the process lines with the shared emissions point(s) is operating as specified in paragraph (a)(8) of this section, rather than testing each of the shared lines separately. In these cases, owners or operators must use the combined glass pull rate for the process lines with the shared emissions point(s) to demonstrate compliance with the emission limits specified in Table 2 to this subpart.

* * * * *

(9) The owner or operator of each rotary spin manufacturing line and flame attenuation manufacturing line regulated by this subpart must conduct performance tests using the resin with the highest free-formaldehyde content. During the performance test of each rotary spin manufacturing line and flame attenuation manufacturing line regulated by this subpart, the owner or operator shall monitor and record the free-formaldehyde and free-phenol contents of the resin, the binder formulation used, and the product LOI and density.

* * * * *

(c) To determine compliance with the emission limits specified in Table 2 to this subpart, for formaldehyde and methanol for rotary spin manufacturing lines; formaldehyde, phenol, and methanol for flame attenuation manufacturing lines; and chromium compounds for gas-fired glass-melting furnaces, use the following equation:

* * * * *

■ 6. Section 63.1385 is amended by revising paragraph (a)(8) to read as follows:

§ 63.1385 Test methods and procedures

(a) * * *

(8) Method contained in appendix B of this subpart for the determination of the free-formaldehyde content of resin. The owner or operator shall use vendor specifications to determine the free-phenol content of resin.

* * * * *

■ 7. Section 63.1386 is amended by revising paragraph (d)(2)(v) to read as follows:

§ 63.1386 Notification, recordkeeping, and reporting requirements

* * * * *

(d) * * *

(2) * * *

(v) The formulation of each binder batch and the LOI and density for each product manufactured on a rotary spin manufacturing line or flame attenuation manufacturing line subject to the provisions of this subpart, and the free-formaldehyde and free-phenol contents of each resin shipment received and of each resin used in the binder formulation;

* * * * *

■ 8. Table 2 to subpart NNN of part 63 is amended by:

■ a. Revising entries 7 and 8;

■ b. Redesignating entries 9 through 13 as entries 11 through 15;

■ c. Adding new entries 9 and 10;

■ d. Revising newly redesignated entries 11 through 15;

■ e. Adding entries 16 through 19; and

■ f. Adding footnote 5.

The revisions and additions read as follows:

TABLE 2 TO SUBPART NNN OF PART 63—EMISSION LIMITS AND COMPLIANCE DATES

If your source is a:	And you commenced construction:	Your emission limits are: [1]	And you must comply by: [2]
* *	* *	* *	*
7. Rotary spin manufacturing line	On or before March 31, 1997.	1.2 lb formaldehyde per ton of glass pulled [5].	June 14, 2002.
8. Rotary spin manufacturing line	After March 31, 1997	0.8 lb formaldehyde per ton of glass pulled [5].	June 14, 1999.
9. Rotary spin manufacturing line	On or before November 25, 2011.	1.2 lb formaldehyde per ton of glass pulled 1.1 lb methanol per ton of glass pulled.	December 26, 2020.
10. Rotary spin manufacturing line	After November 25, 2011	0.8 lb formaldehyde per ton of glass pulled 0.65 lb methanol per ton of glass pulled.	December 26, 2017.[4]
11. Flame-attenuation line manufacturing a heavy-density product.	After March 31, 1997, but on or before November 25, 2011.	7.8 lb formaldehyde per ton of glass pulled [5].	June 14, 1999.
12. Flame-attenuation line manufacturing a pipe product.	On or before March 31, 1997.	6.8 lb formaldehyde per ton of glass pulled [5].	June 14, 2002.
13. Flame-attenuation line manufacturing a pipe product.	After March 31, 1997, but before November 25, 2011.	6.8 lb formaldehyde per ton of glass pulled [5].	June 14, 1999.
14. Flame-attenuation line manufacturing an aerospace, air filtration, or pipe product.	On or before November 25, 2011.	27 lb formaldehyde per ton of glass pulled 8.9 lb methanol per ton of glass pulled.	December 26, 2020.
15. Flame-attenuation line manufacturing an aerospace, air filtration, or pipe product.	After November 25, 2011	18.0 lb formaldehyde per ton of glass pulled 4.0 lb methanol per ton of glass pulled.	December 26, 2017.[4]
16. Flame-attenuation line manufacturing an HVAC product.	On or before November 25, 2011.	2.8 lb formaldehyde per ton of glass pulled 7.3 lb methanol per ton of glass pulled 0.4 lb phenol per ton of glass pulled.	December 26, 2020.
17. Flame-attenuation line manufacturing an HVAC product.	After November 25, 2011	2.4 lb formaldehyde per ton of glass pulled 1.5 lb methanol per ton of glass pulled 0.4 lb phenol per ton of glass pulled.	December 26, 2017.[4]

TABLE 2 TO SUBPART NNN OF PART 63—EMISSION LIMITS AND COMPLIANCE DATES—Continued

If your source is a:	And you commenced construction:	Your emission limits are: [1]	And you must comply by: [2]
18. Flame-attenuation line manufacturing an OEM product.	On or before November 25, 2011.	5.0 lb formaldehyde per ton of glass pulled 5.7 lb methanol per ton of glass pulled 31 lb phenol per ton of glass pulled.	December 26, 2020.
19. Flame-attenuation line manufacturing an OEM product.	After November 25, 2011 ...	2.9 lb formaldehyde per ton of glass pulled 1.1 lb methanol per ton of glass pulled 22 lb phenol per ton of glass pulled.	December 26, 2017.[4]

[1] The numeric limits do not apply during startup and shutdown.
[2] Existing sources must demonstrate compliance by the compliance dates specified in this table. New sources have 180 days after the applicable compliance date to demonstrate compliance.

* * * * * * *

[4] Or initial startup, whichever is later.
[5] This limit does not apply after December 26, 2020.

[FR Doc. 2017–27797 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2016–0683; FRL–9971–92–OAR]

RIN 2060–AT61

Approval of Louisiana's Request To Relax the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Several Parishes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve an April 10, 2017 request from the Louisiana Department of Environmental Quality (LDEQ) to relax the Federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the following parishes: Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary. Specifically, EPA is approving amendments to the regulations to allow the gasoline RVP standard for these 11 parishes to rise from 7.8 pounds per square inch (psi) to 9.0 psi. EPA has determined that this change to the Federal gasoline RVP volatility regulation is consistent with the applicable provisions of the Clean Air Act (CAA). LDEQ has also requested that EPA relax gasoline volatility requirements for the 5-parish Baton Rouge area, and EPA will address that request in a separate rulemaking in the future.

DATES: This final rule is effective on January 25, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0683. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov/*.

FOR FURTHER INFORMATION CONTACT: Dave Sosnowski, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: (734) 214–4823; fax number: (734) 214–4052; email address: *sosnowski.dave@epa.gov*. You may also contact Rudolph Kapichak at the same address; telephone number: (734) 214–4574; fax number: (734) 214–4052; email address: *kapichak.rudolph@epa.gov*.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. General Information
II. Action Being Taken
III. History of the Gasoline Volatility Requirement
IV. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas
V. Louisiana's Request to Relax the Federal Gasoline RVP Requirement for Several Parishes
VI. Response to Comments
VII. Final Action
VIII. Statutory and Executive Order Reviews
IX. Legal Authority and Statutory Provisions

I. General Information

A. Does this action apply to me?

Entities potentially affected by this rule are fuel producers and distributors who do business in Louisiana.

Examples of potentially regulated entities	NAICS [1] Codes
Petroleum refineries	324110, 424710
Gasoline Marketers and Distributors	424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220, 484230

[1] North American Industry Classification System.

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. The table lists the types of entities of which EPA is aware that could be affected by this rule. Other types of entities not listed on the table could also be affected. To determine whether your organization may be affected by this rule, you should carefully examine the regulations in 40 CFR 80.27. If you have questions

regarding the applicability of this action to a particular entity, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. What is EPA's authority for taking this action?

The statutory authority for this action is granted to EPA by sections 211(h) and 301(a) of the CAA, as amended; 42 U.S.C. 7545(h) and 7601(a).

II. Action Being Taken

This final rule approves a request from the state of Louisiana to change the federal RVP standard for the parishes of Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary from 7.8 psi to 9.0 psi by amending EPA's regulations at 40 CFR 80.27(a)(2). EPA is not addressing in this final rule LDEQ's request that EPA also relax the federal RVP standard for the 5-parish Baton Rouge area. EPA will address that request in a separate rulemaking in the future.

The preamble for this rulemaking is organized as follows: Section III, provides the history of the federal gasoline volatility regulation; Section IV, describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas; Section V, provides information specific to Louisiana's request for the 11 parishes addressed by this action; Section VI, provides a response to the comments EPA received; and Section VII, presents the final action in response to Louisiana's request.

III. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOCs), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function, thereby aggravating asthma and other respiratory conditions, increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under CAA section 211(c), EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum gasoline RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established a new section 211(h) to address fuel volatility. CAA section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. CAA section 211(h) also prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with CAA section 211(h). The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, effective January 13, 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to their respective volatility programs. EPA's policy for approving such changes is described below in Section IV. of this preamble.

The state of Louisiana initiated the change being finalized in this action by requesting that EPA relax the 7.8 psi RVP standard to 9.0 psi for the parishes of Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary. See Section V. of this preamble for information specific to Louisiana's request.

IV. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the preamble for EPA's amended Phase II volatility standards (See 56 FR 64706, December 12, 1991), any change in the gasoline volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where EPA mandated a Phase II summertime volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the federal 7.8 psi gasoline RVP requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal RVP standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991 rulemaking, EPA believes that relaxation of an applicable gasoline RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, CAA section 107(d)(3) requires the state to make a showing, pursuant to CAA section 175A, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the gasoline volatility standard unless the state requests a relaxation and the maintenance plan demonstrates to the satisfaction of EPA that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

As explained in the proposal to this final rule, some former 1-hour ozone nonattainment areas that remain subject to the federal summertime RVP limit of 7.8 psi have been designated as attainment areas for both the 1997 and 2008 ozone NAAQS and based on the latest available air quality data are also attaining the more stringent 2015 ozone NAAQS. These states submitted, and EPA approved, CAA section 110(a)(1)

maintenance plans for these areas, as required by the Phase 1 implementation rule for the 1997 ozone NAAQS (69 FR 23951, April 30, 2004).

As further explained at proposal, EPA has concluded that there is neither an implementation plan revision nor a CAA section 110(l) demonstration required in order for EPA to approve a state's request to relax the federal summertime gasoline RVP limit under the circumstances described above for such areas as these 11 parishes. Rather, in order for EPA to approve a request to relax the federal RVP limit for such areas, the Governor or his/her designee must request that the Administrator revise the federal gasoline RVP regulations to remove the subject areas from the list of required areas in 40 CFR 80.27(a)(2). The state may provide any relevant supporting information such as recent air quality data, designation status for ozone and information on previously approved ozone maintenance plans. The Administrator's decision on whether to grant a state's request to revise the federal gasoline RVP regulations in such cases would be documented through notice-and-comment rulemaking. See the August 9, 2017 proposal for further background (82 FR 37184).

V. Louisiana's Request To Relax the Federal Gasoline RVP Requirement for Several Parishes

On April 10, 2017, LDEQ requested that EPA relax the current federal gasoline RVP volatility standard of 7.8 psi to 9.0 psi for 16 Louisiana parishes, the 5 parishes of the Baton Rouge area, and 11 other parishes: Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary. These other 11 parishes attained the 1-hour ozone NAAQS and were redesignated to attainment with approved CAA section 175A maintenance plans. They were then designated as attainment for the 1997 ozone NAAQS. As such, the State was required by EPA's Phase 1 rule, which implemented the 1997 ozone NAAQS, to submit CAA section 110(a)(1) maintenance plans for these parishes that addressed the 10-year period from 2004 to 2014. (*See* 69 FR 23951, April 30, 2004.) [2] The Phase 1 implementation rule for the 1997 ozone NAAQS did not require Louisiana to submit second 10-year CAA section 175A maintenance plans for the 1-hour ozone NAAQS for these parishes. In 2012, all 11 parishes were designated as attainment for the 2008 ozone NAAQS. Because they were designated as attainment for both the 1997 and 2008 ozone NAAQS, they were not required to submit a CAA section 110(a)(1) maintenance plan for the 2008 ozone NAAQS. Therefore, as explained earlier above, these parishes are no longer within the timeframe that was addressed by any approved maintenance plan for any ozone NAAQS. The 11 parishes that are the subject of this action are all attaining the more stringent 2015 ozone NAAQS, and the State did not recommend that any of these 11 parishes be designated as nonattainment for the 2015 ozone NAAQS.[3]

EPA's August 9, 2017 proposal included several pieces of information that supports the State's request:

- The current ozone design values for the parishes in question, based upon 2013–2015 air quality data are well below the 2015 ozone NAAQS of 70 parts-per-billion (ppb). For more information on current design values for the 11 parishes refer to Table 1 in the August 9, 2017 proposal (82 FR 37186).
- Moreover, the projections for VOC emissions (*i.e.,* the ozone precursor controlled through RVP limitations) from the previously approved CAA section 110(a)(1) maintenance plans for the 1997 ozone NAAQS for the areas covered by the State's request show relatively flat or downward VOC emissions trends through 2014. For more information on trends in VOC emissions in the 11 parishes refer to Table 2 in the August 9, 2017 notice of proposed rulemaking (82 FR 37187).
- There are also national rules that result in VOC and/or NOx emission reductions that will contribute to the downward trend in ozone concentrations in the 11 parishes into the future. See EPA's August 9, 2017 proposal for further information (82 FR 37184).

VI. Response to Comments

EPA received four comments on its August 9, 2017 (82 FR 37184) proposal to relax the gasoline RVP standard from 7.8 psi to 9.0 psi. EPA found that these comments were either supportive of the proposed change or fell outside the scope of this action as discussed further below.

Comment: An organization representing the Louisiana oil and gas industry provided comments in support of the proposed relaxation of summertime gasoline RVP from 7.8 to 9.0 psi.

Response: EPA acknowledges that the commenter supported the proposal.

Comment: EPA received two sets of comments that were not related to any of the issues addressed in the proposal, while a third expressed general disagreement with relaxing any environmental regulations for any reason without addressing the specific issue of the subject RVP relaxation.

Response: Regarding the generic objection to the relaxation of environmental regulations, EPA deemed this outside the scope of the proposal because it did not address EPA's conclusion that approving the proposed relaxation would not adversely impact air quality in the covered areas, nor would it interfere with those areas' ability to meet any other applicable NAAQS. As discussed above and in the proposal, EPA has concluded based on current air quality data and available VOC and NOx emissions information that the RVP relaxation will not have any appreciable effect on air quality in the 11 parishes, and therefore, the requested relaxation is approvable.

VII. Final Action

EPA is taking final action to approve Louisiana's request for the Agency to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the parishes of Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary. Specifically, this action amends the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the 11 named parishes. This approval is based on the redesignation of the named areas to attainment of the 1-hour ozone NAAQS and their designation as attainment for the 1997 and 2008 ozone NAAQS. Additionally, recent air quality data from monitors in the parishes demonstrates that they are attaining the 2015 ozone NAAQS of 70 ppb. Lastly, emission reductions from national rules aimed at reducing VOCs and NOx that were not previously claimed or accounted for in the State's projection of air quality trends for its maintenance plans will ensure

[2] For more information on Louisiana's CAA section 110(a)(1) maintenance plans for the individual parishes under the 1997 ozone NAAQS, please refer to the following **Federal Register** notices approving the maintenance plans for the parishes listed parenthetically after the citation: 72 FR 62579, November 6, 2007 (Beauregard and St. Mary Parishes); 73 FR 15411, March 24, 2008 (Lafayette and Lafourche Parishes); 78 FR 57058 September 17, 2008 (Pointe Coupee Parish); 73 FR 53403 September 16, 2008 (New Orleans Parish); and 73 FR 59518 (Calcasieu and St. James Parishes).

[3] On September 29, 2015, Louisiana submitted a letter to EPA recommending designations for the 2015 ozone NAAQS. The State recommended that all of the 11 parishes addressed in this action be designated as unclassifiable/attainment. The letter is available at: *https://www.epa.gov/ozone-designations/ozone-designations-2015-standards-louisiana-state-recommendations.*

continued attainment of the 2015 ozone NAAQS.

VIII. Statutory and Executive Order Reviews

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

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

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

This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction because it relaxes the federal RVP standard for gasoline, and as a result, fuel suppliers will no longer be required to provide 7.8 psi lower RVP gasoline in the 11 parishes during the summer months (June 1st through September 15th). Relaxing the volatility requirements will also be beneficial because this action can improve the fungibility of gasoline sold in the State of Louisiana by allowing the gasoline sold in the 11 named parishes to be identical to the fuel sold in most of the remainder of the State.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under PRA, because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The small entities subject to the requirements of this action are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in Louisiana and gasoline distributers and retail stations in Louisiana. This action relaxes the federal RVP standard for gasoline sold in 11 Louisiana parishes during the high ozone season. This rule does not impose any requirements or create impacts on small entities beyond those, if any, already required by or resulting from the CAA section 211(h) Volatility Control program. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This final rule does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in CAA section 211(h) without the exercise of any policy discretion by the EPA.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. This final rule will affect only those refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale and gasoline distributers and retail stations in the 11 Louisiana parishes. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. EPA has no reason to believe that this action may disproportionately affect children based on available ozone air quality data and VOC and NO_X emissions information. EPA has concluded that a relaxation of the gasoline RVP will not interfere with the attainment of the ozone NAAQS, or any other applicable CAA requirement in these 11 Louisiana parishes.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not affect the applicable ozone NAAQS which establish the level of protection provided to human health or the environment. This rule relaxes the applicable volatility standard of gasoline during the high ozone season (June 1 to September 15 of each year). EPA has concluded that the relaxation will not cause a measurable increase in ozone concentrations that would result in a violation of any ozone NAAQS including the 2008 ozone NAAQS or the more stringent 2015 ozone NAAQS. Therefore, disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result.

L. Congressional Review Act (CRA)

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

M. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 26, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

IX. Legal Authority and Statutory Provisions

The statutory authority for this action is granted to EPA by sections 211(h) and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: December 15, 2017.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

■ 2. Section 80.27 is amended in the table in paragraph (a)(2)(ii) by revising the entries for ''Louisiana'' to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

(ii) * * *

APPLICABLE STANDARDS [1] 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
* * *	*	*		*	*
Louisiana:					
Grant Parish [4]	9.0	9.0	9.0		9.0
11 Other Louisiana Parishes [11]	9.0	9.0	9.0		9.0
All other volatility nonattainment areas	9.0	7.8	7.8		7.8
* * *	*	*		*	*

[1] Standards are expressed in pounds per square inch (psi).

* * * * * * *

[4] The standard for Grant Parish from June 1 until September 15 in 1992 through 2007 was 7.8 psi.

* * * * * * *

[11] The standard for the Louisiana parishes of Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary from June 1 until September 15 in 1992 through 2017 was 7.8 psi.

* * * * *

[FR Doc. 2017–27628 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2017–0213; FRL–9972–47–OAR]

RIN 2060–AT43

Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) received adverse comment on the direct final rule titled ''Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant,'' published on September 28, 2017. Therefore, through this document we are withdrawing that direct final rule.

DATES: Effective December 26, 2017, EPA withdraws the direct final rule published at 82 FR 45202, on September 28, 2017.

FOR FURTHER INFORMATION CONTACT: Sara Kemme by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205T), 1200 Pennsylvania Avenue NW, Washington, DC 20460; by telephone: (202) 566–0511; or by email: *kemme.sara@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA received adverse comment on the direct final rule ''Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Refrigerant,'' published on September 28, 2017 (82 FR 45202). The direct final rule stated that if the Agency received adverse comment by October 30, 2017, the direct final rule would not take effect and EPA would publish a timely withdrawal in the **Federal Register**. Because we received adverse comment on that direct final rule during that comment period we are withdrawing the direct final rule in this document. We will address relevant comments in any subsequent final action, which would be based on the parallel proposed rule also published on September 28, 2017 (82 FR 45253). The Agency intends to act expeditiously on the parallel proposed rule. As stated in the direct final rule and the parallel proposed rule, there will not be a second comment period on this action.

List of Subjects in 40 CFR Part 82

Environmental protection, Air pollution control, Chemicals, Reporting and recordkeeping requirements.

Dated: December 15, 2017.

E. Scott Pruitt,

Administrator.

■ Accordingly, the amendments to 40 CFR 82.154 published on September 28, 2017 (82 FR 45202) are withdrawn as of December 26, 2017.

[FR Doc. 2017–27799 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0258; FRL–9970–94]

2-Propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl); Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl); when used as an inert ingredient in a pesticide chemical formulation. Spring Trading Company on behalf of Ashland Specialty Ingredients, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) on food or feed commodities.

DATES: This regulation is effective December 26, 2017. Objections and requests for hearings must be received on or before February 26, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0258, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0258 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 26, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0258, by one of the following methods.

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

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

II. Background and Statutory Findings

In the **Federal Register** of September 15, 2017 (82 FR 43352) (FRL–9965–43), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11045) filed by Spring Trading Company on behalf of Ashland Specialty Ingredients, 203 Dogwood Trail Magnolia, Texas 77354. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl); 193743–10–1. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-Propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 20,600 is greater than or equal to 10,000 daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl).

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) is 20,600 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

EPA has not found 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl), EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a

reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl).

VIII. Other Considerations

A. Existing Exemptions From a Tolerance

Not Available.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Residue Limits

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

The Codex has not established a MRL for 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl).

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl) from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

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

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

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

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: November 30, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.960, add alphabetically the polymer ''2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl), minimum number average molecular weight (in amu), 20,600'' to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * * * *	
2-propenoic acid, 2-methyl-, dodecyl ester, polymer with 1-ethenyl-2-pyrrolidinone and a-(2-methyl-1-oxo-2-propen-1-yl)-w-methoxypoly(oxy-1,2-ethanediyl), minimum number average molecular weight (in amu), 20,600	193743–10–1

Polymer	CAS No.
* * * * * * *	

[FR Doc. 2017–27805 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 262

[EPA–HQ–OLEM–2016–0492; FRL–9971–49–OLEM]

RIN 2050–AG90

Confidentiality Determinations for Hazardous Waste Export and Import Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is amending existing regulations regarding the export and import of hazardous wastes from and into the United States. Specifically, this rule applies a confidentiality determination such that no person can assert confidential business information (CBI) claims for documents related to the export, import, and transit of hazardous waste and export of excluded cathode ray tubes (CRTs). EPA is making these changes to apply a consistent approach in addressing confidentiality claims for export and import documentation. The rule will result in cost-savings and greater efficiency for EPA and the regulated community as well as facilitate transparency with respect to the documents that are within the scope of this rulemaking. However, EPA is not finalizing the proposed internet posting requirement in the proposed rule.

DATES: The final rule is effective on June 26, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OLEM–2016–0492. All documents in the docket are listed at *https://www.regulations.gov*. Docket materials are also available in hard copy at the EPA Docket Center Reading Room. Please see *https://www.epa.gov/dockets/epa-docket-center-reading-room* or call (202) 566–1744 for more information on the Docket Center Reading Room.

FOR FURTHER INFORMATION CONTACT: Lia Yohannes, Office of Resource Conservation and Recovery; telephone number: (703) 308–8413; email: *yohannes.lia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What is the Agency's authority for taking this action?

EPA's authority to promulgate this rule is found in sections 1002, 2002(a), 3001–3004, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. 6901 *et seq.*, 6912, 6921–6924, and 6938.

B. Does this action apply to me?

The application of confidentiality determinations to RCRA export, import, and transit documents in this action generally affects three (3) groups: (1) All persons who export or import (or arrange for the export or import of) of hazardous waste for recycling or disposal, including those hazardous wastes subject to the alternate management standards for (a) universal waste for recycling or disposal, (b) spent lead-acid batteries (SLABs) being shipped for reclamation, (c) industrial ethyl alcohol being shipped for reclamation, (d) hazardous waste samples of more than 25 kilograms being shipped for waste characterization or treatability studies, and (e) hazardous recyclable materials being shipped for precious metal recovery; (2) all recycling and disposal facilities who receive imports of such hazardous wastes for recycling or disposal; and (3) all persons who export (or arrange for the export of) conditionally excluded cathode ray tubes (CRTs) being shipped for recycling.

Potentially affected entities may include, but are not limited to:

NAICS code	NAICS description
211	Oil and Gas Extraction.
324	Petroleum and Coal Products Manufacturing.
325	Chemical Manufacturing.
326	Plastics and Rubber Products Manufacturing.
327	Nonmetallic Mineral Product Manufacturing.
331	Primary Metal Manufacturing.
332	Fabricated Metal Product Manufacturing.
333	Machinery Manufacturing.
334	Computer and Electronic Product Manufacturing.
335	Electrical Equipment, Appliance, and Component Manufacturing.
336	Transportation Equipment Manufacturing.
339	Miscellaneous Manufacturing.
423	Merchant Wholesalers, Durable Goods.
424	Merchant Wholesalers, Nondurable Goods.
522	Credit Intermediation and Related Activities.
525	Funds, Trusts, and Other Financial Vehicles.
531	Real Estate.
541	Professional, Scientific, and Technical Services.
561	Administrative and Support Services.
562	Waste Management and Remediation Services.
721	Accommodation.
813	Religious, Grantmaking, Civic, Professional, and Similar Organizations.
211	Oil and Gas Extraction.
324	Petroleum and Coal Products Manufacturing.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this rule to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

On November 28, 2016, EPA proposed revisions to the current RCRA regulations governing imports and exports of hazardous waste and certain other materials in parts 260, 262, 264, 265, and 267 in order to strengthen public accessibility and transparency of import and export-related documentation to better monitor proper compliance with EPA's hazardous waste regulations and help ensure that hazardous waste shipments are properly received and disposed (81 FR 85459). The internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents Proposed Rule was a companion action to EPA's Hazardous

Waste Export-Import Revisions Final Rule (''Revisions Final Rule'') published on November 28, 2016 (81 FR 85696), which was one of the Agency's priority actions under its plan for periodic retrospective reviews of existing regulations, as required by Executive Order 13563. Under the Revisions Final Rule, export notices for hazardous waste and excluded CRTs exported for recycling are currently required to be submitted electronically to EPA using EPA's Waste Import Export Tracking System (WIETS) as of December 31, 2016. Export annual reports for hazardous waste and excluded CRTs exported for recycling will be required to be submitted electronically to EPA using WIETS on March 1, 2019. Other import and export documents for hazardous waste and excluded CRTs exported for recycling are transitioning from paper submittal to electronic submittal, and will be required to be submitted electronically to EPA using WIETS on a future compliance date to be announced in a future, separate **Federal Register** notice.

The proposed rulemaking for this final action consisted of two parts. First, EPA proposed requiring exporters and receiving facilities of hazardous waste from foreign sources to post *confirmation of receipt* and *confirmation of recovery or disposal* documents on publicly accessible websites when such documents are required for individual export and import shipments of hazardous wastes. EPA proposed that the documents be publicly accessible on company websites by the first of March of each year and that the websites include all of the confirmations of receipt and confirmations of recovery or disposal received by the exporter or sent out by the receiving facility related to exports or imports of hazardous waste made during the previous calendar year. Each document was to be made available for a period of at least three years following the date on which each document was first posted to the website. The proposed internet posting requirement was planned to be effective during the interim period prior to the electronic import-export reporting compliance date when electronic submittal to EPA of confirmations of receipt and confirmations of recovery or disposal for hazardous waste shipments will be required in EPA's WIETS system per the Revisions Final Rule. The second part of the proposed rule consisted of applying confidentiality determinations such that no person could assert CBI claims for individual documents and compiled data for required documents related to the export, import, and transit of hazardous waste and export of conditionally excluded cathode ray tubes (CRTs).

III. Detailed Discussion of the Final Rule

A. Summary of the Final Rule

This section provides an overview of this final rule and describes the way in which it differs from the proposal. With this action, EPA finalizes the application of confidentiality determinations such that no CBI claims may be asserted by any person with respect to any of the following documents related to the export, import, and transit of hazardous waste and export of excluded CRTs:

(1) Documents related to the export of Resource Conservation and Recovery Act (RCRA) hazardous waste under 40 CFR part 262, subpart H, including but not limited to the notifications of intent to export, contracts submitted in response to requests for supplemental information from countries of import or transit, RCRA manifests, annual reports, EPA acknowledgements of consent, any subsequent communication withdrawing a prior consent or objection, responses that neither consent nor object, exception reports, transit notifications, and renotifications;

(2) Documents related to the import of hazardous waste, under 40 CFR part 262, subpart H, including but not limited to contracts and notifications of intent to import hazardous waste into the U.S. from foreign countries or U.S. importers;

(3) Documents related to the confirmation of receipt and confirmation of recovery or disposal of hazardous waste exports and imports, under 40 CFR part 262, subpart H;

(4) Documents related to the transit of hazardous waste, under 40 CFR part 262, subpart H, including notifications from U.S. exporters of intent to transit through foreign countries, or notifications from foreign countries of intent to transit through the U.S.;

(5) Documents related to the export of cathode ray tubes (CRTs), under 40 CFR part 261, subpart E, including but not limited to notifications of intent to export CRTs;

(6) Documents related to the export and import of non-crushed spent lead acid batteries (SLABs) with intact casings, under 40 CFR part 266 subpart G, including but not limited to notifications of intent to export SLABs;

(7) Submissions from transporters under 40 CFR part 263, or from treatment, storage or disposal facilities under 40 CFR parts 264 and 265, related to exports or imports of hazardous waste, including but not limited to receiving facility notices of the need to arrange alternate management or return of an import shipment under 40 CFR 264.12(a) and 265.12(a); and

(8) Documents related to the export and import of RCRA universal waste under 40 CFR part 273, subparts B, C, D, and F.

(9) Documents required under 40 CFR 262, subparts E, F, and H and submitted in accordance with consents issued prior to December 31, 2016.

Unless otherwise required by Federal law, EPA is not considering the documents described in items (1) through (9) in this preamble to be final until March 1 of the year after which the shipments occur.

These changes will be reflected in revisions to 40 CFR part 260, as proposed, and in conforming revisions to 40 CFR parts 261 and 262.

EPA is not finalizing the proposed internet posting requirement of *confirmation of receipt* and *confirmation of recovery or disposal* documents where they would have been required for individual export and import shipments of hazardous wastes. As required under the recordkeeping requirements for exports and imports of hazardous waste under 40 CFR part 262, subpart H, exporters and receiving facilities of hazardous waste from foreign sources are required to retain paper copies of such confirmations such that copies are available for viewing and production if requested by any EPA or authorized state inspector. Once electronic submittals of the confirmation documents are required after the electronic import-export reporting compliance date that EPA will establish in a separate **Federal Register** notice, electronically submitted confirmations can be retained in EPA's Waste Import Export Tracking System (WIETS), or its successor system, such that copies are available for viewing and production if requested by any EPA or authorized state inspector.

B. Summary of Public Comments

The Agency received seven unique comments in response to its November 28, 2016 proposed rule. Of the seven comments, two were submitted anonymously, two were submitted from individual companies, one was submitted by a trade association representing hazardous waste treatment, recycling and disposal companies, one was submitted by a coalition representing generators of hazardous waste, and one was submitted by a trade association representing fuel and petrochemical manufacturers.

With respect to the proposed internet posting requirement, two anonymous commenters expressed their support, stating that it would improve transparency and environmental awareness of the potential environmental and health risks associated with exposure to hazardous waste, and potentially lead to reduced generation and improved management of hazardous waste. The remaining five commenters from industry expressed concern with the proposed internet posting requirement. These commenters stated that EPA underestimated the costs associated with posting information on company websites and were apprehensive about the burden of complying with a temporary requirement that would be in place for an unspecified amount of time. Two commenters suggested that the lag in time between when the confirmations of receipt and confirmations of recovery or disposal are required to be sent and when the documents would be posted on company websites would cause confusion and an incorrect perception by the general public of mismanagement. Two commenters also suggested that requiring industry to submit export and import documentation to EPA, rather than post on individual company websites, would provide better consistency to the regulated community and ensure greater compliance with export and import regulations. Finally, one commenter suggested that EPA develop its own website to post the documents to improve public access to the information. (See Section ''II.C. Changes to the Proposed Rule'' of this preamble for EPA's rationale for not finalizing the proposed internet posting requirement.)

EPA received only one comment on the proposed confidentiality determination. The commenter expressed concerns about the application of a confidentiality determination to aggregate data related to exports and imports of hazardous waste. EPA considers aggregate data to be a list of consolidated information about shipments organized by company. According to the commenter, the application of a confidentiality determination to aggregate data poses different concerns from those raised by application of confidentiality determinations to individual documents. The commenter was specifically concerned about the potential for competitive harm from public release of customer lists and issues related to national security if aggregate data about shipments were available to individuals with the intent to do harm. Because of the substantial effort required to compile a customer list from individual export and import documents, the commenter did not have similar concerns with respect to the release of individual hazardous waste export and import documents. (See response to comments document and Section ''II.D. Rationale for Final Rule'' of this preamble for details on EPA's response to these comments.)

C. Changes to the Proposed Rule

After considering all the submitted comments, EPA is finalizing, as proposed, the application of confidentiality determinations to documents related to the export, import and transit of hazardous waste and export of excluded CRTs. We provide our rationale in the following section. EPA is not finalizing the proposed internet posting requirement that exporters and receiving facilities of hazardous waste from foreign sources upload confirmations of receipt and confirmations of recovery or disposal on their websites. This internet posting requirement was intended to be in effect on a temporary basis while EPA develops its Waste Import Export Tracking System (WIETS) to be able to receive electronic submittals of the documents. Recognizing that the internet posting requirement would be superseded when exporters and receiving facilities are required to submit confirmations electronically, EPA has decided to avoid the potential confusion as described by some commenters, that may result from requiring internet posting of documents on a temporary basis on company websites and from the time lag between the receipt and posting of confirmations of receipt and confirmations of recovery or disposal.

D. Rationale for the Final Rule

This final rule applies confidentiality determinations such that EPA will no longer accept future CBI claims for individual documents and/or aggregate data related to the export, import, and transit of hazardous waste and export of excluded CRTs. EPA is making these changes to apply a consistent approach in addressing confidentiality claims for export and import documentation which will result in cost-savings and greater efficiency for EPA and the regulated community. Moreover, as described in the proposed rulemaking, EPA will no longer publish the annual **Federal Register** notice requesting comment from third party affected businesses (other than original submitters), as defined in 40 CFR 2.201(d), on their need to assert confidentiality claims for documents submitted to EPA related to hazardous waste exports and imports as well as data compiled from such documents, prior to EPA considering such documents releasable upon public request. The **Federal Register** notice covers documents related to the export, import and transit of RCRA hazardous waste, including those hazardous wastes managed under the special management standards in 40 CFR part 266 (*e.g.,* spent lead acid batteries) and 40 CFR part 273 (*e.g.,* universal waste batteries, universal waste mercury lamps), and related to the export of CRTs under 40 CFR part 261, made during the previous calendar year. The annual **Federal Register** notices have not addressed CBI claims likely to be made by the original submitters, since RCRA regulations at 40 CFR 260.2(b) already address the CBI requirements for original submitters.

Our rationale for applying confidentiality determinations to these documents is summarized in the following paragraphs.

As discussed in the proposed rulemaking, application of confidentiality determinations is consistent with the non-CBI treatment of hazardous waste manifests at the Federal and state level. Manifests contain similar information as that required by the documents related to the export, import and transit of hazardous waste and export of conditionally excluded CRTs within the scope of this action. On February 7, 2014, EPA published the Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Electronic Manifests final rule (79 FR 7518) which made a categorical determination for individual RCRA hazardous waste manifest records and aggregate data. In that action, EPA concluded that information contained in individual manifested records and aggregate data are essentially public information and therefore is not eligible under Federal law for treatment as CBI. The effect of this decision was that EPA made a categorical determination that it will not accept any CBI claims that might be asserted in connection with processing, using, or retaining individual paper or electronic manifests or aggregate data (see 40 CFR 260.2(c)(1)). The decision in that action is consistent with how manifests are treated in many states that have policies that do not recognize CBI claims for manifests as individual documents or as aggregate data. Because the information contained in RCRA hazardous waste manifests is largely similar to the information contained in hazardous waste export and import documents,

such as information about the waste being shipped (waste codes, type, quantity) and contact information for the generator, transporter, and destination or receiving facility, EPA concludes that application of confidentiality determinations in this action is consistent with the categorical determination that electronic manifests are not CBI.

Furthermore, EPA believes that any CBI claim that might be asserted with respect to the hazardous waste documents within the scope of this action would be extremely difficult to sustain under the substantive CBI criteria set forth in the Agency's CBI regulations (40 CFR part 2, subpart B). For example, to make a CBI claim, a business must satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures. The documents related to the export, import, and transit of hazardous waste and export of excluded CRTs submitted to EPA are also shared with several commercial entities while they are being processed and used. As a result, a business concerned with protecting its commercial information would find it exceedingly difficult to protect its records from disclosure by all the other persons who come into contact with the documents.

Moreover, to substantiate a CBI claim, a business must also show that the information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding). Since the documents are shared with several commercial entities throughout the chain of custody of a hazardous waste shipment, they are easily accessible to other parties without the business's explicit consent.

For these reasons, EPA believes that any CBI claim that might be asserted with respect to hazardous waste export and import documents would be difficult to sustain under the substantive CBI criteria (40 CFR part 2, subpart B).

EPA has also established precedent in determining that the information contained in certain hazardous waste export documents is not entitled to confidential treatment. To date, our records indicate that EPA has received four assertions of confidentiality for documents within the scope of this action and for which EPA has made a CBI determination: One from Horizon Environment, Inc. in 2004, two from Johnson Controls Battery Group, Inc. in 2010 and 2011, and one from Waste Technologies Industries in 1994. In three of the four cases, the Agency determined that the information claimed as confidential was not entitled to confidential treatment.

In the confidentiality claims presented by Horizon Environment, Inc. and Johnson Controls Battery Group, Inc., both companies asserted confidentiality for certain hazardous waste export documents that were responsive to Freedom of Information Act (FOIA) requests to EPA. The FOIA, 5 U.S.C. 552(a), section 3007(b) of RCRA, and EPA regulations implementing the FOIA and RCRA section 3007(b) generally mandate the disclosure to the public of information and records in the possession of government agencies. However, there are nine categories of information that may be exempt from disclosure, and one such category of information (Exemption 4) is for ''trade secrets and commercial information obtained from a person and privileged or confidential'' (see 5 U.S.C. 552(b)(4)). Under these statutes and regulations, ''business information'' means information which pertains to the interests of a business, was acquired or developed by the business, and which is possessed by EPA in a recorded form (see 40 CFR 2.201(c)). Such business information may be claimed by an ''affected business'' to be entitled to treatment as CBI if the business information is a ''trade secret'' or other type of proprietary information which produces business or competitive advantages for the business, such that the business has a legally protected right to limit the use of the information or its disclosure to others. See § 2.201(e).

In order for information to meet the requirements of Exemption 4, EPA must find that the information is either (1) a trade secret; or (2) commercial or financial information obtained from a person and privileged or confidential (commonly referred to as ''Confidential Business Information'' (CBI)). Horizon Environment's claims related to export notices, and Johnson Controls Battery Group's claims related to annual reports. Both companies claimed the information to be confidential, but did not claim that the information was privileged. Information that is required to be submitted to the Government is confidential if its ''disclosure would be likely either (1) to impair the Government' s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.''' Critical Mass, 975 F.2d at 878 (quoting *National Parks and Conservation Association* v. *Morton,* 498 F.2d 765, 770 (DC Cir. 1974)) (footnote omitted). In these cases, the Agency had the authority to require the submission of the information and exercised it. Therefore, EPA concluded that the information was a required submission and was not voluntary.

EPA also found that the information the companies claimed as confidential did not meet EPA's CBI criteria. As set forth in EPA's regulations at 40 CFR 2.208, required business information is entitled to confidential treatment if: The business has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position. After careful consideration of the arguments submitted by both companies, EPA concluded that neither claim explained specifically how disclosure of the information in the submissions would likely cause substantial competitive harm to the companies, and therefore did not support the claim of competitive harm. Accordingly, EPA concluded that release of this was not likely to cause substantial harm to the companies' competitive positions.

As a result of these analyses, EPA found that the information the companies claimed as confidential was not within the scope of Exemption 4 of the FOIA.

For the fourth confidentiality claim submitted by Waste Technologies Industries in 1994, EPA determined that the identities and addresses of the foreign generators listed in its import notification letters were entitled to confidential treatment under EPA's criteria (40 CFR 2.208). Since that time, EPA promulgated the Electronic Manifest final rule in which it was determined that manifests and the data contained therein are not CBI (79 FR 7518). Because the contact information of foreign generators is a required data element on manifests, this information is no longer treated as confidential. EPA found the record pertaining to this case after the proposed rule was published.

Based on EPA's analysis and decision in three of the four confidentiality claims asserted by companies for their hazardous waste export notices and annual reports, EPA expects to similarly conclude that these and the other documents within the scope of this rulemaking are not entitled to confidential treatment. As for the fourth decision in the Waste Technologies Industries' claim, EPA's more recent determination that manifests are no longer CBI supersedes the decision to withhold the information as confidential in 1994.

Finally, EPA has never received a claim of confidentiality from a third-party business with respect to hazardous waste export and import documentation. As described previously, EPA issues a **Federal Register** notice each year requesting comment from affected businesses (other than original submitters), as defined in 40 CFR 2.201(d), on their need to assert confidentiality claims for documents submitted to EPA related to hazardous waste exports and imports as well as data compiled from such documents, prior to EPA considering such documents releasable upon public request. To date, EPA has never received a comment from any business not an original submitter as a result of the annual **Federal Register** notice.

EPA received one comment in response to our request for input about applying confidentiality determinations to individual documents and aggregate data related to hazardous waste export and import shipments. In its comment, a trade association for the hazardous waste treatment industry expressed concern about the ability of competitors to gain an unfair advantage from access to aggregate export and import data. The commenter also indicated that access to aggregate data could pose national security concerns if sensitive shipment information were available to parties with malicious intent. The commenter stated that aggregate shipment data are a more efficient means to gain access to customer lists and export and import patterns compared to individual documents, which would require significant cost and labor to compile. However, as stated previously, at the Federal level and in many states, CBI claims are not accepted with respect to individual or aggregate manifest data. The main difference between the manifest and the export and import documents is that the manifest provides information on domestic management of hazardous waste shipments, while the export and import documents provide information related to both the domestic and the international part of those shipments. Because the information contained in hazardous waste export and import documents is so similar to that contained in manifests, EPA believes that it is appropriate to treat the domestic and international shipping documents the same.

Nonetheless, while EPA is not accepting CBI claims for either individual documents or aggregate data related to exports and imports, EPA recognizes that the information in its possession may not be ready for general release to the public because it is not yet ''final.'' As with manifests, hazardous waste exporters, importers, receiving facilities and brokers acting on their behalf need sufficient time to address discrepancies or exceptions related to hazardous waste shipments and to verify and correct data recorded on their documents. Until such time as these corrections can be made and data can be verified and finalized, the data in these documents, just as in manifests, will be considered ''in process.'' To that end, unless otherwise required by Federal law, EPA is not considering such documents to be final until March 1 of the year after which the shipments occur. EPA believes this timeframe is responsive to the concerns about competitive harm and national security risk with respect to access to aggregate data. EPA believes that this relatively long timeframe also makes it more likely that the shipment will have been received and the waste recovered or disposed by the time the documents are considered final.

Furthermore, in response to the national security concerns raised by commenters on the proposed rule and on the e-manifest user fee proposed rule (81 FR 49072, July 26, 2016), EPA has consulted with the Department of Homeland Security (DHS) to determine whether public access to certain shipment information in the e-Manifest system poses a significant chemical security risk and if so, the action the Agency should take to mitigate that risk. Because the export and import data are similar to the data collected on manifests, EPA will apply mitigating measures to manage export and import data in a manner consistent with those implemented by the e-Manifest system.

III. Costs and Benefits of the Final Rule

A. Cost Impacts

The Agency conducted an economic assessment for the proposed rule to this action which evaluated costs, cost savings, benefits, and other impacts, such as environmental justice, children's health, unfunded mandates, regulatory takings, and small entity impacts. The costs incurred by the regulated community under the proposed rule were associated with the proposed internet posting requirement only. Because EPA is not finalizing the proposed internet posting requirement, there are no costs associated with this action and the economic assessment conducted for the proposed rule no longer applies. Rather, the final rule reduces burden and results in cost-savings.

B. Benefits

There are a number of qualitative benefits associated with this final rule. By providing a consistent approach to addressing confidentiality claims with respect to the documents within the scope of this rulemaking, this action will result in cost-savings and greater efficiency to both the regulated community and EPA. The Agency will not incur the costs associated with developing and publishing the annual **Federal Register** notice requesting comment from affected businesses (other than original submitters), as defined in 40 CFR 2.201(d), on their need to assert confidentiality claims for documents submitted to EPA related to hazardous waste exports and imports. Industry cost-savings result from the avoided costs associated with reading and responding to the **Federal Register** notice. Furthermore, this action will achieve greater transparency by excluding export and import documents from CBI claims.

IV. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer their own hazardous waste programs in lieu of the Federal program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for State authorization are found at 40 CFR part 271. Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in that State, since only the State was authorized to issue RCRA permits. When new, more stringent Federal requirements were promulgated, the State was obligated to enact equivalent authorities within specified time frames. However, the new Federal requirements did not take effect in an authorized State until the State adopted the Federal requirements as State law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed by

the statute to implement these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA related provisions as State law to retain final authorization, EPA implements the HSWA provisions in authorized States until the States do so.

Authorized States are required to modify their programs only when EPA enacts Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program (see also 40 CFR 271.1). Therefore, authorized States may, but are not required to, adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous Federal regulations.

B. Effect on State Authorization

Because of the Federal government's special role in matters of foreign policy, EPA does not authorize States to administer Federal import/export functions in any section of the RCRA hazardous waste regulations. This approach of having Federal, rather than State, administering of the import/export functions promotes national coordination, uniformity and the expeditious transmission of information between the United States and foreign countries.

Although States do not receive authorization to administer the Federal government's import/export functions in 40 CFR part 262, subpart H, or the import/export relation functions in any other section of the RCRA hazardous waste regulations, State programs are still required to adopt the provisions in this rule to maintain their equivalency with the Federal program (see 40 CFR 271.10(e)).

This final rule contains amendments to 40 CFR 260.2 such that no claim of business confidentiality may be asserted by any person with respect to information from cathode ray tube export documents prepared, used and submitted under §§ 261.39(a)(5) and 261.41(a) and hazardous waste export, import, and transit documents prepared, used and submitted under §§ 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, 265.71, and 267.71.

The States that have previously adopted 40 CFR part 262, subparts E, F and H, 40 CFR part 263, 40 CFR part 264, 40 CFR part 265, and any other import/export related regulations, and that will be adopting the revisions in the Hazardous Waste Export-Import Revisions Final Rule (81 FR 85696) must adopt the revisions to those provisions in this final rule. But only States that have previously adopted the optional CRT conditional exclusion in 40 CFR 261.39 are required to adopt the revisions related to that exclusion in this final rule.

When a State adopts the import/export provisions in this rule, they must not replace Federal or international references or terms with State references or terms.

The provisions of this rule will take effect in all States on the effective date of the rule, since these export and import requirements will be administered by the Federal government as a foreign policy matter, and will not be administered by States.

V. Statutory and Executive Order Reviews

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

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

This final rule is a non-significant regulatory action because it does not have a significant economic impact nor does it raise novel legal or policy issues. The Office of Management and Budget (OMB) waived review.

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

This action is considered an Executive Order 13771 deregulatory action. This final rule provides burden reduction by providing a consistent approach to addressing confidentiality claims with respect to the documents within the scope of this rulemaking. As a result, this action will result in cost-savings and greater efficiency for industry and EPA. EPA will no longer expend resources to publish an annual **Federal Register** notice related to confidential business information and industry will avoid the costs and burden associated with reading and responding to the annual **Federal Register** notice.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

EPA certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The small entities subject to the requirements of this action are hazardous waste exporters, importers, receiving facilities and brokers acting on their behalf. There are no costs associated with this action; rather, the final rule results in cost-savings. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Thus, it is not subject to Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

F. Executive Order 13132: Federalism

This action does not have federalism implications because the state and local governments do not administer the export and import requirements under RCRA. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. No exporters, importers or transporters affected by this action are known to be owned by Tribal governments or located within or adjacent to Tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), because this action only applies a confidentiality determination such that no person can assert confidential business information (CBI) claims for documents related to the export, import, and transit of hazardous waste and export of excluded cathode ray tubes (CRTs).

L. Congressional Review Act (CRA)

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

List of Subjects

40 CFR Part 260

Environmental protection, Cathode ray tubes (CRTs), Confidential business information, Exports, Hazardous waste, Imports, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Cathode ray tubes (CRTs), Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Confidential business information, Exports, Hazardous waste, Imports, Reporting and recordkeeping requirements.

Dated: December 11, 2017.

E. Scott Pruitt,

Administrator.

For the reasons stated in the preamble, EPA amends 40 CFR parts 260, 261, and 262 as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

■ 2. Amend § 260.2 by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 260.2 Availability of information; confidentiality of information.

* * * * *

(b) Except as provided under paragraphs (c) and (d) of this section, any person who submits information to EPA in accordance with parts 260 through 266 and 268 of this chapter may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in § 2.203(b) of this chapter. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in part 2, subpart B, of this chapter.

* * * * *

(d)(1) After June 26, 2018, no claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents prepared, used and submitted under §§ 261.39(a)(5) and 261.41(a) of this chapter, and with respect to information contained in hazardous waste export, import, and transit documents prepared, used and submitted under §§ 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, 265.71, and 267.71 of this chapter, whether submitted electronically into EPA's Waste Import Export Tracking System or in paper format.

(2) EPA will make any cathode ray tube export documents prepared, used and submitted under §§ 261.39(a)(5) and 261.41(a) of this chapter, and any hazardous waste export, import, and transit documents prepared, used and submitted under §§ 262.82, 262.83, 262.84, 263.20, 264.12, 264.71, 265.12, 265.71, and 267.71 of this chapter available to the public under this section when these electronic or paper documents are considered by EPA to be final documents. These submitted electronic and paper documents related to hazardous waste exports, imports and transits and cathode ray tube exports are considered by EPA to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 4. Amend § 261.39 by revising paragraph (a)(5)(iv) to read as follows:

§ 261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

* * * * *

(a) * * *

(5) * * *

(iv) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(5)(i) of this section.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 5. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C 6906, 6912, 6922–6925, 6937, and 6938.

■ 6. Amend § 262.83 by revising paragraphs (b)(5) and (f)(9) to read as follows:

§ 262.83 Exports of hazardous waste.

* * * * *

(b) * * *

(5) For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, EPA will coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In all other cases, EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraphs (b)(1)(i) through (xiii) of this section.

* * * * *

(f) * * *

(9) Upon request by EPA, U.S. exporters, importers, or recovery facilities must submit to EPA copies of

contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

* * * * *

■ 7. Amend § 262.84 by revising paragraphs (b)(4) and (f)(8) to read as follows:

§ 262.84 Imports of hazardous waste.

* * * * *

(b) * * *

(4) A notification is complete when EPA determines the notification satisfies the requirements of paragraphs (b)(1)(i) through (xiii) of this section.

* * * * *

(f) * * *

(8) Upon request by EPA, importers or disposal or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity).

* * * * *

[FR Doc. 2017–27525 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–9972–38–Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the C&D Recycling Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final Notice of Deletion of the C&D Recycling Superfund Site (Site), located in Foster Township, Pennsylvania, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania (Commonwealth), through the Pennsylvania Department of Environmental Protection (PADEP), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude EPA from taking future actions at the Site under Superfund.

DATES: This direct final deletion is effective February 26, 2018 unless EPA receives adverse comments by January 25, 2018. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1987–0002 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gregory Voigt, Remedial Project Manager, U.S. Environmental Protection Agency, Region III, Mail Code 3HS21, 1650 Arch Street, Philadelphia, PA 19013, (215) 814–5737, email: *voigt.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region III is publishing this direct final Notice of Deletion of the C&D Recycling Superfund Site, from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the Commonwealth prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published

today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the Commonwealth 30 working days for review of this direct final Notice of Deletion and the parallel Notice of Intent to Delete prior to their publication today, and the Commonwealth, through PADEP, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, the Standard Speaker. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The C&D Recycling Superfund Site (the Site) (CERCLIS ID PAD021449244) encompasses approximately 110 acres and is located in a rural area along Brickyard Road in Foster Township, Luzerne County, Pennsylvania. From 1963 to 1978, Lurgan Corporation operated a metal reclamation facility at the Site. In 1979, the business was conveyed to C&D Recycling, Inc. Both Lurgan Corporation and C&D Recycling, Inc.'s operations involved the reclamation of metals (*i.e.,* copper and/or lead) from cable and/or scrap metal transported to the Site. Available documentation suggests that lead was recovered from cable and wire until the mid-1970's, after which limited burning of lead cable at the Site occurred. Typical Site operations involved mechanical removal of the outer plastic casing and burning of the inner lining, sheathing or insulation to expose the copper cable in one of five furnaces located at the Site. The copper was returned to the generator and the plastic casing was stockpiled at the Site. Site operations ceased in 1984. Currently, portions of the Site are being used as a wildlife refuge, while other portions are either undeveloped, or contain private residences.

EPA and PADEP collected analytical data in 1984 and 1985 to evaluate the relative hazards posed by the Site in the Hazard Ranking System (HRS). An HRS score of 43.92 was calculated for the Site in April 1985, based primarily upon the elevated levels of contamination in Site soils, and sediment suspended within the shallow dairy farm well existing at the Site. In September 1985, EPA proposed the Site for inclusion on the NPL (50 FR 37630). The Site was placed on the NPL on February 21, 1990 (55 FR 6154). In April 1986, PADEP requested that EPA take the lead on the Site response action.

EPA entered into an Administrative Order on Consent, Docket Number III–87–30–DC, on September 1, 1987, which was subsequently amended in June 1988, Docket Number III–87–31–DC, (collectively Consent Order) with AT&T Nassau Metals Corporation (Nassau) under which Nassau was required to: (1) Implement erosion controls and security measures to stabilize the Site; and (2) investigate the nature and extent of contamination and risks and develop alternatives to address the contamination at the Site. Nassau was the only potentially responsible party (PRP) to cooperate with EPA with respect to Site response actions. At the time of the Consent Order, Nassau was a wholly owned subsidiary of Lucent Technologies, Inc. (Lucent). Lucent subsequently merged with Alcatel SA of France on December 1, 2006 to form Alcatel-Lucent SA. For clarity, Nassau and Lucent will hereinafter collectively be referred to as the PRP.

The PRP conducted the following removal action activities under the Consent Order:

- Consolidation and covering of ash piles at the Site;
- Construction of sedimentation and erosion controls to minimize migration of contaminated soil from the Site in surface water runoff;
- Installation of fencing and seeding to prevent exposure to contaminated soil areas; and
- Removal of piles of cable casings and transport off-site for recycling.

Remedial Investigation and Feasibility Study (RI/FS)

The RI/FS was initiated at the Site in September 1987. The final RI/FS Report was completed in January 1992 and approved by EPA in March 1992. The area of contamination identified in the RI/FS Report included the following:

- Approximately 26,273 cubic yards (yds ^{3}) of soil contaminated with lead, copper, antimony and/or other contaminants;
- Several small piles of ash (approximately 165 yds ^{3}) resulting from the burning of material at the Site contaminated with lead, copper, and low levels of dioxins and furans;
- Approximately 1,200 linear feet of Mill Hopper Creek (the Creek) containing sediment contaminated with lead, copper, and zinc;
- A 0.5-acre pond (Mill Hopper Pond or the Pond) with contaminated sediment (approximately 1,900 yds ^{3});
- Abarn and milkhouse used when the property at the Site was a dairy farm;
- A main facility building including four furnaces used to burn cable;
- An underground storm water sewer system, which contained approximately 24 yds ^{3} of contaminated sediment; and
- A small isolated furnace once used to burn cable.

Selected Remedy

EPA issued the Record of Decision (ROD) for the Site on September 30, 1992. The Remedial Action Objectives (RAOs) specified in the ROD consisted of:

1. Protection of human health and the environment;
2. Source control and prevention of migration of contamination from the Site via wind and surface water transport;
3. Source control of contaminants in soil such that leaching of contamination to groundwater will not occur in the future;
4. Source control of soil, sediment, and ash with lead concentrations greater than 500 parts per million (ppm);
5. Decontamination of Site buildings; and
6. Prevention to exposure to contaminants.

The remedy selected in the ROD (Selected Remedy) addressed contaminated soil, ash, sediment,

buildings, and structures and consisted of the following components:

1. Confirmation, *e.g.,* via sampling, of the areal limits of soil and sediment with lead contamination above 500 ppm (including soil beneath buildings and concrete slabs constructed after 1963 as well as pavement and sediment in Mill Hopper Creek and wetlands);

2. Performance of a Phase 1B archeological survey in areas possessing high or moderate archeological sensitivity potentially impacted by the Remedial Action;

3. Removal and off-Site disposal and/or recycling of casing and wire;

4. Excavation of all soil with lead contamination above 500 ppm resulting from Site operations (excluding soil beneath buildings and concrete slabs constructed after 1963, or pavement which shall otherwise be maintained to prevent migration of contamination from the Site);

5. Excavation of sediment from the banks of Mill Hopper Pond with lead levels greater than 500 ppm and excavation of the top two feet of sediment (or an amount sufficient to secure a new substrate) from the pond bottom to ensure that pond water quality is not impacted;

6. Removal of sediment within Mill Hopper Creek contaminated with lead above 500 ppm;

7. Removal and sampling of all sediment located within the storm water sewer system located at the Site and evaluation of the system's integrity (including drainage ditches) to determine the potential for releases of hazardous substances from the Site into the soil and ground water and any necessary response actions;

8. Excavation of all ash located at the Site;

9. Post excavation/removal sampling to confirm that ash, soil and sediment cleanup levels are met;

10. On-Site stabilization of the contaminated soil and sediment, excavated and removed as described above, to remove any characteristic of hazardous waste;

11. On-Site stabilization of the contaminated ash, excavated as described above, to remove any characteristic of hazardous waste;

12. Off-Site disposal of stabilized soil, sediment, and ash into a non-hazardous (RCRA Subtitle D) waste disposal facility;

13. Decontamination of Site buildings with lead levels in walls and floors above 500 ppm, including dismantling of non-structural components and removal of equipment and debris which may inhibit decontamination to required levels, or demolition of buildings that cannot be cleaned to 500 ppm lead;

14. Dismantling of the old furnace and other structures, as necessary, which inhibit soil or sediment remediation and which shall not be maintained, as necessary, to prevent migration of contaminants from the Site;

15. Off-Site disposal of material generated from dismantling of Site buildings into a non-hazardous (Subtitle D) waste disposal facility or decontamination and recycling of dismantled material;

16. Performance of biota toxicity tests on remaining soil and sediment to ensure that remediated soil (*i.e.,* soil with lead levels no higher than 500 ppm) does not pose a threat to the environment (procedures to be determined during Remedial Design);

17. Site grading, revegetation, and related work, to ensure that Site topography and drainage ways adequately convey water from the Site, and that soil excavation does not result in low lying areas;

18. Air monitoring during on-Site activities, and implementation of dust control or other necessary abatement actions to prevent migration of contaminants to the surrounding community during the Remedial Action;

19. Abandoning wells which serve no useful long-term purpose;

20. Periodic monitoring of ground water and surface water; and

21. If the soil beneath pavement, or soil beneath buildings and concrete slabs constructed after 1963, contains concentrations of lead greater than 500 ppm and these structures are not demolished, then institutional controls, (*e.g.,* deed restrictions) will be implemented to prevent residential use potentially affecting the protectiveness of the Selected Remedy, and to ensure that Site contaminants which may remain beneath buildings and pavement are properly identified.

Consistent with the Site RAOs, the Selected Remedy included decontamination and/or demolition of contaminated buildings and structures; stabilization of contaminated soil, ash, and sediment with lead levels greater than 500 ppm, as needed; and disposal of the stabilized and/or decontaminated material into an off-Site landfill. As stated in the ROD, EPA determined that the selected soil cleanup level of 500 ppm lead (*i.e.,* no confirmatory sample collected shall exceed 500 ppm) is protective of human health and would not impact the environment. The cleanup level of 500 ppm ensures that the average soil lead level remaining on any two-acre plot is less than approximately 235 ppm, including theoretical residential plots located on the Site. Thus, EPA determined that residual soil lead levels remaining at the Site are protective.

Response Actions

All Remedial Design (RD), Remedial Action (RA) and Operation and Maintenance (O&M) activities for the Site were conducted in accordance with a Unilateral Administrative Order (UAO) which was issued to the PRP on August 9, 1994 (EPA Docket No. III–94–18–DC). The UAO was subsequently converted to a Consent Decree that was signed and lodged with the District Court for the Western District of Pennsylvania on July 22, 1998 (Consent Decree) (Civil Action No. 3:96–CV–562).

The RD was performed from October 1996 through February 1997 and approved by EPA on May 8, 1998. During the RD phase, Site preparation work involved the removal of various types of debris and cable casings from the Site, as well as demolition and off-Site disposal of the old furnace.

Construction of the RA was conducted between February 1998 and August 1999. EPA approved the September 27, 2000 Remedial Action Completion Report (RACR) documenting completion of the RA. Biotoxicity sampling of the Pond and Creek and well abandonment, as selected in the ROD, were completed in 2003 and 2002, respectively. In June 2016, EPA approved the Work Completion Certification and Report (WCCR) documenting completion of these remaining components of the Selected Remedy.

Performance Standards

The 2000 RACR documented that the RA had attained the following Performance Standards as specified in the ROD:

1. The Phase IB Archeological Survey shall comply with Guidelines on Archaeology and Historic Preservation, 48 FR.44716–42 (September 29, 1983), 36 CFR parts 65 and 800.

2. Site activity shall not cause exceedance of Pennsylvania Water Quality Standards in Mill Hopper Creek, 25 PA Code §§ 93.3 through 93.8, or exceedance of background water quality in Mill Hopper Creek should background quality exceed Pennsylvania Water Quality Standards, 25 PA Code § 93.5 and water quality criteria for toxic substances of 25 PA Code Chapter 16. However, compliance with Chapter 16 regulations will consider the ambient background water quality of Mill Hopper Creek and Mill Hopper Pond.

3. The stabilization process and/or earth moving shall not generate dust exceeding National Ambient Air Quality Standards within 100 feet of the Area of Contamination [Clean Air Act section 109, National Primary and Secondary Ambient Air Quality Standards for lead, 40 CFR 50.12, and particulate matter, 40 CFR 50.6 and 40 CFR part 52, subpart NN] [Pennsylvania's Air Pollution Control Act, 25 PA Code §§ 123.1 et. seq, and 131.1 et. seq.]. Dust suppression methods, *e.g.,* wind screens, water spray, or chemical agents, shall be utilized to minimize dust. Air monitoring shall be performed in accordance with 40 CFR part 50, Appendix G [25 PA Code §§ 123.1 et. seq. and 131.1 et. seq.].

4. Excavation and consolidation of the soil, sediment and ash shall comply with the Pennsylvania Erosion Control Regulations, 25 PA Code §§ 102.1 et. seq., Pennsylvania's Air Pollution Control Act, 25 PA Code §§ 123.1 et. seq. and 131.1 et. seq.

5. Diversion of Mill Hopper Creek during implementation of Selected Remedy shall comply with Pennsylvania Dam Safety and Waterway Management Regulations, 25 PA Code § 105.1 et. Seq.

6. Disposal of hazardous waste debris generated from the decontamination, dismantling and/or demolition of Site buildings, the old furnace and any other structures, shall comply with the Land Disposal Restriction requirements of 40 CFR part 268.

7. The stabilized soil, sediment, and ash shall be analyzed using the Toxic Characteristic Leaching Procedure. No sample of leachate from tested stabilized material shall exceed the levels specified in Table 20, below.

8. Cleanup levels for contaminants of concern in soil and sediment (Table 20) shall not be exceeded in any soil or sediment sample, excluding areas not impacted by the Site, remaining after Site remediation.

TABLE 20—CLEANUP LEVELS FOR CONTAMINANTS OF POTENTIAL CONCERN CONTRIBUTING EXCESS CANCER RISK GREATER THAN 1 X 10^{-6} OR HAZARD INDEX GREATER THAN 1

Media	Contaminant	Clean-Up Level
Soil	Lead	500 ppm.
	Copper	3300 ppm.
	Antimony	35 ppm.
	PAHs	1 ppm.
	PCBs	2 ppm.
Sediment	Lead	500 ppm.
	Copper	2900 ppm.
	Antimony	35 ppm.
	PAHs	1 ppm.
Stabilized Ash, Sediment and Soil (Extract)	Arsenic	5 mg/L.
	Barium	100 mg/L.
	Cadmium	1 mg/L.
	Chromium	5 mg/L.
	Lead	5 mg/L.
	Mercury	0.2 mg/L.
	Selenium	1 mg/L.
Building Surfaces	Lead	50 ug/m3, or 500 ppm.
	Copper	1000 ug/m3, or 3300 ppm.
	Antimony	500 ug/m3, or 35 ppm.

Post-RA sampling data demonstrated that the Selected Remedy achieved the RAOs selected in the ROD. Protection of human health and the environment (RAO #1) and prevention to exposure to contaminants (RAO #6) were achieved by ensuring that all performance standards selected in the ROD were met, as explained in Section 5.0 of the RACR. Source control RAOs (RAO #2, #3, and #4) were achieved by stabilizing contaminated soil, ash, and sediment with lead levels greater than 500 ppm, as needed; and by disposing the stabilized material into an off-Site landfill, as explained in Sections 3.4 and 3.5 of the RACR. Decontamination of on-Site buildings (RAO #5) was achieved by ensuring that all on-Site building surfaces were free from Site contaminants, as explained in Section 3.3 of RACR.

During the RA, Site soils and sediments with identified lead concentrations of greater than the Site clean-up level of 500 ppm were excavated, stabilized as appropriate, and transported off-site for disposal at an approved facility. Soil was excavated to depths of up to four feet resulting in the removal of approximately 43,800 cubic yards of material. A total of 267 post-excavation soil samples were collected, and confirmed that all identified contamination was removed from the Site, and that the cleanup level for lead of 500 ppm selected in the ROD was achieved.

As part of the RI/FS at the Site, a monitoring well network consisting of 17 wells was completed. The wells were sampled multiple times during the course of the RI/FS. In the ROD, EPA determined that the data obtained during performance of the RI/FS demonstrated that groundwater had not been impacted by Site activities. The ROD required additional monitoring of Site groundwater for lead to evaluate any possible impacts caused by the RA. One pre-construction and two post-construction groundwater sampling events were conducted. Four on-site shallow wells were sampled for lead to monitor groundwater quality. The groundwater sampling results confirmed that Site construction activities during the RA did not impact the groundwater underlying the Site. Since all of the groundwater monitoring activities selected in the ROD were completed, the remaining monitoring wells located on-Site were subsequently abandoned on August 26 through August 29, 2002.

The ROD also selected the ''performance of biota toxicity tests on remaining soil/sediment to ensure that remediated soil (*i.e.,* soil with lead levels no higher than 500 ppm) does not pose a threat to the environment''. The biotoxicity testing procedures employed at the Site in order to meet the above-described ROD requirement were established in the Biotoxicity Testing Plan (BTP).

The baseline biotoxicity sampling/evaluation was conducted in May 1998 prior to the start of the RA. This testing

was conducted for the purpose of establishing the baseline biotoxicity of Site sediments that were known to contain lead concentrations that exceeded the Site cleanup goal of 500 ppm. The evaluation was conducted on samples collected at the Site and at a nearby off-site reference location (a pond approximately eight miles from the Site).

The biotoxic effect threshold of Site sediments was established to be 842 ppm lead based on the results of the baseline biotoxicity evaluation. Three additional biotoxicity sampling events were conducted after the August 13, 1999 RA completion date in accordance with the BTP. The Year 1 event occurred on August 30, 2000, the Year 2 event occurred on September 20, 2002 and the Year 3 event occurred on October 29, 2003.

During these three post-RA sampling events, three out of a total of 52 sediment sample results from the Pond and Creek were found to contain lead in excess of the 500 ppm Site cleanup level. In each instance, when an elevated sample result for lead was identified, the PRP performed additional sediment sampling to delineate the extent of lead sediment concentrations in excess of 500 ppm and then implemented a focused excavation program to remove these sediments from the Site. A total of eight sampling rounds associated with the three biotoxicity sampling events were conducted after completion of the RA.

All lead analytical results of sediments remaining in place after the focused removal of sediments from the Pond and Creek were less than the Site lead cleanup goal of 500 ppm. Therefore, subsequent bioassay testing of the Year 1, 2 and 3 samples was not performed.

Finally, sampling conducted by the PRP in 1989 as part of the RI/FS showed the isolated presence of low levels of dioxin in the ash piles stored on-Site. Specifically, two dioxin samples were collected at the Site in 1989 from two separate ash piles (designated ASH–B and ASH–F) which were subsequently excavated. The piles were analyzed for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), 2,3,7,8,-tetrachlorodibenzofuran (TCDF) and specific 2,3,7,8-dioxin congeners. Both of the samples contained low levels of chlorinated dioxins/furans. After issuance of the 2012 preliminary remediation goals for dioxin in soil, by letter dated July 24, 2014, EPA required the PRP to collect additional soil samples at the Site to confirm that the Selected Remedy was protective of human health and the environment. By letter dated October 13, 2015, EPA informed the PRP that the sampling results indicated that dioxin did not exceed residential or commercial screening levels in any of the samples collected from native soil at the Site.

EPA subsequently issued a Final Close Out Report (FCOR) for the Site dated October 4, 2016. The FCOR summarized all of the remedial activities conducted at the Site, and concluded that EPA has successfully completed all response actions for the Site in accordance with *Close Out Procedures for National Priorities List Sites* (OSWER Directive 9320.2–09A–P).

Operation and Maintenance

An O&M Plan dated April 29, 1998 was approved by EPA as part of the RD. The O&M Plan identifies the O&M activities that would be performed at the Site after the RA was completed. The O&M activities were intended to address: (1) Erosion and sedimentation control measures until sufficient vegetative cover had re-established itself; (2) post-remedy ground water sampling; and (3) the sampling/inspection requirements specified in the BTP.

RA activities were completed on August 13, 1999. Lucent conducted inspections of the Site for the first year after completion of the Site remediation activities. These inspections were conducted on a monthly basis and after known significant storm events (*e.g.,* rain events over one inch), as outlined in the O&M Plan. Inspections were not performed during winter months when the ground was frozen or snow covered. After the first year of monthly inspections, quarterly inspections of the Site were conducted for the following four years as required by the O&M Plan. During each Site inspection, the vegetative cover, drainage channels and swales, and remediated Creek downstream of the Pond were inspected to verify that they were in good condition and functioning properly.

In accordance with the O&M Plan, the revegetated Site was to be left in its natural state and not mowed and no future O&M is required.

Institutional Controls

The ROD selected ICs if soils containing concentrations of lead over 500 ppm remain beneath the pavement, or buildings and concrete slabs constructed on-Site after 1963. Since all Site soils with lead concentrations in excess of 500 ppm were removed from the Site during implementation of the Selected Remedy, no ICs are required at the Site. However, as an added precaution, in March 1999, the then-current owner of the original 46-acre C&D property which contains the main C&D Recycling building and several abandoned farm structures, known as Tax Parcel 11, filed a deed restriction in the land records for that parcel. This deed restriction limits access to the Site, and prevents the Tax Parcel 11 from being used for residential, commercial, agricultural and/or recreational purposes.

In May 2002, Tax Parcel 11 was purchased at a tax sale, and title to the property was redeeded under a corporation named ''Green Meadows Conservancy, Inc.'' on July 10, 2006. Tax Parcel 11 property is now classified as a wildlife preserve and there are no plans for its redevelopment.

Based on the above information, EPA has determined that there are no hazardous substances present on-Site above levels allowing for unlimited use and unrestricted exposure now that the Selected Remedy is complete. The Site is, therefore, protective of human health and the environment. No Five-Year Reviews have been performed and they are not required pursuant to CERCLA section 121(c).

Community Involvement

EPA community relations staff conducted an active campaign to ensure that the residents were well informed about activities at the Site. Community relations activities included the following:

- Public Meetings: May 1997.
- Township Supervisor Meetings: April 1997 and May 1998.
- Fact Sheets: April 1998, December 1998, and June 1999.

Additionally, during the RA, EPA's Remedial Project Manager (RPM) met with Foster Township representatives on a weekly basis to provide an update on the work accomplished and the upcoming scheduled work.

In accordance with the requirements of 40 CFR 300.425(e)(4), EPA's community involvement activities associated with this deletion will consist of placing the deletion docket in the local Site information repository and placing a public notice (of EPA's intent to delete the Site from the NPL) in the Standard Speaker, a local newspaper of general circulation.

Determination That the Site Meets the Criteria for Deletion in the NCP

Construction of the Selected Remedy at the Site has been completed and O&M was completed in accordance with the EPA-approved O&M Plan. All RAOs, Performance Standards, and cleanup goals established in the ROD have been achieved and the Selected Remedy is

protective of human health and the environment. No further Superfund response is necessary to protect human health and the environment.

The Site Deletion procedures specified in 40 CFR 300.425(e) have been followed for the deletion of the Site.

V. Deletion Action

EPA, with concurrence of the Commonwealth through PADEP, has determined that all appropriate response actions under CERCLA, have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective February 26, 2018 unless EPA receives adverse comments by January 25, 2018. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 1, 2017.

Cosmo Servidio,

Regional Administrator, EPA Region III.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of appendix B to part 300 is amended by removing ''PA'', ''C & D Recycling'', ''Foster Township''.

[FR Doc. 2017–27801 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–OPPT–2017–0197; FRL–9970–02]

RIN 2070–AK32

Community Right-To-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In the **Federal Register** of August 17, 2017, EPA published both a direct final rule and a proposed rule to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2017 NAICS code revision. As noted in the direct final rule, if EPA received relevant adverse comment on the proposed update, the Agency would publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the direct final action will not take effect, and instead proceed to issue a final rule based on the parallel proposed rule. The Agency did receive a relevant adverse comment on the proposed update, and withdrew the direct final rule. This final rule addresses the comment made on EPA's proposed rulemaking previously published for this action.

DATES: This final rule is effective on January 1, 2018.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0197, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Stephanie Griffin, Toxics Release Inventory Program Division, Mailcode 7410M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1463; email address: *griffin.stephanie@epa.gov.*

For general information contact: The Emergency Planning and Community Right-to-Know Information Center; telephone number: (800) 424–9346, TDD (800) 553–7672; website: *https://www.epa.gov/home/epa-hotlines.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you own or operate facilities that have 10 or more full-time employees or the equivalent of 20,000 employee hours per year that manufacture, process, or otherwise use toxic chemicals listed on the TRI, and that are required under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) or section 6607 of the Pollution Prevention Act (PPA) to report annually to EPA and States or Tribes their environmental releases or other waste management quantities of covered chemicals. (A rule was published on April 19, 2012 (77 FR 23409), requiring facilities located in Indian country to report to the appropriate tribal government official and EPA instead of to the state and EPA).

The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Facilities included in the following 2012 NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211112*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512220, 512230*, 519130*, 541712*, or 811490*. (*Exceptions and/or limitations exist for these NAICS codes.)
- Facilities included in the following 2012 NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for

distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).

• Federal facilities. Under Executive Order 13693 (80 FR 15871, March 25, 2015), all federal facilities are required to comply with the provisions set forth in section 313 of EPCRA and section 6607 of the PPA. On June 10, 2015, the White House Council on Environmental Quality (CEQ) issued *Instructions for Implementing Executive Order 13693,* requiring federal agencies and contractors to comply with these laws regardless of NAICS code delineations (see 80 FR 34149, June 15, 2015).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. What is the Agency's authority for taking this action?

EPA is taking final action under sections 313(g)(1) and 328 of EPCRA, 42 U.S.C. 11023(g)(1) and 11048. In general, section 313 of EPCRA requires owners and operators of covered facilities in specified SIC codes that manufacture, process, or otherwise use listed toxic chemicals in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 states that: ''The Administrator may prescribe such regulations as may be necessary to carry out this chapter.'' 42 U.S.C. 11048.

B. What action is the Agency taking?

In response to OMB's revisions to the NAICS codes effective January 1, 2017, EPA is amending 40 CFR part 372 to include the relevant 2017 NAICS codes for TRI reporting. EPA is also modifying the list of exceptions and limitations previously included in the CFR for the applicable NAICS codes for TRI reporting purposes.

Under this action, TRI reporting requirements remain unchanged. However, due to the 2017 NAICS modifications, some facilities will need to modify their reported NAICS codes as outlined in the table in Unit II.B., which identifies only the revised TRI NAICS reporting codes and is not an exhaustive list of all NAICS reporting codes subject to EPCRA section 313 and PPA section 6607. A complete listing of all TRI covered facilities can be found in the regulations at 40 CFR 372.23.

The Agency received a comment on the proposed rule, which is addressed more fully in Unit II.C., stating that the listing of updated NAICS codes in the CFR text was incomplete, in that it did not include the update to the code for natural gas extraction facilities. The Agency agrees with that comment and is including the update for that NAICS code in the table in Unit II.B. and in the final CFR text.

2012 NAICS code	2012 NAICS and U.S. description	2017 NAICS code	2017 NAICS and U.S. description
211112	Natural Gas Liquid Extraction.	211130	Natural Gas Extraction.
212231	Lead Ore and Zinc Ore Mining.	212230*	Copper, Nickel, Lead, and Zinc Mining.
212234	Copper Ore and Nickel Ore Mining.	″	″
333911	Pump and Pumping Equipment Manufacturing.	333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing.
333913	Measuring and Dispensing Pump Manufacturing.	″	″
335221	Household Cooking Appliance Manufacturing.	335220	Major Household Appliance Manufacturing.
335222	Household Refrigerator and Home Freezer Manufacturing.	″	″
335224	Household Laundry Equipment Manufacturing.	″	″
335228	Other Major Household Appliance Manufacturing.	″	″
512220	Integrated Record Production/Distribution..	512250	Record Production and Distribution *This merges both TRI-covered and non-TRI-covered NAICS codes. Only 512220 (Integrated Record Production/Distribution) was covered by TRI. TRI will note that only the ''Integrated Record Production/Distribution'' facilities under NAICS code 512250 are required to report.*
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	541713	Research and Development in Nanotechnology. *This merges both TRI-covered and non-TRI-covered NAICS codes. Only 541712 (Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)) was covered by TRI. TRI will note that only the ''Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)'' facilities under NAICS code 541713 are required to report. TRI does not include all facilities classified under NAICS code 541712, and the same limitations will be extended to NAICS code 541713.*

2012 NAICS code	2012 NAICS and U.S. description	2017 NAICS code	2017 NAICS and U.S. description
″	″	541715	Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology). *TRI does not include all facilities classified under NAICS code 541712, and the same limitations will be extended to NAICS code 541715. TRI will specify which facilities under NAICS code 541715 are required to report.*

* A conforming update is also being made to 40 CFR 372.38(h).

Crosswalk tables between all 2012 NAICS codes and 2017 NAICS codes can be found on the internet at *http://www.census.gov/epcd/www/naics.html.*

EPA is also modifying the list of exceptions and limitations previously included in the CFR for the applicable NAICS codes for TRI reporting purposes. Because NAICS codes may cross-reference some SIC codes in both TRI-covered and non-covered TRI sectors, EPA has historically included descriptive text in 40 CFR part 372 to help indicate exceptions and limitations to TRI coverage for a specific NAICS code in order to better correspond with the previous SIC code descriptors. However, OMB updates NAICS codes every five years, and these updates may require a corresponding change by EPA to the regulatory text describing any exceptions or limitations to the scope of a particular NAICS code. Consequently, this descriptive text does not always align fully with SIC codes' full descriptions.

For example, historically, 40 CFR part 372 would list NAICS code 323211 with the following exception: ''Exception is limited to facilities primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming (*i.e.,* instant printing) (previously classified under SIC 7334, Photocopying and Duplicating Services, (instant printing))''. This action simplifies the listing to display only the SIC code and title rather than include the description: ''Exception is limited to facilities previously classified under SIC 7334, Photocopying and Duplicating Services''. The Agency received no comments, adverse or otherwise, on this type of modification, and so is finalizing this language in the CFR.

Moving forward, in 40 CFR part 372, EPA will not include descriptive text for SIC codes when listing the limitations and exceptions applicable to TRI-covered NAICS codes. Instead, the Agency will simply list the SIC codes, including their titles, as applicable limitations and exceptions. Because exceptions and limitations are included in 40 CFR part 372.23(b) and (c) to align the listing of NAICS codes with the list of SIC codes covered by TRI reporting requirements as shown in 40 CFR part 372.23(a), the SIC codes rather than the descriptive text defines the types of facilities covered by TRI. By removing the descriptive text from the exceptions and limitations listed in these two paragraphs, this action mitigates potential confusion caused by qualitative descriptions of SIC codes and does not alter the universe of the facilities affected by TRI reporting requirements. Facilities with questions regarding the SIC code descriptions should refer to the SIC manual, available at: *https://www.osha.gov/pls/imis/sicsearch.html.*

C. Why did the Agency withdraw the direct final rule?

EPA previously received relevant adverse public comment on the direct final rule. While the commenter largely supported the update to OMB's 2017 NAICS codes, it noted that the 2012 NAICS code 211112 (Natural Gas Liquid Extraction) was not included in the direct final rule's revised codes, although OMB had updated NAICS code 211112 to NAICS code 211130 (Natural Gas Extraction) in 2017. EPA agrees with this comment. The 2012 NAICS code 211112, which was updated to 211130 in the 2017 NAICS codes revision, was intended to be captured in the direct final rule. The direct final inadvertently omitted this update. Thus, EPA withdrew the direct final and is proceeding to amend the NAICS code list with this final rule.

D. What are the incremental impacts of this action?

EPA analyzed the potential costs and benefits associated with this action, and determined that since this action will not add or remove any reporting requirements, there is no net increase in respondent burden or other economic impacts.

III. Statutory and Executive Order Reviews

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

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

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

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

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden. Facilities that are affected by the rule are already required to report their industrial classification codes on the approved reporting forms under section 313 of EPCRA and 6607 of the PPA. In addition, OMB has previously approved the information collection requirements contained in 40 CFR part 372 under the provisions of the PRA, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2025–0009 (EPA ICR No. 1363–21) for Form R and Form A. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This final rule adds no new reporting requirements, and there would be no net increase in respondent burden. This rule would only update the NAICS codes already reported by respondents. This final rule will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The action would impose no enforceable duty on any state, local or tribal governments or the private sector.

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

This action does not have tribal implications as specified in Executive Order 13175. This final rule will not impose substantial direct compliance costs on Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This regulatory action is a procedural change and does not have any impact on human health or the environment.

IV. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: December 13, 2017.

E. Scott Pruitt,

Administrator.

Therefore, 40 CFR chapter I is amended as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. Amend § 372.22 by revising paragraph (b) introductory text to read as follows:

§ 372.22 Covered facilities for toxic chemical release reporting.

* * * * *

(b) The facility is in a Standard Industrial Classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2017, for reporting year 2018 and thereafter) subsector and industry codes are listed in §§ 372.23(b) and 372.23(c) by virtue of the fact that it meets one of the following criteria:

* * * * *

■ 3. Amend § 372.23 by revising paragraphs (b) and (c) to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

* * * * *

(b) NAICS codes that correspond to SIC codes 20 through 39.

Subsector code or Industry code	Exceptions and/or limitations
311—Food Manufacturing	Except 311119—Exception is limited to facilities previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning;
	Except 311340—Exception is limited to facilities previously classified under SIC 5441, Candy, Nut, and Confectionery Stores;
	Except 311352—Exception is limited to facilities previously classified under SIC 5441, Candy, Nut, and Confectionery Stores;
	Except 311611—Exception is limited to facilities previously classified under SIC 0751, Livestock Services, Except Veterinary;
	Except 311612—Exception is limited to facilities previously classified under SIC 5147, Meats and Meat Products;
	Except 311811—Exception is limited to facilities previously classified under SIC 5461, Retail Bakeries;
312—Beverage and Tobacco Product Manufacturing.	Except 312112—Exception is limited to facilities previously classified under SIC 5149, Groceries and Related Products, Not Elsewhere Classified;
	Except 312230—Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis;
313—Textile Mills	Except 313310—Exception is limited to facilities previously classified under SIC 5131, Piece Goods, Notions, and Other Dry Goods; and facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis;
314—Textile Product Mills	Except 314120—Exception is limited to facilities previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores;

Subsector code or Industry code	Exceptions and/or limitations
	Except 314999—Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified, except facilities primarily engaged in solvent recovery services on a contract or fee basis;
315—Apparel Manufacturing	Except 315220—Exception is limited to facilities previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores;
316—Leather and Allied Product Manufacturing.	
321—Wood Product Manufacturing.	
322—Paper Manufacturing.	
323—Printing and Related Support Activities.	Except 323111—Exception is limited to facilities previously classified under SIC 7334, Photocopying and Duplicating Services;
324—Petroleum and Coal Products Manufacturing.	
325—Chemical Manufacturing	Except 325998—Exception is limited to facilities previously classified under SIC 7389, Business Services, Not Elsewhere Classified;
326—Plastics and Rubber Products Manufacturing.	Except 326212—Exception is limited to facilities previously classified under SIC 7534, Tire Retreading and Repair Shops;
327—Nonmetallic Mineral Product Manufacturing.	Except 327110—Exception is limited to facilities previously classified under SIC 5719, Miscellaneous Home Furnishings Stores;
331—Primary Metal Manufacturing.	
332—Fabricated Metal Product Manufacturing.	
333—Machinery Manufacturing.	
334—Computer and Electronic Product Manufacturing.	Except 334614—Exception is limited to facilities previously classified under SIC 7372, Prepackaged Software; and to facilities previously classified under SIC 7819, Services Allied to Motion Picture Production;
335—Electrical Equipment, Appliance, and Component Manufacturing.	Except 335312—Exception is limited to facilities previously classified under SIC 7694, Armature Rewinding Shops;
336—Transportation Equipment Manufacturing.	
337—Furniture and Related Product Manufacturing.	Except 337110—Exception is limited to facilities previously classified under SIC 5712, Furniture Stores;
	Except 337121—Exception is limited to facilities previously classified under SIC 5712, Furniture Stores;
	Except 337122—Exception is limited to facilities previously classified under SIC 5712, Furniture Stores;
339—Miscellaneous Manufacturing	Except 339113—Exception is limited to facilities previously classified under SIC 5999, Miscellaneous Retail Stores, Not Elsewhere Classified;
	Except 339115—Exception is limited to lens grinding facilities previously classified under SIC 5995, Optical Goods Stores;
	Except 339116—Exception is limited to facilities previously classified under SIC 8072, Dental Laboratories;
111998—All Other Miscellaneous Crop Farming.	Limited to facilities previously classified under SIC 2099, Food Preparations, Not Elsewhere Classified;
113310—Logging.	
211130—Natural Gas Extraction	Limited to facilities that recover sulfur from natural gas and previously classified under SIC 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified;
212324—Kaolin and Ball Clay Mining.	Limited to facilities operating without a mine or quarry and previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated;
212325—Mining	Limited to facilities operating without a mine or quarry and previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated;
212393—Other Chemical and Fertilizer Mineral Mining.	Limited to facilities operating without a mine or quarry and previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated;
212399—All Other Nonmetallic Mineral Mining.	Limited to facilities operating without a mine or quarry and previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated;
488390—Other Support Activities for Water Transportation.	Limited to facilities previously classified under SIC 3731, Shipbuilding and Repairing;
511110—Newspaper Publishers.	
511120—Periodical Publishers.	
511130—Book Publishers.	
511140—Directory and Mailing List Publishers.	Except facilities previously classified under SIC 7331, Direct Mail Advertising Services;
511191—Greeting Card Publishers.	
511199—All Other Publishers.	
512230—Music Publishers	Except facilities previously classified under SIC 8999, Services, Not Elsewhere Classified;
512250—Record Production and Distribution.	Limited to facilities previously classified under SIC 3652, Phonograph Records and Prerecorded Audio Tapes and Disks;
519130—Internet Publishing and Broadcasting and Web Search Portals.	Limited to Internet publishing facilities previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing; facilities previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing; facilities previously classified under SIC 2731, Books: Publishing, or Publishing and Printing; facilities previously classified under SIC 2741, Miscellaneous Publishing; facilities previously classified under SIC 2771, Greeting Cards; Except for facilities primarily engaged in web search portals;
541713—Research and Development in Nanotechnology.	Limited to facilities previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts; and facilities previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified;

Subsector code or Industry code	Exceptions and/or limitations
541715—Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology).	Limited to facilities previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts; and facilities previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified;
811490—Other Personal and Household Goods Repair and Maintenance.	Limited to facilities previously classified under SIC 3732, Boat Building and Repairing.

(c) NAICS codes that correspond to SIC codes other than SIC codes 20 through 39.

Subsector or Industry code	Exceptions and/or limitations
212111—Bituminous Coal and Lignite Surface Mining	
212112—Bituminous Coal and Underground Mining	
212113—Anthracite Mining	
212221—Gold Ore Mining	
212222—Silver Ore Mining	
212230—Copper, Nickel, Lead, and Zinc Mining	
212299—Other Metal Ore Mining	
221111—Hydroelectric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221112—Fossil Fuel Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221113—Nuclear Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221118—Other Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221121—Electric Bulk Power Transmission and Control	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221122—Electric Power Distribution	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221330—Steam and Air Conditioning Supply	Limited to facilities previously classified under SIC 4939, Combination Utility Services, Not Elsewhere Classified.
424690—Other Chemical and Allied Products Merchant Wholesalers	
424710—Petroleum Bulk Stations and Terminals	
425110—Business to Business Electronic Markets	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
425120—Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112—Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis and previously classified under SIC 7389, Business Services, Not Elsewhere Classified;
562211—Hazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562212—Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562213—Solid Waste Combustors and Incinerators	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562219—Other Nonhazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562920—Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*

■ 4. Amend § 372.38 by revising paragraph (h) to read as follows:

§ 372.38 Exemptions.

* * * * *

(h) *Metal mining overburden.* If a toxic chemical that is a constituent of overburden is processed or otherwise used by facilities in SIC code 10, or in NAICS codes 212221, 212222, 212230 or 212299, a person is not required to consider the quantity of the toxic chemical so processed, or otherwise used when determining whether an applicable threshold has been met under § 372.25, § 372.27, or § 372.28, or determining the amounts to be reported under § 372.30.

[FR Doc. 2017–27815 Filed 12–22–17; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 425

[CMS–1702—IFC]

RIN 0938–AT51

Medicare Program; Medicare Shared Savings Program: Extreme and Uncontrollable Circumstances Policies for Performance Year 2017

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period establishes policies for assessing the financial and quality performance of Medicare Shared Savings Program (Shared Savings Program) Accountable Care Organizations (ACOs) affected by extreme and uncontrollable circumstances during performance year 2017, including the applicable quality reporting period for the performance year. Under the Shared Savings Program, providers of services and suppliers that participate in ACOs continue to receive traditional Medicare fee-for-service (FFS) payments under Parts A and B, but the ACO may be eligible to receive a shared savings payment if it meets specified quality and savings requirements. ACOs in performance-based risk agreements may also share in losses. This interim final rule with comment period establishes extreme and uncontrollable circumstances policies for the Shared Savings Program that will apply to ACOs subject to extreme and uncontrollable events, such as Hurricanes Harvey, Irma, and Maria, and the California wildfires, effective for performance year 2017, including the applicable quality data reporting period for the performance year.

DATES:

Effective date: These regulations are effective on January 20, 2018.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on February 20, 2018.

ADDRESSES: In commenting, please refer to file code CMS–1702–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *www.regulations.gov.* Follow the instructions for ''submitting a comment.''

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1702–IFC, P.O. Box 8016, Baltimore, MD 21244–8013. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1702–IFC, Mail stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members. Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period. For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sabrina Ahmed, (410) 786–7499.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Stakeholders representing Medicare Shared Savings Program (Shared Savings Program) Accountable Care Organizations (ACOs) located in the geographic areas impacted by Hurricanes Harvey, Irma, and Maria and the California wildfires have reported significant impacts on healthcare provider operations and on area infrastructure. (For more detailed information, see the interim final rule with comment period titled Medicare Program; Quality Payment Program: Extreme and Uncontrollable Circumstance Policy for the Transition Year that appeared in the **Federal Register** on November 16, 2017 (hereinafter referred to as the Quality Payment Program IFC) (82 FR 53568 and 53895). For example, Hurricane Maria devastated Puerto Rico on September 20, 2017. Stakeholders located in Puerto Rico report that while federal and local agencies have been working around the clock to restore infrastructure in Puerto Rico, local communication systems are still not fully functioning, some residents do not have water services, and many residents do not have access to electric power. Under such circumstances, healthcare providers report that their main focus is to manage chronically ill patients; provide essential services such as dialysis, chemotherapy, and blood transfusions; deal with trauma; and dispense maintenance medications, including insulin. Many healthcare providers in Puerto Rico have been unable to reopen their offices not only because they lack power and water, but also because access to fuel for operating alternate power generators has been limited.

In addition, other stakeholders report that the loss of infrastructure has significantly affected the utilization and cost of services furnished to the Medicare beneficiaries they serve. For example, stakeholders representing ACOs in Florida indicate there has been a significant increase in emergency department services, hospitalizations, and skilled nursing facility (SNF) admissions because of Hurricane Irma. They believe that the increased numbers

of medical services being furnished in their geographic areas is a direct result of hurricane-related factors affecting healthcare providers that are beyond their control. Stakeholders report that, in some cases, beneficiaries located in hurricane-affected areas who are being treated for chronic conditions, such as diabetes, have limited access to their primary clinicians and have not been able to obtain timely refills for their prescribed medications, resulting in an increased volume of hospital and SNF admissions, as well as increased volumes of other medical services. Stakeholders suggest that beneficiaries in affected areas are more likely to be admitted to hospitals and SNFs, and to require other additional medical services when basic infrastructure has been damaged, such as when beneficiaries are unable to utilize ventilators or other medically necessary equipment at home or in another less intensive setting because of widespread electrical outages. Further, ACOs located in affected areas report that ACO providers/suppliers, including hospitals and SNFs, are struggling to help beneficiaries meet their post-discharge needs, including for housing, family support, and personal care. Stakeholders report that as a result, in some cases, patients may have remained in inpatient facilities due to the lack of appropriate post-discharge services.

Under the Shared Savings Program, ACOs that successfully meet quality and savings requirements can share a percentage of the achieved savings with Medicare. Eligible ACOs share in savings only if they meet both the quality performance standards and generate shareable savings (see §§ 425.604(a)(7), (b) and (c); 425.606(a)(7), (b) and (c); and 425.610(a)(7), (b) and (c)). ACOs participating in a two-sided risk model are required to share losses with the Medicare program when expenditures over the benchmark exceed the minimum loss rate (see §§ 425.606(b), (f) and (g); and 425.610(b), (f) and (g)). ACOs have expressed concerns that disaster-related effects on their ACO participants and assigned beneficiary population could affect their ability to successfully meet the quality performance standards, and in the case of ACOs under performance-based risk, to avoid shared losses. Stakeholders are concerned about the impact on ACO performance results when comparing performance year expenditures that reflect disaster-related spikes in utilization and costs of medical services against historical benchmarks that do not include the costs of a disaster. For instance, in light of the challenges being faced by healthcare providers in Puerto Rico, stakeholders estimate that it might take ACO participants in Puerto Rico from 3 to 6 months, at a minimum, to comply with quality measures reporting requirements for performance year 2017. Stakeholders are also concerned that ACOs and ACO participants affected by disasters could be unfairly assessed for performance year 2017 based on the quality and claims data that would be available during financial reconciliation for performance year 2017. For example, stakeholders have expressed the following concerns:

- There could be very limited ability to obtain beneficiary survey responses to the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey through phone calls and mailings. Further, the widespread devastation of infrastructure and the impact on healthcare providers would likely adversely impact beneficiary access to care and beneficiary ratings of services, which could negatively affect results on the CAHPS survey measures.
- ACO quality performance scores could be adversely affected by a limited ability to furnish and/or submit claims for cancer screening services, diabetic eye exams, or other preventive services. This would impact ACOs' quality performance scores because higher rates are better for many of the quality measures, such as ACO–19 Colorectal Cancer Screening or ACO–20 Breast Cancer Screening.
- There could be a high number of unplanned hospital and SNF admissions, and high use of emergency room services due to multiple disaster-related factors, such as beneficiary exposure to contagious illnesses and limited access to medicines for beneficiaries with chronic conditions. This could significantly impact ACOs' quality performance scores because lower rates of admissions are better for measures, such as ACO–35 SNF 30-day All-Cause Readmission Measure or ACO–36 All-Cause Unplanned Admissions for Patients with Diabetes.
- The impact of the disasters on an ACO's financial performance could be unpredictable as a result of the increase in utilization and cost of services furnished to the Medicare beneficiaries it serves. In some cases, ACO participants might be unable to coordinate care because of migration of patient populations leaving the impacted areas. Stakeholders have expressed concerns that existing Track 2 and Track 3 ACOs may be unable to remain in a two-sided risk track if they are held fully accountable for repaying shared losses associated with these disasters. We also note that our experience with the Shared Savings Program has been that the majority of ACOs that owe shared losses subsequently terminate their agreements.

These stakeholders further suggest that in the future providers and suppliers could be reluctant to participate in the Shared Savings Program under a two-sided risk model because of concerns that ACOs participating under a two-sided risk model could be required to share losses with the Medicare program for expenditures resulting from extreme and uncontrollable circumstances.

Disasters may have several possible effects on our ability to measure ACO quality performance. For instance, displacement of beneficiaries may make it difficult for ACOs to access medical record data required for quality reporting, as well as reduce the beneficiary response rate on survey measures. Further, for practices damaged by a disaster, the medical records needed for quality reporting may be inaccessible.

We also believe that disasters may affect the infrastructure of ACO participants, ACO providers/suppliers, and potentially the ACO legal entity itself, thereby disrupting routine operations related to their participation in the Shared Savings Program and achievement of program goals. The effects of a disaster could include challenges in communication between the ACO and its participating providers and suppliers and in implementation of and participation in programmatic activities. These factors could jeopardize an ACO's ability to remain in the program, particularly for ACOs that have accepted performance-based risk under Tracks 2 and 3. Stakeholders have requested that we develop policies under the Shared Savings Program to recognize the impact of extreme and uncontrollable circumstances on ACO quality and financial performance.

II. Provisions of the Interim Final Rule

A. Shared Savings Program Extreme and Uncontrollable Circumstances Policies for Performance Year 2017

We agree with stakeholders that the financial and quality performance of ACOs located in areas subject to extreme and uncontrollable circumstances could be significantly and adversely affected. We also agree that due to the widespread disruptions that have occurred during 2017 in areas affected by Hurricanes Harvey, Irma, and Maria, and the California wildfires, new policies are warranted for assessing

quality and financial performance of Shared Savings Program ACOs in the affected areas. We believe it is appropriate to adopt policies to address stakeholder concerns that displacement of beneficiaries may make it difficult for ACOs to access medical record data required for quality reporting, and might reduce the beneficiary response rate on survey measures. In addition, medical records needed for quality reporting may be inaccessible. We also believe it is appropriate to adopt policies to address stakeholders' concerns that ACOs might be held responsible for sharing losses with the Medicare program resulting from catastrophic events outside the ACO's control given the increase in utilization, migration of patient populations leaving the impacted areas, and the mandatory use of natural disaster payment modifiers making it difficult to identify whether a claim would otherwise have been denied under normal Medicare fee-for-service (FFS) rules.

Under the Shared Savings Program, we do not currently have policies for addressing ACO quality performance scoring and the determination of the shared losses owed by ACOs participating under performance-based risk tracks in the event of an extreme or uncontrollable circumstance. In the Quality Payment Program IFC (82 FR 53895), we established an automatic policy to address extreme and uncontrollable circumstances, including Hurricanes Harvey, Irma, and Maria, for the Merit-based Incentive Payment System (MIPS) for the 2017 performance year. (The specific regions identified as being affected by Hurricanes Harvey, Irma, and Maria for the 2017 MIPS performance year are provided in detail in section III.B.1.e. of the Quality Payment Program IFC (82 FR 53898)). In the Quality Payment Program IFC, we stated that should additional extreme and uncontrollable circumstances arise for the 2017 MIPS performance period that trigger the automatic extreme and uncontrollable circumstance policy under the Quality Payment Program, we would communicate that information through routine communication channels, including but not limited to issuing program memoranda, emails to stakeholders, and notices on the Quality Payment Program website, *qpp.cms.gov* (82 FR 53897). For example, we recently issued guidance to stakeholders indicating that the MIPS Extreme and Uncontrollable Circumstance Policy also applies to MIPS eligible clinicians affected by the California wildfires (see *https://www.cms.gov/Medicare/Quality-Payment-Program/Resource-Library/Interim-Final-Rule-with-Comment-fact-sheet.pdf*).

We believe it is also appropriate to establish automatic extreme and uncontrollable circumstances policies under the Shared Savings Program for performance year 2017 due to the urgency of providing relief to Shared Savings Program ACOs impacted by Hurricanes Harvey, Irma, and Maria, and the California wildfires, because their quality scores could be adversely affected by these disasters and some ACOs could be at risk for additional shared losses due to the costs associated with these extreme and uncontrollable events. Therefore, given the broad impact of the three hurricanes and the wildfires, and to address any additional extreme and uncontrollable circumstances that may arise during 2017 or the quality data reporting period for the performance year, we are establishing the policies described below for the Shared Savings Program for performance year 2017.

For program clarity and to reduce unnecessary burdens on affected ACOs, we are aligning the automatic extreme and uncontrollable circumstances policies under the Shared Savings Program with the policy established under the Quality Payment Program. Specifically, the Shared Savings Program extreme and uncontrollable circumstances policies will apply when we determine that an event qualifies as an automatic triggering event under the Quality Payment Program. We will use the determination of an extreme and uncontrollable circumstance under the Quality Payment Program, including the identification of affected geographic areas and applicable time periods, for purposes of determining the applicability of the extreme and uncontrollable circumstances policies with respect to both financial performance and quality reporting under the Shared Savings Program. These policies will also apply with respect to the determination of the ACO's quality performance in the event that an extreme and uncontrollable event occurs during the applicable quality data reporting period for performance year 2017 and the reporting period is not extended. We believe it is appropriate to extend these policies to encompass the quality reporting period, unless the reporting period is extended, because we would not have the quality data necessary to measure an ACO's quality performance for 2017 if the ACO were unable to submit its quality data as a result of a disaster occurring during the submission window. For example, if an extreme and uncontrollable event were to occur in February 2018, which is during the quality data reporting period for performance year 2017 that is currently scheduled to end on March 16, 2018 at 8 p.m. eastern daylight time, then the extreme and uncontrollable circumstances policies would apply for quality data reporting for performance year 2017, if the reporting period is not extended. We do not believe it is appropriate to extend this policy to encompass the quality data reporting period if the reporting period is extended because affected ACOs would have an additional opportunity to submit their quality data, enabling us to measure their quality performance in 2017. However, we note that, because a disaster that occurs after the end of the performance year would have no impact on the determination of an ACO's financial performance for performance year 2017, we will make no adjustment to shared losses in the event an extreme or uncontrollable event occurs during the quality data reporting period.

1. Determination of Quality Performance Scores for ACOs in Affected Areas

ACOs and their ACO participants and ACO providers/suppliers are frequently located across several different geographic regions or localities, serving a mix of beneficiaries who may be differentially impacted by hurricanes, wildfires, or other triggering events. Therefore, we need to establish a policy for determining when an ACO, which may have ACO participants and ACO providers/suppliers located in multiple geographic areas, should qualify for the automatic extreme and uncontrollable circumstance policies for the determination of quality performance. We will determine whether an ACO has been affected by an extreme and uncontrollable circumstance by determining whether 20 percent or more of the ACO's assigned beneficiaries resided in counties designated as an emergency declared area in performance year 2017, as determined under the Quality Payment Program as discussed in section III.B.1.e. of the Quality Payment Program IFC (82 FR 53898) or the ACO's legal entity is located in such an area. An ACO's legal entity location is based on the address on file for the ACO in CMS' ACO application and management system. We are using 20 percent of the ACO's assigned beneficiary population as the minimum threshold to establish an ACO's eligibility for the policies regarding quality reporting and quality performance scoring included in this interim final rule with comment period because we believe the 20 percent threshold provides a reasonable way to

identify ACOs whose quality performance may have been adversely affected by an extreme or uncontrollable circumstance, while excluding ACOs whose performance would not likely be significantly affected. The 20 percent threshold was selected to account for the effect of an extreme or uncontrollable circumstance on an ACO that has the minimum number of assigned beneficiaries to be eligible for the program (5,000 beneficiaries), and in consideration of the average total number of unique beneficiaries for whom quality information is required to be reported in the combined CAHPS survey sample (860 beneficiaries) and the CMS web interface sample (approximately 3,500 beneficiaries). (There may be some overlap between the CAHPS sample and the CMS web interface sample.) Therefore, we estimated that an ACO with an assigned population of 5,000 beneficiaries typically would be required to report quality information on a total of 4,000 beneficiaries. Thus, we believe the 20 percent threshold ensures that an ACO with the minimum number of assigned beneficiaries would have an adequate number of beneficiaries across the CAHPS and CMS web interface samples in order to fully report on these measures. Of the ACOs we have estimated will be impacted by the disasters in 2017, 92 percent have more than 20 percent of their assigned beneficiaries residing in emergency declared areas. However, we also understand that some ACOs that have fewer than 20 percent of their assigned beneficiaries residing in affected areas have a legal entity that is located in an emergency declared area. Consequently, their ability to quality report may be equally impacted since the ACO legal entity may be unable to collect the information from the ACO participants or experience infrastructure issues related to capturing, organizing and reporting the data to CMS. If less than 20 percent of the ACO's assigned beneficiaries reside in an affected area and the ACO's legal entity is not located in a county designated as an affected area, then we believe that there is unlikely to be a significant impact upon the ACO's ability to report or on the representativeness of the quality performance score that is determined for the ACO.

We will determine what percentage of the ACO's performance year assigned population was affected by a disaster based on the final list of beneficiaries assigned to the ACO for the performance year. Although beneficiaries are assigned to ACOs under Track 1 and Track 2 based on preliminary prospective assignment with retrospective reconciliation after the end of the performance year, these ACOs will be able to use their quarterly assignment lists, which include beneficiaries' counties of residence, for early insight into whether they are likely to meet the 20 percent threshold. We have used preliminary information on beneficiary assignment for the 2017 performance year to estimate the number of ACOs that were affected by the hurricanes and the California wildfires in 2017. We estimate that 105 of the 480 ACOs (approximately 22 percent) would meet the minimum threshold of having 20 percent or more of their assigned beneficiaries residing in an area designated as impacted by Hurricanes Harvey, Irma, and Maria, and the California wildfires or have their legal entity located in one of these areas.

For purposes of determining quality performance scoring for performance year 2017, if 20 percent or more of an ACO's assigned beneficiaries reside in an area impacted by the disaster or the ACO's legal entity is located in such an area, the ACO's minimum quality score will be set to equal the mean Shared Savings Program ACO quality score for all ACOs for performance year 2017. We are setting the minimum quality score equal to the mean quality score for all Shared Savings Program ACOs nationwide, because the mean reflects the full range of quality performance across all ACOs in the Shared Savings Program. More specifically, the mean ACO quality score is equal to the combined ACO quality score for all ACOs meeting the quality performance standard for the performance year divided by the total number of ACOs meeting the quality performance standard for the performance year. To illustrate, we note that the mean Shared Savings Program ACO quality performance score for all participating ACOs for performance year 2016 was approximately 95 percent. In the event an affected ACO is able to complete quality reporting for performance year 2017, and the ACO's calculated quality score is higher than the mean Shared Savings Program ACO quality score, then we would apply the higher score.

In earlier rulemaking, we finalized a policy under which ACOs that demonstrate quality improvement on established quality measures from year-to-year will be eligible for up to 4 bonus points per domain (79 FR 67927 through 67931, § 425.502(e)(4)). To earn bonus points, an ACO must demonstrate a net improvement in performance on measures within a domain. If an ACO is not able to complete quality reporting for performance year 2017, it will not be possible for us to assess the ACO's improvement on established quality measures since performance year 2016. Therefore, if an ACO receives a quality score based on the mean quality score, the ACO is not eligible for bonus points awarded based on quality improvement.

We believe it is appropriate to adjust the quality performance scores for ACOs in affected areas because we anticipate that such ACOs will likely be unable to collect or report the necessary information to CMS as a result of the extreme and uncontrollable circumstance, and/or the ACO's quality performance score will be significantly and adversely affected. Section 1899(b)(3)(C) of the Act gives us the authority to establish the quality performance standards used to assess the quality of care furnished by ACO. Accordingly, we are modifying the quality performance standard specified under § 425.502 by amending paragraph (e)(4) and adding a new paragraph (f) to address potential adjustments to the quality performance score for performance year 2017 of ACOs determined to be affected by extreme and uncontrollable circumstances. For performance year 2017, including the applicable quality data reporting period for the performance year if the reporting period is not extended, in the event that we determine that 20 percent or more of an ACO's final list of assigned beneficiaries for the performance year, as determined under subpart E of the Shared Savings Program regulations, reside in an area that is affected by an extreme and uncontrollable circumstance as determined under the Quality Payment Program, or that the ACO's legal entity is located in such an area, we will use the following approach to calculate the ACO's quality performance score instead of the methodology specified in § 425.502(a) through (e).

- The ACO's minimum quality score will be set to equal the mean Shared Savings Program ACO quality score for performance year 2017.
- If the ACO is able to completely and accurately report all quality measures, we will use the higher of the ACO's quality score or the mean Shared Savings Program ACO quality score.
- If the ACO receives a quality score based on the mean, the ACO is not eligible for bonus points awarded based on quality improvement.

We will apply determinations made under the Quality Payment Program with respect to whether an extreme and uncontrollable circumstance has occurred and the affected areas. We

have sole discretion to determine the time period during which an extreme and uncontrollable circumstance occurred, the percentage of the ACO's assigned beneficiaries residing in the affected areas, and the location of the ACO legal entity.

For purposes of the MIPS APM scoring standard, MIPS eligible clinicians in Medicare Shared Savings Program ACOs that do not completely report quality for 2017; and therefore, receive the mean ACO quality score under the Shared Savings Program would receive a score of zero percent in the MIPS quality performance category. However, these MIPS eligible clinicians would receive a score of 100 percent in the improvement activities (IAs) performance category, which would be sufficient for them to receive a 2017 MIPS final score above the performance threshold. This would result in at least a slight positive MIPS payment adjustment in 2019. Additionally, if the ACO participants are able to report advancing care information (ACI), the MIPS eligible clinicians in the ACO will receive an ACI performance category score under the APM scoring standard which would further increase their final score under MIPS.

2. Mitigating Shared Losses for ACOs Participating in a Performance-Based Risk Track

In addition, we are modifying the payment methodology under Tracks 2 and 3 established under the authority of section 1899(i) of the Act to mitigate shared losses owed by ACOs affected by extreme and uncontrollable circumstances during performance year 2017. Under this policy, we will reduce the ACO's shared losses, if any, determined to be owed under the existing methodology for calculating shared losses in part 425, subpart G, of the regulations by an amount determined by multiplying the shared losses by two factors: (1) The percentage of the total months in the performance year affected by an extreme and uncontrollable circumstance; and (2) the percentage of the ACO's assigned beneficiaries who reside in an area affected by an extreme and uncontrollable circumstance. We will determine the percentage of the ACO's performance year assigned beneficiary population that was affected by the disaster based on the final list of beneficiaries assigned to the ACO for the performance year. For example, assume that an ACO is determined to owe shared losses of $100,000 for performance year 2017, a disaster was declared for October through December during the performance year, and 25 percent of the ACO's assigned beneficiaries reside in the disaster area. In this scenario, we would adjust the ACO's losses in the following manner:

$$\$100{,}000 - (\$100{,}000 \times 0.25 \times 0.25) = \$100{,}000 - \$6{,}250 = \$93{,}750.$$

We believe it is appropriate to adopt this policy to address stakeholders' concerns that ACOs could be held responsible for sharing losses with the Medicare program resulting from catastrophic events outside the ACO's control given the increase in utilization, difficulty of coordinating care for patient populations leaving the impacted areas, and the mandatory use of natural disaster payment modifiers making it difficult to identify whether a claim would otherwise have been denied under normal Medicare FFS rules. Absent this relief, we believe ACOs that are currently participating in Tracks 2 and 3 may reconsider whether they are able to continue their participation in the Shared Savings Program under a performance-based risk track. The approach we are adopting in this interim final rule with comment period balances the need to offer relief to affected ACOs with the need to continue to hold those ACOs accountable for losses incurred during the months in which there was no applicable disaster declaration and for the assigned beneficiary population that was outside the area affected by the disaster. We also note that these policies do not change the status of Track 2 or Track 3 of the Shared Savings Program as an Advanced Alternative Payment Model (APM) for purposes of the Quality Payment Program, or prevent an eligible clinician in a performance-based risk ACO from becoming a Qualifying APM Participant for purposes of the APM incentive under the Quality Payment Program.

We also explored an alternative approach for mitigating the potential losses for ACOs in performance-based risk tracks that are affected by extreme and uncontrollable circumstances. Under this approach, we would remove claims for services furnished to assigned beneficiaries in the impacted areas by an ACO participant that are submitted with a natural disaster modifier before calculating financial performance. However, we believe that this alternative approach could, for some affected ACOs, result in the exclusion of a significant amount of their total claims at financial reconciliation, making it very difficult to measure the ACOs' financial performance.

We also want to emphasize that all ACOs will continue to be entitled to share in any savings they may achieve for performance year 2017. The calculation of savings and the determination of shared savings payment amounts will not be affected by the policies to address extreme and uncontrollable circumstances. ACOs in all three tracks of the program will receive shared savings payments, if any, as determined under part 425, subpart G.

We also considered the possible impact of extreme and uncontrollable circumstances on an ACO's expenditures for purposes of determining the benchmark (§§ 425.602 and 425.603). The additional costs incurred as a result of an extreme or uncontrollable circumstance would likely impact the benchmark determined for the ACO's subsequent agreement period in the Shared Savings Program, as performance years of the current agreement period become the historical benchmark years for the subsequent agreement period. We currently believe that the increase in expenditures for a particular calendar year would result in a higher benchmark value when the same calendar year is used to determine the ACO's historical benchmark, and in calculating adjustments to the rebased benchmark based on regional FFS expenditures (§ 425.603). We believe that any effect of including these additional expenditures in determining the ACO's benchmark for the subsequent agreement period could be mitigated somewhat because the ACO's expenditures during the three base years included in the benchmark are weighted equally, and regional expenditures would also increase as a result of the disaster. Therefore, we anticipate the effect on the regional adjustment under § 425.603(c)(9) would be minimal. Although we are not modifying the program's historical benchmark methodology in this interim final rule with comment period, we plan to observe the impact of the 2017 hurricanes and wildfires on ACO expenditures, and may revisit the need to make adjustments to the methodology for calculating the benchmark in future rulemaking.

To exercise our authority under section 1899(i)(3) of the Act to use other payment models, we must demonstrate that the payment model— (1) " . . . does not result in spending more for such ACO for such beneficiaries than would otherwise be expended . . . if the model were not implemented. . . ." and (2) "will improve the quality and efficiency of items and services furnished under" Medicare. In assessing the impacts of the policy for mitigating shared losses for Track 2 and Track 3 ACOs affected by extreme and

uncontrollable circumstances in 2017, we considered: The impact of the potential loss of participation in the program by ACOs affected by disasters should we not implement the policy described in this interim final rule with comment period, and the anticipated minimal impact of adjusting losses for ACOs affected by disasters, as described in the regulatory impact statement. On the basis of this assessment, we believe incorporating this extreme and uncontrollable circumstances policy into the payment methodologies for Tracks 2 and 3 would meet the requirements of section 1899(i) of the Act by not increasing expenditures above the costs that would be incurred under the statutory payment methodology under section 1899(d) of the Act and by encouraging affected ACOs to remain in the program, which we believe will increase the quality and efficiency of the items and services furnished to the beneficiaries they serve. We also note that to the extent the policies in this interim final rule with comment constitute a change to the Shared Savings Program payment methodology for 2017 after the start of the performance year, we believe that, consistent with section 1871(e)(1)(A)(ii) of the Act, and for reasons discussed in section III of this interim final rule with comment period, it would be contrary to the public interest not to adjust the shared losses calculated for ACOs in Tracks 2 and 3 to reflect the impact of the extreme and uncontrollable circumstances during 2017.

We invite comments on the policies being finalized in this interim final rule with comment period for performance year 2017, including the applicable quality data reporting period for performance year 2017 under the Shared Savings Program. We believe these automatic extreme and uncontrollable circumstance policies will reduce burden and financial uncertainty for ACOs, ACO participants, and ACO providers/suppliers affected by catastrophes, including ACOs affected by Hurricanes Harvey, Irma, and Maria, and the California wildfires, and will also align with existing Medicare policies under the Quality Payment Program for 2017.

We note that in future rulemaking, we intend to propose permanent policies under the Shared Savings Program to address extreme and uncontrollable circumstances in future performance years. Therefore, we also invite public comment on policies and issues that we should consider when developing proposals for these permanent policies.

We also welcome comments on how to address the impact of extreme and uncontrollable events on historical benchmark calculations, which we will consider in developing any future proposals. In particular, we seek comments as to whether and how the historical benchmark should be adjusted to reflect extreme and uncontrollable events that occur during a benchmark year, how to establish the threshold for determining whether a significant change in expenditures occurred, whether and how to account for changes in expenditures that have an aggregate positive or negative impact on the historical benchmark, and whether and how to reweight the benchmark years when calculating the historical benchmark if one or more benchmark years is impacted by an extreme and uncontrollable event.

III. Waiver of Proposed Rulemaking

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. Section 553(b)(B) of the APA provides for exceptions from the notice and comment requirements; in cases in which these exceptions apply, section 1871(b)(2)(C) of the Act provides for exceptions from the notice and 60-day comment period requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest.

We find that there is good cause to waive the notice and comment requirements under sections 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act due to the impact of the recent disasters, as described in section I of this interim final rule with comment period, and the need to provide relief to impacted Shared Savings Program ACOs, ACO participants, and ACO providers/suppliers. Based on the size and scale of the destruction and displacement caused by these disasters in the affected regions, we believe it is likely that some ACOs and their ACO participants and ACO providers/suppliers have been significantly adversely affected by these events. It is possible that some ACO providers/suppliers may lack access to their EHR technology or other clinical data they would need in order to submit quality data for the 2017 performance period. Undertaking notice-and-comment rulemaking would not provide certainty for ACOs that must prepare now for quality reporting for performance year 2017, which begins on January 22, 2018. Moreover, there is no certainty that a final rule could be issued and in effect before the end of the quality reporting period for performance year 2017 on March 16, 2018. Absent this certainty, the prudent action for impacted ACOs would be to direct their attention and resources to attempt to report quality data for performance year 2017.

We believe it is likely that despite this effort, many affected ACOs would be unable to completely, accurately, and timely report given the lack of clinical information and infrastructure as a result of the disasters. This would result in unnecessary burden to impacted ACOs and their ACO participants and ACO providers/suppliers in the event a final rule is issued during or after the quality data submission period, and the ACO would have been afforded relief under the policies included in the final rule. Further, absent this certainty, ACOs participating under Tracks 2 and 3 that are located in disaster areas and that have experienced increased utilization would be concerned about being at risk for shared losses and would likely direct their attention and resources to contingency planning activities to develop options for offsetting the potential additional costs. These ACOs may also reconsider whether they are able to continue to their participation in the Shared Savings Program in a performance-based risk track. We believe it is also possible that potential ACO applicants could be reluctant to initiate the necessary advance planning and investments required to develop the capability to participate under a two-sided risk model during future performance years if they believe that we would be hesitant to provide similar flexibility in the event of future disasters, such that they may be at risk for losses resulting from circumstances beyond their control. Consequently, we believe it is in the public interest to adopt these interim final policies to provide relief to affected ACOs and their ACO participants and ACO providers/suppliers by mitigating the negative effects of the disasters during performance year 2017 on their quality and financial performance under the Shared Savings Program and allowing them to direct their resources toward caring for their patients and repairing structural damage to facilities.

We find that it would be impracticable and contrary to the public interest to undergo notice and comment procedures before finalizing, on an interim basis with an opportunity for public comment, policies under the Shared Savings Program to address extreme and uncontrollable circumstances that impact an entire region or locale in performance year 2017, including the applicable quality data reporting period. Therefore, we find good cause to waive the notice of proposed rulemaking as provided under section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act and to issue this interim final rule with an opportunity for public comment. We are providing a 60-day public comment period as specified in the **DATES** section of this document.

IV. Collection of Information Requirements

As stated in section 3022 of the Patient Protection and Affordable Care Act, Chapter 35 of title 44, United States Code, shall not apply to the Shared Savings Program. However, we note that this document does not impose any new information collection requirements (that is, reporting, recordkeeping, or third-party disclosure requirements).

V. Regulatory Impact Statement

These policies for addressing extreme and uncontrollable circumstances are unlikely to have a significant economic impact on the Shared Savings Program. We estimated the impact of these policies by simulating their effect on actual 2016 financial and quality performance results, the most recent available reconciled financial and quality results, for the ACOs currently participating in the program that are potentially impacted by these policies. The total increase in shared savings payments and total reduction in shared loss payments anticipated for ACOs impacted by the policies in this rule in 2017 is estimated to be approximately $3.5 million in total (which would round to zero assuming precision to the nearest $10 million). This interim final rule is not subject to the requirements of Executive Order 13771 because it is expected to result in no more than de minimis costs.

VI. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all public comments we receive by the date and time specified in the **DATES** section of this document, and, when we proceed with a subsequent document, we will respond to the public comments in the preamble to that document.

List of Subjects in 42 CFR Part 425

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 425 as set forth below:

PART 425—MEDICARE SHARED SAVINGS PROGRAM

■ 1. The authority for part 425 continues to read as follows:

Authority: Secs. 1102, 1106, 1871, and 1899 of the Social Security Act (42 U.S.C. 1302, 1306, 1395hh, and 1395jjj).

■ 2. Amend § 425.502 by adding paragraphs (e)(4)(vi) and (f) to read as follows:

§ 425.502 Calculating the ACO quality performance score.

* * * * *

(e) * * *

(4) * * *

(vi) For performance year 2017, if an ACO receives the mean Shared Savings Program ACO quality score based on the extreme and uncontrollable circumstances policies in paragraph (f) of this section, the ACO is not eligible for bonus points awarded based on quality improvement.

(f) *Extreme and uncontrollable circumstances.* For performance year 2017, including the applicable quality data reporting period for the performance year if the quality reporting period is not extended, in the event that CMS determines 20 percent or more of an ACO's assigned beneficiaries for the performance year, as determined under subpart E of this part, reside in an area identified under the Quality Payment Program as being affected by an extreme and uncontrollable circumstance or an ACO's legal entity is located in such an area, the following approach is used in calculating the quality score instead of the methodology specified in paragraphs (a) through (e) of this section.

(1) The ACO's minimum quality performance score is set to equal the mean quality performance score for all Shared Savings Program ACOs for performance year 2017.

(2) If the ACO completely and accurately reports all quality measures, CMS uses the higher of the ACO's quality performance score or the mean quality performance score for all Shared Savings Program ACOs.

(3) CMS applies determinations made under the Quality Payment Program with respect to—

(i) Whether an extreme and uncontrollable circumstance has occurred; and

(ii) The affected areas.

(4) An ACO's legal entity location is based on the address on file for the ACO in CMS' ACO application and management system.

(5) CMS has sole discretion to determine the time period during which an extreme and uncontrollable circumstance occurred, the percentage of the ACO's assigned beneficiaries residing in the affected areas, and the location of the ACO legal entity.

■ 3. Amend § 425.606 by adding paragraph (i) to read as follows:

§ 425.606 Calculation of shared savings and losses under Track 2.

* * * * *

(i) *Extreme and uncontrollable circumstances.* For performance year 2017, the following adjustment is made in calculating the amount of shared losses, after the application of the shared loss rate in paragraph (f) of this section and the loss recoupment limit in paragraph (g) of this section.

(1) CMS determines the percentage of the ACO's performance year 2017 assigned beneficiary population affected by an extreme and uncontrollable circumstance.

(2) CMS reduces the amount of the ACO's shared losses by an amount determined by multiplying the shared losses by the percentage of the total months in the performance year affected by an extreme and uncontrollable circumstance, and the percentage of the ACO's assigned beneficiaries who reside in an area affected by an extreme and uncontrollable circumstance.

(3) CMS applies determinations made under the Quality Payment Program with respect to—

(i) Whether an extreme and uncontrollable circumstance has occurred; and

(ii) The affected areas.

(4) CMS has sole discretion to determine the time period during which an extreme and uncontrollable circumstance occurred and the percentage of the ACO's assigned beneficiaries residing in the affected areas.

■ 4. Amend § 425.610 by adding paragraph (i) to read as follows:

§ 425.610 Calculation of shared savings and losses under Track 3.

* * * * *

(i) *Extreme and uncontrollable circumstances.* For performance year

2017, the following adjustment is made in calculating the amount of shared losses, after the application of the shared loss rate in paragraph (f) of this section and the loss recoupment limit in paragraph (g) of this section.

(1) CMS determines the percentage of the ACO's performance year 2017 assigned beneficiary population affected by an extreme and uncontrollable circumstance.

(2) CMS reduces the amount of the ACO's shared losses by an amount determined by multiplying the shared losses by the percentage of the total months in the performance year affected by an extreme and uncontrollable circumstance, and the percentage of the ACO's assigned beneficiaries who reside in an area affected by an extreme and uncontrollable circumstance.

(3) CMS applies determinations made under the Quality Payment Program with respect to—

(i) Whether an extreme and uncontrollable circumstance has occurred; and

(ii) The affected areas.

(4) CMS has sole discretion to determine the time period during which an extreme and uncontrollable circumstance occurred and the percentage of the ACO's assigned beneficiaries residing in the affected areas.

Dated: November 28, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: November 30, 2017.

Eric D. Hargan,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017–27920 Filed 12–21–17; 4:15 pm]

BILLING CODE 4120–01–P

Proposed Rules

Federal Register
Vol. 82, No. 246
Tuesday, December 26, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–4399]

Zinpro Corp.; Filing of Food Additive Petition (Animal Use); Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the notice of petition that appeared in the **Federal Register** of September 22, 2017, proposing that the food additive regulations be amended to provide for the safe use of chromium DL-methionine as a nutritional source of chromium in cattle feed. FDA is reopening the comment period to allow additional time for comments on environmental impacts.

DATES: FDA is reopening the comment period on the notice of petition published September 22, 2017 (82 FR 44367). Submit either electronic or written comments by January 25, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 25, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of January 25, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–F–4399 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Chromium DL-Methionine.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Carissa Doody, Center for Veterinary Medicine (HFV–228), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6283, *carissa.doody@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 22, 2017 (82 FR 44367), FDA gave notice that Zinpro Corp. had filed a petition to amend Title 21 of the Code of Federal Regulations in part 573 Food Additives Permitted in Feed and Drinking Water of Animals (21 CFR part 573) to provide for the safe use of chromium DL-

methionine as a nutritional source of chromium in cattle feed.

Interested persons were originally given until October 23, 2017, to comment on the petitioner's environmental assessment. The environmental assessment was not placed on public display until October 13, 2017. On our own initiative, we are reopening the comment period to allow potential respondents to thoroughly evaluate and address pertinent environmental issues. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on this important issue.

Dated: December 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27785 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–4375]

Akzo Nobel Surface Chemistry AB; Filing of Food Additive Petition (Animal Use); Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the notice of petition, published in the **Federal Register** of September 21, 2017, revising food additive regulations to provide for the safe use of glyceryl polyethylene glycol (200) ricinoleate as an emulsifier in animal food that does not include food for cats, dogs, vitamin premixes, or aquaculture. FDA is reopening the comment period to allow additional time for comments on environmental impacts.

DATES: FDA is reopening the comment period on the notice of petition published September 21, 2017 (82 FR 44129). Submit either electronic or written comments by January 25, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before January 25, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of January 25, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–F–4375 for ''Food Additives Permitted in Feed and Drinking Water of Animals; glyceryl polyethylene glycol (200) ricinoleate.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at:*https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 2017, FDA gave notice that Akzo Nobel Surface Chemistry AB had filed a petition to amend Title 21 of the Code of Federal Regulations in part 573 Food Additives Permitted in Feed and Drinking Water of Animals (21 CFR part 573) to provide for the safe use of glyceryl polyethylene glycol (200) ricinoleate as an emulsifier in animal

food that does not include food for cats, dogs, vitamin premixes, or aquaculture.

Interested persons were originally given until October 23, 2017, to comment on the petitioner's environmental assessment. The environmental assessment was not placed on public display until October 13, 2017. On our own initiative, we are reopening the comment period to allow potential respondents to thoroughly evaluate and address pertinent environmental issues.

Dated: December 20, 2017

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27789 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 803

[Docket No. FDA–2017–N–6730]

Center for Devices and Radiological Health; Medical Devices and Combination Products; Voluntary Malfunction Summary Reporting Program for Manufacturers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; request for comments.

SUMMARY: The Food and Drug Administration's (FDA, Agency, or we) Center for Devices and Radiological Health and Center for Biologics Evaluation and Research, is announcing a proposed program for manufacturer reporting of certain device malfunction medical device reports (MDRs) in summary form—the Voluntary Malfunction Summary Reporting Program. This proposed voluntary program reflects goals for streamlining malfunction reporting outlined in the commitment letter agreed to by FDA and industry and submitted to Congress, as referenced in the Medical Device User Fee Amendments Act of 2017 (MDUFA IV Commitment Letter). These goals include permitting manufacturers of devices in certain product codes to report malfunctions on a quarterly basis and in a summary format. In addition, this proposed program reflects FDA's findings from a pilot program the Agency conducted to study summary reporting formats for malfunction MDRs.

DATES: Submit either electronic or written comments on this notification by February 26, 2018. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by February 26, 2018. See section IV of this document, the ''Paperwork Reduction Act of 1995.''

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
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- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6730 for ''Voluntary Malfunction Summary Reporting Program for Manufacturers.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.
- *Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Isaac Chang, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3114, Silver Spring, MD 20993, 301–796–6670, *MDRPolicy@fda.hhs.gov;* or Stephen Ripley, Center

for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911; or CBER, Office of Communication, Outreach, and Development (OCOD), 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or by calling 1–800–835–4709 or 240–402–8010; or email: *ocod@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Every year, FDA receives hundreds of thousands of MDRs of suspected device-associated deaths, serious injuries, and malfunctions. The Agency's MDR program is one of the post-market surveillance tools FDA uses to monitor device performance, detect potential device-related safety issues, and contribute to benefit-risk assessments. Malfunction reports represent a substantial fraction of the MDRs FDA receives on an annual basis.

The regulations contained in part 803 (21 CFR part 803) and issued under section 519 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i) set forth medical device reporting requirements. Among other things, part 803 requires the submission of an individual MDR when a manufacturer becomes aware of information, from any source, which reasonably suggests that one of its marketed devices malfunctioned and the malfunction of the device or a similar device marketed by the manufacturer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur (see §§ 803.10(c)(1) and 803.50(a)(2) (21 CFR 803.10(c)(1) and 803.50(a)(2))). Under § 803.19, FDA may grant exemptions or variances from, or alternatives to, any or all of the reporting requirements in part 803, and may change the frequency of reporting to quarterly, semiannually, annually, or other appropriate time period. FDA may grant such modifications upon request or at its discretion. (See § 803.19(c).)

FDA has historically granted exemptions, variances, and/or alternatives under § 803.19 to allow a variety of summary reporting methods for select types of MDRs. For example, in October 2000, FDA issued guidance on the Alternative Summary Reporting (ASR) Program (Ref. 1). Through the ASR program, FDA has granted an exemption from individual reporting requirements of §§ 803.50 and 803.52 to certain manufacturers, allowing them to efficiently submit reportable events in a compact manner. As a condition of exemptions, variances, or alternatives that FDA has granted in the past, device manufacturers were required to submit certain MDR reportable events to FDA in a ''line item'' spreadsheet format consisting mainly of event codes (Ref. 2). Although the summary reports contained this abridged data, as part of the request for an exemption, variance, or alternative, FDA also received a narrative description of the types of events that would be summarized in these reports.

While FDA had sufficient understanding of the summary reports using the ''line item'' spreadsheet format, the Agency noted that the absence of a narrative in summary reports would make it more difficult for the public to interpret the coding in the summary reports and understand the context of the MDR using the publicly accessible MDR database. For example, a report with codes indicating corrosion and electrical issues may be difficult to interpret because this could be interpreted as: (1) Corrosion leading to an electrical issue, (2) an electrical issue leading to corrosion, or (3) an indeterminate relationship between the corrosion and electrical issue. However, with the inclusion of event narratives, this information is more easily understood. As a result, FDA believes it is important to include narratives in summary reporting to facilitate public understanding of the information and promote transparency in the publicly accessible MDR database.

The Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110–85) amended section 519(a) of the FD&C Act related to the reporting of device malfunctions. FDAAA did not alter the malfunction reporting requirements for class III devices and those class II devices that are permanently implantable, life supporting, or life sustaining. Under section 519(a)(1)(B)(i) of the FD&C Act, as amended by FDAAA, manufacturers of those devices must continue to submit malfunction reports in accordance with part 803 (or successor regulations), unless FDA grants an exemption or variance from, or an alternative to, a requirement under such regulations under § 803.19. However, FDAAA amended the FD&C Act to require that malfunction MDRs for class I and those class II devices that are not permanently implantable, life supporting, or life sustaining—with the exception of any type of class I or II device that FDA has, by notice, published in the **Federal Register** or by letter to the person who is the manufacturer or importer of the device, indicated should be subject to part 803 in order to protect the public health—be submitted in accordance with the criteria established by FDA. The criteria must require the malfunction reports to be in summary form and made on a quarterly basis (section 519(a)(1)(B)(ii) of the FD&C Act).

In the **Federal Register** of March 8, 2011 (76 FR 12743), FDA explained that, pending further notice from the Agency, all class I devices and those class II devices that are not permanently implantable, life supporting, or life sustaining would remain subject to individual reporting requirements under part 803 in order to protect the public health, pursuant to section 519(a)(1)(B)(i)(III) of the FD&C Act. Consequently, unless granted an individual exemption, variance, or alternative, manufacturers of those devices have continued to be required to submit individual malfunction reports under part 803, as was required pre-FDAAA.

To facilitate exploration of an appropriate format for collecting malfunction reports in summary form, FDA announced in the **Federal Register** of August 18, 2015 (80 FR 50010), a ''Pilot Program for Medical Device Reporting on Malfunctions.'' In that document, FDA solicited volunteers for participation in the pilot program for the submission of MDRs in summary format on a quarterly basis for malfunctions of class I devices and those class II devices that are not permanently implantable, life supporting, or life sustaining. The announcement provided a comprehensive description of the pilot, the guiding principles, conditions, and examples of how to fill out the summary reports in different situations. The summary reporting format used in the pilot was an adaptation of the full electronic Form FDA 3500A, which included event and manufacturer narratives (Ref. 3). In the pilot summary reporting format, one line was appended to Section B5 (''event narrative'') that identified the number of events represented by the report. Reports were summarized for each model/catalog number of the device for each device problem type.

The pilot demonstrated several important findings. First, participants were able to reduce the volume of reports by over 87 percent using the pilot format, while preserving the essential information regarding the context around malfunction events. This increased efficiency in reporting and in the Agency review and processing of malfunction reports. The format also allowed for simple, transparent, and cost-effective reporting through existing electronic reporting processes for submission of electronic MDRs (eMDRs)

to FDA, in accordance with the Medical Device Reporting: Electronic Submissions Requirements Final Rule (eMDR Final Rule) published in the **Federal Register** of February 14, 2014 (79 FR 8832). Based upon observations from the pilot experience, this summary format was usable for both large and small firms with varying numbers of marketed devices. Lastly, summary reports collected in this format could be more easily shared publicly, facilitating transparency of malfunction reporting.

Consistent with these findings, FDA believes that bundling ''like events'' together into a single summary report description would have benefits for manufacturers, FDA, and the public. For many manufacturers, this approach would greatly reduce the volume of reports that they would need to submit to FDA. For FDA, information would be received in a streamlined manner that would facilitate more efficient understanding of malfunction issues. For the public, summary reports could make malfunction event trends for a particular device more readily transparent. In the MDUFA IV Commitment Letter (Ref. 4), FDA and industry agreed to certain goals for streamlining malfunction reporting that would help achieve these benefits. These goals include permitting manufacturers of devices in certain product codes to report malfunctions on a quarterly basis and in a summary format. FDA also agreed to publish a list of device product codes for which manufacturers would be eligible to submit malfunction reports on a quarterly basis and in a summary MDR format. As explained in the MDUFA IV Commitment Letter, this list is to include product codes for class II implantable devices and class III devices, as appropriate, and reflect FDA's consideration of a list proposed by industry representatives.

II. Principles for Malfunction Summary Reporting

Informed by the findings from the Pilot Program for Medical Device Reporting on Malfunctions, FDA has identified several overarching principles for summary reporting of malfunctions:

1. The collection of information in summary format should allow FDA to collect sufficient detail to understand reportable malfunction events.
2. To increase efficiency, summary malfunction reporting should occur in a common format for the electronic reporting system used.
3. Information about reportable malfunctions should be transparent to FDA and to the public, regardless of whether the information is reported as an individual MDR or a summary report. Information contained in a summary malfunction report that is protected from public disclosure under applicable disclosure laws would be redacted prior to release of the report.
4. Manufacturers should communicate information regarding an imminent hazard at the earliest time possible.
5. Summary reporting is meant to streamline the process of reporting malfunctions. It does not change regulatory requirements for MDR-related investigations or recordkeeping by manufacturers. (For example, manufacturers participating in the proposed Voluntary Malfunction Summary Reporting Program would remain subject to requirements for establishing and maintaining MDR event files under § 803.18). In addition, under the Quality System (QS) Regulation, manufacturers must evaluate, review, and investigate any complaint that represents an MDR reportable event (see § 820.198 (21 CFR 820.198)).
6. Summary reporting information should not be duplicative of information received through other MDR reporting processes.

III. Proposed Voluntary Malfunction Summary Reporting Program

Based on the findings from the 2015 Pilot Program, the Agency's experience with summary reporting programs, and its experience with MDR reporting generally, FDA has determined it is appropriate to expand the opportunity to participate in summary malfunction reporting, consistent with the principles identified above. The Agency believes that for many types of reportable malfunctions, submission of summary reports on a quarterly basis would allow FDA to collect sufficient detail to monitor devices effectively. Currently, however, there are still situations in which submission of individual malfunction reports on a more prompt basis than quarterly is necessary to protect the public health—for example, when remedial action is needed to prevent an unreasonable risk of substantial harm to the public health. Those situations may involve class I devices and class II devices that are not implantable, life supporting, or life-sustaining, and it is not feasible for FDA to provide notice in the **Federal Register** or by letter to individual manufacturers, pursuant to section 519(a)(1)(B)(i)(III) of the FD&C Act, each time one of these situations arises. For example, FDA may not become aware of the situation until it receives an MDR from a manufacturer. Thus, the Agency has determined that, at this time, all devices should remain subject to the reporting requirements at part 803, to protect the public health.

To expand the opportunity to participate in summary malfunction reporting, FDA is proposing that under § 803.19, manufacturers of devices within eligible product codes would be granted an alternative to the reporting requirements at §§ 803.10(c)(1), 803.20(b)(3)(ii), 803.50(a)(2), and 803.52 with respect to reportable malfunction events associated with those devices. FDA is also considering how this proposed alternative may apply to combination products, and seeks comment on this issue (see 21 CFR 3.2(e) for definition of combination products and 21 CFR part 4, subpart B, for postmarketing safety reporting requirements for combination products). This proposed alternative would permit manufacturers to submit malfunction reports for devices within eligible product codes in summary format on a quarterly basis, subject to certain conditions. The proposed Voluntary Malfunction Summary Reporting Program would not apply to importers or device user facilities. Therefore, requirements under part 803 for importers and device user facilities would be unaffected. For example, importers will continue to submit individual MDRs to the manufacturer under § 803.40.

The remainder of this section describes the following aspects of the proposed program: (1) The conditions of participation in the program, (2) the format for summary malfunction reports, (3) the schedule and other logistics for submission of summary reports, (4) FDA's proposed implementation strategy for the program, and (5) adding to the list of product codes eligible for the program.

A. Program Conditions

The proposed Voluntary Malfunction Summary Reporting Program would not apply to reportable death or serious injury events, which are still required to be reported to FDA within the mandatory 30-calendar day timeframe, under §§ 803.50 and 803.52, or within the 5-work day timeframe under § 803.53. Thus, if a manufacturer participating in the proposed program became aware of information reasonably suggesting that a device that it markets has malfunctioned, and that the malfunction may have caused or contributed to a death or serious injury, then the manufacturer would need to submit an individual MDR for that event because it involves a reportable death or serious injury.

Manufacturers of devices in eligible product codes could continue submitting individual, 30-day malfunction reports in compliance with §§ 803.50 and 803.52 if they choose to do so. However, under the proposed program, those manufacturers would be permitted to submit all reportable malfunction events for devices in eligible product codes in the summary format and according to the schedule described below in section III.B and C of the document, unless one of the following individual reporting conditions applies:

1. A Reportable Malfunction Is Associated With a 5-Day Report

The reporting requirements at § 803.53 would continue to apply to manufacturers participating in the proposed program. Under § 803.53(a), a 5-day report must be filed if a manufacturer becomes aware of an MDR reportable event that necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. Manufacturers participating in the proposed Voluntary Malfunction Summary Reporting Program must continue to submit reportable malfunction events that meet this standard as 5-day reports. In addition, after you submit a 5-day report, all subsequent reportable malfunctions of the same nature that involve substantially similar devices must be submitted as individual MDRs in compliance with §§ 803.50 and 803.52 until 90 days past the date that the remedial action has been resolved to FDA's satisfaction. Summary reporting of malfunctions may then resume on the regularly scheduled summary reporting cycle.

If FDA has made a written request for the submission of a 5-day report, you must submit, without further requests, a 5-day report for all subsequent reportable malfunctions of the same nature that involve substantially similar devices for the time period specified in the written request. FDA may extend the time period stated in the original written request if the Agency determines it is in the interest of the public health (see § 803.53(b)).

Submission of reportable malfunctions associated with 5-day reports in this manner would allow FDA to monitor the time course and resolution of the issue presenting an unreasonable risk of substantial harm to the public health (see section II, summary reporting principle 4).

2. A Reportable Malfunction Is the Subject of an Ongoing Device Recall

When a device is the subject of a recall involving the correction or removal of a marketed product to address a malfunction, all reportable malfunction events of the same nature that involve the same device or a similar device marketed by the manufacturer must be submitted as individual MDRs to FDA until 90 days past the date the recall is terminated. Summary reporting may then resume on the regularly scheduled summary reporting cycle. This would allow FDA to monitor the frequency of reportable malfunctions associated with the recall and effectiveness of the recall strategy.

3. FDA Has Determined That Individual MDR Reporting Is Necessary To Address a Public Health Issue

If FDA has determined that individual malfunction reports are necessary to provide additional information and more rapid reporting for an identified public health issue involving certain devices, manufacturers must submit reportable malfunction events for those devices as individual MDRs in compliance with §§ 803.50 and 803.52. Under these circumstances, FDA would provide written notice via letter to manufacturers of relevant devices that individual MDR submissions are necessary. FDA would provide further written notice when manufacturers of those devices may resume participation in summary malfunction reporting. If necessary to protect the public health, FDA may also revoke or modify in writing an exemption, variance, or alternative reporting requirement, pursuant to § 803.19(d).

4. FDA Has Determined That a Device Manufacturer May Not Report in Summary Reporting Format

FDA may determine that a specific manufacturer is no longer allowed to participate in the proposed Voluntary Malfunction Summary Reporting Program for reasons including, but not limited to, failure to comply with applicable MDR requirements under part 803, failure to follow the conditions of the program, or the need to monitor a public health issue. In that case, FDA would provide written notification to the device manufacturer to submit individual malfunction reports in compliance with §§ 803.50 and 803.52.

5. A New Type of Reportable Malfunction Occurs for a Device

If a manufacturer becomes aware of information reasonably suggesting a reportable malfunction event has occurred for a device that the manufacturer markets and the reportable malfunction is a new type of malfunction that the manufacturer has not previously reported to FDA for that device, then the manufacturer must submit an individual report for that reportable malfunction in compliance with §§ 803.50 and 803.52.

B. Malfunction Reporting Summary Format

Manufacturers of devices in eligible product codes who participate in this proposed voluntary program would submit summary malfunction reports in the format described below.

1. Format Rationale

The proposed format for summary reporting largely adopts the format that was tested in the Pilot Program for Medical Device Reporting on Malfunctions.

FDA considered several approaches to summarizing information, given the summary reporting principles identified in section II. Since contextual information is needed to sufficiently understand reported malfunctions, FDA considered formats in which narrative text fields would provide sufficient context (see section II, summary reporting principle 1). In addition, summary text narratives without patient-specific information can often be shared publicly with fewer redactions, which may provide greater transparency of device-related malfunction information (see section II, summary reporting principle 3).

The QS regulation requires manufacturers to review, evaluate, and investigate any complaint that represents an event which must be reported to FDA under part 803, including reportable malfunction events (see § 820.198). In situations where several malfunction complaints are similar, FDA has found that many manufacturers aggregate information at the device model and device problem level in their investigation process. While this does not reduce the investigation requirements for manufacturers under part 803 or part 820 (see section II, summary reporting principle 5), aggregating malfunction reports by product and device problem would significantly reduce the number of reports. Likewise, FDA generally evaluates malfunction information at the product and device problem level, which streamlines the processing of malfunction reports and accelerates FDA's understanding of device issues. Therefore, FDA has determined that it would be mutually beneficial to organize summary malfunction

reporting information according to product and device problem.

A malfunction report may describe more than one device problem, and FDA believes that summary reporting information should not be duplicative (see section II, summary reporting principle 6). Therefore, FDA has developed a methodology to help ensure that summary malfunction reports are non-overlapping. Consider a hypothetical situation in which a manufacturer reports 100 malfunction events for a device, where 70 of those 100 reports represent device problem A, and 50 of those 100 reports represent device problem B. Reporting device problems A and B separately would create confusion regarding the total number of events received. Thus, in this example, device problem A, device problem B, and the subsequent overlap A+B, would be reported as three separate MDRs: A report describing 50 occurrences of device problem A, a report describing 30 occurrences of device problem B, and a report describing 20 occurrences involving both device problems A and B. In this way, the three separate MDRs would be mutually exclusive and unambiguous.

In consideration of the least burdensome means of reporting, FDA has developed a format that is compatible with the Form FDA 3500A (Ref. 3), which allows manufacturers to submit MDRs using the same electronic submission form that they use to submit individual MDRs, in accordance with the eMDR Final Rule (79 FR 8832). This would streamline the process of reporting (see section II, summary reporting principle 5). Because summary malfunction reports represent a grouping of malfunction events for a specific model of a device, the proposed summary reporting format would require an additional element in the summary text narrative to identify the number of reportable malfunctions that each report represents. As described below in section III.B.2., the XML tags ''<NOE>'' and ''<NOE/>'' are placed on both sides of the number of events (NOE) to make the number extractable from the report.

FDA believes that submission of summary reports in the format described below would provide the most compact and efficient reporting mechanism for streamlining malfunction reporting that still provides sufficient detail for FDA to monitor devices effectively.

2. Format Instructions

Separate summary malfunction reports would be submitted for each unique combination of device model and problem code(s). (See Appendix A for case examples of how to report (Ref. 5).) Each summary malfunction report would be required to include at least the following information collected on Form FDA 3500A and to be submitted in an electronic format:

- SECTION B.5: Describe Event or Problem—To distinguish this report as a summary malfunction report, the first sentence of the device event narrative must read: ''This report summarizes <NOE> XXX </NOE> malfunction events,'' where XXX is replaced by the number of malfunction events being summarized.

The device event narrative must then include a detailed description of the nature of the events and, if relevant and available, a range of patient age and weight and a breakdown of patient gender, race, and ethnicity.

- SECTION D.1: Brand Name.
- SECTION D.2 and D.2.b: Common Device Name and Product Code. Include the common name of the device and Product Classification Code (Procode).
- SECTION D.3: Manufacturer Name, City, and State.
- SECTION D.4: Device Identification—Enter the model and/or catalog number and lot number(s) for the devices that are the subject of the MDR. Include any device identifier (DI) portion of the unique device identifier (UDI) for the device version(s) or model(s) that are the subject of the MDR.
- SECTION G.1: Contact Office (and Manufacturing Site for Devices)—Enter the name, address, and email of the manufacturer reporting site (contact office), including the contact name for the summary report being submitted. Enter the name and address of the manufacturing site for the device, if different from the contact office.
- SECTION G.2: Phone Number of Contact Office.
- SECTION G.5: Combination Products—If applicable, indicate that the report involves a combination product (see section III.B.3).
- SECTION H.1: Type of Reportable Event—Check ''Malfunction'' in this box.
- SECTION H.6: Event Problem and Evaluation Codes—
  - Enter the device problem code(s) (See Appendix A for case examples of how to report (Ref. 5).)
  - Enter the evaluation code(s) for the following categories: Method, Results, Conclusion.
  - Enter a Conclusion Code even if the device was not evaluated.
- SECTION H.10: Additional Manufacturer Narrative—Provide a summary of the results of your investigation for the reported malfunctions, including any followup actions taken, and any additional information that would be helpful in understanding how you addressed the malfunction events summarized in the report. Enter a breakdown of the malfunction events summarized in the report, including the number of devices that were returned to you, the number of devices that were labeled ''for single use'' (if any), and the number of devices that were reprocessed and re-used (if any).

3. Combination Product Considerations

As noted above, FDA is considering how the alternative that would be granted under § 803.19 to permit summary malfunction reporting may apply to combination products that contain a device constituent part and seeks comment on this issue. FDA anticipates that modifications may be needed to the above format instructions for purposes of addressing combination product considerations. Additionally, if such combination products that received marketing authorization under a biological product or drug marketing application are included in the proposed alternative that would permit summary malfunction reporting, FDA anticipates that such reporting would be made through the Center for Drug Evaluation and Research's or CBER's electronic reporting system with adjustments made to the above format instructions for purposes of reporting through these systems. FDA seeks comment on these issues.

C. Submission Schedule and Logistics

Under the proposed program, manufacturers submitting summary malfunction reports would be required to use electronic reporting (Ref. 6) to submit those reports on a quarterly basis according to the schedule in table 1.

TABLE 1—SUMMARY MALFUNCTION REPORTING SCHEDULE

Reportable malfunctions that you become aware of during these timeframes:	Must be submitted to FDA by:
January 1–March 31	April 30.
April 1–June 30	July 31.
July 1–September 30	October 31.
October 1–December 31	January 31.

The summary malfunction report would be required to include the MDR Number, which consists of the registration number of the manufacturer, the year in which the event is being reported, and a 5-digit sequence number.

With respect to combination products that include a device constituent part and that received marketing authorization under a biological product or drug marketing application, FDA seeks comment on whether a different reporting schedule would be more appropriate.

D. Implementation Strategy

The goal of the Voluntary Malfunction Summary Reporting Program is to permit manufacturers of devices under certain product codes to report malfunctions on a quarterly basis and summary format, as outlined in the MDUFA IV Commitment Letter (Ref. 4), in a manner that provides for effective monitoring of devices and is beneficial for FDA, industry, and the public. An important part of this proposed voluntary program is providing clarification to manufacturers regarding the product codes eligible for the program. FDA is currently in the process of evaluating device product codes to determine which ones should be eligible. The Agency is requesting comments on the product codes that should be eligible for this proposed Voluntary Malfunction Summary Reporting Program, including for combination products. FDA will consider the proposed list of eligible product codes submitted by industry along with any comments received on this proposal in determining the product codes that would be included in the proposed alternative granted to permit summary malfunction reporting.

Consistent with the MDUFA IV Commitment Letter (Ref. 4), when this proposed voluntary program is finalized through publication of a **Federal Register** document granting the alternative under § 803.19, FDA will identify on its website a list of device product codes that are eligible for the Voluntary Malfunction Summary Reporting Program as part of granting the alternative. Manufacturers that choose to participate in quarterly summary reporting through the proposed program would remain responsible for complying with applicable MDR requirements under part 803 (such as requirements to establish and maintain MDR event files under § 803.18) and QS requirements under part 820 (such as the requirement to evaluate, review, and investigate any complaint that represents an MDR reportable event under § 820.198).

If FDA determines that individual malfunction reports are necessary from a specific manufacturer or for specific devices, FDA would notify relevant manufacturers that they must submit individual reports and provide an explanation for that decision and the steps necessary to return to summary, quarterly reporting. The Agency also notes that, under § 803.19(d), it may revoke or modify in writing an exemption, variance, or alternative reporting requirement if it determines that revocation or modification is necessary to protect the public health.

E. Addition of Product Codes to the Program

FDA recognizes that new product codes will be created after the date that the Agency would grant the proposed alternative under § 803.19 to initiate the Voluntary Malfunction Summary Reporting Program. In general, FDA does not intend to consider devices under product codes in existence for less than 2 years to be eligible for the proposed program, unless the new product code was issued solely for administrative reasons. However, FDA proposes to evaluate new product codes after they have been in existence for 2 years to determine whether they should be added to the list of product codes eligible for the Voluntary Malfunction Summary Reporting Program.

If FDA determines that a new product code is eligible, then it would grant manufacturers of devices within that product code the same proposed alternative under § 803.19 for malfunction events associated with those devices. Manufacturers could also submit a request under § 803.19(b) for a product code to be added to the list of eligible product codes and for manufacturers of devices within that product code to be granted the same proposed alternative for malfunction events associated with those devices.

FDA believes that for many devices, the proposed quarterly summary reporting described above would be as effective as the current MDR reporting program for purposes of identifying and monitoring potential device safety concerns and device malfunctions. The proposed Voluntary Malfunction Summary Reporting Program would allow manufacturers to submit summary reports with event narratives that would help FDA more efficiently process malfunction reports and identify malfunction trends. In addition, FDA's determination of product code eligibility and the proposed conditions of participation in the program would require submission of individual 30-day or 5-day malfunction reports in circumstances where such reports are necessary to protect public health.

IV. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

FDA invites comments on the following topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the

burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Device Reporting: Electronic Submission Requirements—21 CFR part 803

OMB Control Number 0910–0437—Revision

The information collection associated with part 803 is approved under OMB control number 0910–0437. We request revision of the information collection approval as described in this document.

FDA is announcing this proposed program for manufacturer reporting of certain device malfunction MDRs in summary form—the Voluntary Malfunction Summary Reporting Program. The proposed program would permit manufacturers of devices in certain product codes to report malfunctions for those devices on a quarterly basis and in a summary format (instead of reporting them as individual, 30-day reports), subject to certain conditions. Therefore, we have added a line item to the reporting burden table for the proposed Voluntary Malfunction Summary Reporting Program.

FDA believes that submission of voluntary summary reports in the format described in this document would provide the most compact and efficient reporting mechanism for streamlining malfunction reporting that still provides sufficient detail for FDA to monitor devices effectively. The proposed Voluntary Malfunction Summary Reporting Program is meant to streamline the process of reporting malfunctions. It does not change regulatory requirements for MDR-related investigations or recordkeeping by manufacturers. The proposed program would neither apply to importers or device user facilities, nor affect requirements under part 803 for importers or device user facilities. The proposed program would not apply to reportable death or serious injury events, as described above in section III.A. In addition, the reporting requirements at § 803.53, which require a 5-day report to be filed at the written request of FDA or if a manufacturer becomes aware of an MDR reportable event that necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health, would continue to apply to manufacturers participating in the proposed program. The conditions of the proposed Voluntary Summary Malfunction Reporting Program would also require manufacturers to submit individual malfunction reports in certain circumstances (see section III.A.). These factors were considered in determining the revised burden estimates described below in table 2.

For the convenience of the reader, we have included below only the PRA line-items for the estimated annual reporting burden table from OMB control number 0910–0437 that we anticipate would be affected by the Voluntary Malfunction Summary Reporting Program. We have not included the information collection line-items that we do not anticipate would be affected by the proposed program and which we do not intend to revise at this time.

Activity/CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Manufacturer Reporting—§§ 803.50 through 803.53.	1,240	272.50	337,900	0.10 (6 minutes)	33,790
Voluntary Malfunction Summary Reporting Program.	1,240	54.47	67,546	0.10 (6 minutes)	6,755
Supplemental Reports—§ 803.56	1,050	128.71	135,148	0.10 (6 minutes)	13,515

[1] There is no change to the capital costs or operating and maintenance costs associated with this revision of the collection of information.

We believe the availability of the summary reporting option for manufacturers of certain devices would cause a decrease in the number of individual manufacturer reports for malfunctions submitted under §§ 803.50 and 803.52. We have, therefore, revised the estimated number of responses for Manufacturer Reporting—§§ 803.50 through 803.53 accordingly. As explained above in section III.D., the Agency does not yet have a final list of the product codes that would be eligible for the proposed Voluntary Malfunction Summary Reporting Program, and FDA does not anticipate that all device product codes would be included in the alternative granted to permit summary, quarterly malfunction reporting. However, based on the scope and conditions of the proposed program, the interest industry has expressed in summary malfunction reporting, and our experience with MDR reporting, FDA estimates that approximately 10 percent of malfunction reports would continue to be submitted as individual reports after implementation of the proposed program. Approximately 67 percent of the manufacturer reports received under §§ 803.50 through 803.53 are malfunction reports (577,316 of the 857,484 total annual responses received in 2016). We therefore estimate the revised Responses per Respondent for ''Manufacturer Reporting—§§ 803.50 through 803.53'' to be 272.50.

We estimate that a summary malfunction report would take approximately the same amount of time to prepare as an individual malfunction report. As discussed in section I of this document, FDA's Pilot Program for Medical Device Reporting on Malfunctions showed an 87 percent reduction in the volume of reporting for malfunction reports with use of malfunction summary reporting. Assuming 90 percent of malfunction reports are submitted in summary reports, we estimate that manufacturers would submit an average of 54.47 summary reports annually under this proposed program.

Based on our experience with supplemental reporting, we estimate that, at most, the number of supplemental reports would be approximately one third of the total number of individual reports and summary reports submitted annually. We, therefore, estimate the revised Responses per Respondent for ''Supplemental Reports—§ 803.56'' to be 128.71.

We will update these estimates as appropriate based on comments received on this proposed information collection and the list of eligible device product codes that FDA develops.

This document also refers to previously approved collections of information. These collections of information are subject to review by the OMB under the PRA (44 U.S.C. 3501–

3520). The collections of information in 21 CFR part 4, subpart B, regarding postmarketing safety reporting for combination products have been approved under OMB control number 0910–0834; the collections of information in part 803, regarding medical device reporting, have been approved under OMB control number 0910–0437; the collections of information in 21 CFR part 806, regarding corrections and removals, have been approved under OMB control number 0910–0359; the collections of information in 21 CFR part 807, subpart E, regarding premarket notification, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 810, regarding medical device recall authority, have been approved under OMB control number 0910–0432; the collections of information in part 820, regarding quality system regulations, have been approved under OMB control number 0910–0073; the collections of information regarding the MedWatch: The Food and Drug Administration Medical Products Reporting Program have been approved under OMB control number 0910–0291; and the collections of information regarding the Adverse Event Program for Medical Devices (Medical Product Safety Network (MedSun)) have been approved under OMB control number 0910–0471.

V. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Food and Drug Administration, ''Medical Device Reporting—Alternative Summary Reporting (ASR) Program, Guidance for Industry,'' available at *https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm072102.pdf.*

2. Food and Drug Administration, Event Problem Codes, available at *https://www.fda.gov/medicaldevices/deviceregulationandguidance/postmarketrequirements/reportingadverseevents/mdradverseeventcodes/default.htm.*

3. Food and Drug Administration, FDA Form 3500A, available at *https://www.fda.gov/downloads/aboutfda/reportsmanualsforms/forms/ucm048334.pdf.*

4. MDUFA IV Commitment Letter, available at *https://www.fda.gov/downloads/ForIndustry/UserFees/MedicalDeviceUserFee/UCM535548.pdf.*

5. Appendix A, ''Case Examples of Summary Malfunction Reporting,'' available in Docket No. FDA–2017–N–6730.

6. Electronic Medical Device Reporting (eMDR), (manufacturers may obtain information on how to prepare and submit reports in an electronic format that FDA can process, review, and archive), available at: *http://www.fda.gov/ForIndustry/FDAeSubmitter/ucm107903.htm.*

Dated: December 19, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27650 Filed 12–22–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 478 and 479

[Docket No. 2017R–22]

RIN 1140–AA52

Application of the Definition of Machinegun to ''Bump Fire'' Stocks and Other Similar Devices

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Department of Justice anticipates issuing a Notice of Proposed Rulemaking (NPRM) that would interpret the statutory definition of ''machinegun'' in the National Firearms Act of 1934 and Gun Control Act of 1968 to clarify whether certain devices, commonly known as ''bump fire'' stocks, fall within that definition. Before doing so, the Department and ATF need to gather information and comments from the public and industry regarding the nature and scope of the market for these devices.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before January 25, 2018. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Standard Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by docket number (2017R–22), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* (202) 648–9741.
- *Mail:* Vivian Chu, Mailstop 6N–518, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 99 New York Ave. NE, Washington DC 20226. *ATTN: 2017R–22.*

Instructions: All submissions received must include the agency name and docket number for this advance notice of proposed rulemaking (ANRPM). All comments received will be posted without change to the Federal eRulemaking portal, *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' section of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Vivian Chu, Office of Regulatory Affairs, Enforcement Programs Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Ave. NE, Washington DC 20226; telephone: (202) 648–7070.

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (GCA), as amended, 18 U.S.C. 921 *et seq.,* and the National Firearms Act of 1934 (NFA), as amended, 26 U.S.C. 5841 *et seq.*[1] The Attorney General has delegated the responsibility for administering and enforcing these laws to the Director of ATF subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 CFR 0.130. Regulations in 27 CFR parts 478 and 479 implement the GCA and NFA.

The NFA defines ''machinegun'' as any weapon which: ''shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.'' The term also includes ''the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any

[1] NFA provisions still refer to the ''Secretary of the Treasury.'' However, the Homeland Security Act of 2002, Public Law 107–296 (2002), transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, this document refers to the Attorney General.

combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.'' 26 U.S.C. 5845(b).

The GCA defines ''machinegun'' by reference to the NFA definition. The GCA regulates the transfer and possession of machineguns under 18 U.S.C. 922(o). Section 922(o) makes it unlawful for any person to possess a machinegun unless it was lawfully possessed prior to the effective date of the section or is under the authority of the federal government or a state.

Those engaged in the business of manufacturing, importing, or dealing in NFA firearms must be registered with the Attorney General. 26 U.S.C. 5801, 5802. When the NFA was enacted in 1934, only a handful of firearms qualified as machineguns, such as the Thompson submachine gun. Over time, however, as firearms technologies have advanced, manufacturers and the public have attempted to develop firearms, triggers, and other devices that permit shooters to use semiautomatic rifles to replicate automatic fire without converting these rifles into ''machineguns'' within the meaning of the statute. Consequently, questions have arisen about whether these types of devices should be classified as machineguns (or machinegun conversion devices) pursuant to section 5845(b). *See, e.g.,* Internal Revenue Ruling 55–528 (1955) (considering whether types of ''Gatling Guns'' constitute machineguns); ATF Ruling 2006–2 (examining a firearms accessory device that, when activated by a single pull of the trigger, initiated an automatic firing cycle that continued until release).

ATF has issued a number of private letters to individuals and manufacturers who voluntarily submitted such devices for classification under the NFA and GCA. In addition, ATF has promulgated a regulation that defines ''machinegun,'' *See* 28 CFR 478.11, but that regulation mirrors the statutory language of the NFA and GCA and provides no further interpretation.

II. Las Vegas Music Festival Attack and Requests To Regulate Bump Stock-Type Devices

''Bump fire'' stocks (bump stocks) are devices used with a semiautomatic firearm to increase the firearm's cyclic firing rate to mimic nearly continuous automatic fire. Since 2008, ATF has issued a total of 10 private letters in which it classified various bump stock devices to be unregulated parts or accessories, and not machineguns or machinegun conversion devices as defined in section 5845(b) of the NFA or section 921(a)(23) of the GCA.

On October 1, 2017, 58 people were killed and several hundred were wounded in Las Vegas, Nevada, by a shooter firing one or more AR-type rifles affixed with a particular bump stock device. In 2010, the manufacturer of this particular device had supplied ATF with a sample of the bump stock, and ATF had examined and classified it as an unregulated firearm part, not subject to either the GCA or NFA.

Following the Las Vegas shooting, a significant amount of public attention has been focused on bump stock-type devices. ATF has received correspondence from the general public and from members of both houses of Congress requesting that ATF re-examine its past classification decisions concerning bump stock devices to determine whether they should be classified as machineguns within the meaning of section 5845(b). This ANPRM is the initial step in a regulatory process to interpret the definition of machinegun to clarify whether certain bump stock devices fall within that definition. If, in a subsequent rulemaking, the definition of machinegun under section 5845(b) is interpreted to include certain bump stock devices, ATF would then have a basis to re-examine its prior classification and rulings. *See Encino Motorcars* v. *Navarro,* 136 S. Ct. 2117, 2125 (2016); *FCC* v. *Fox Television Stations,* 556 U.S. 502, 515 (2009).

III. Requests for Public Input

This ANPRM is intended to gather relevant information that is otherwise not readily available to ATF regarding the scope and nature of the market for bump stock type devices. Because ATF does not have the authority to regulate firearm parts and accessories, ATF does not know, with the exception of one well-known manufacturer, how many of the individuals or companies that received classification letters from ATF ever engaged in commercial production and distribution of these devices. Similarly, ATF does not know how many companies or individuals who did not submit bump stock type devices to ATF for voluntary classification determinations are now engaging or have previously been engaged in this business. Further, the individuals and companies who submitted bump stock type devices to ATF for voluntary classification determinations identified some specific target markets for such devices, such as individuals with disabilities, but ATF does not have any information about whether those markets or other markets ultimately materialized for the devices. Consequently, ATF seeks the following information:

Manufacturers

Are you, or have you been, involved in the manufacturing of bump stock devices? If so:

1. In what part(s) of the manufacturing process, are/were you involved?
2. In what calendar years are/were you involved in the manufacturing process?
3. What is the wholesale price of the bump stock devices produced by the manufacturing process with which you are involved?
4. In each calendar year in which you have operated, how many bump stock devices were produced by the manufacturing process with which you are/were involved? Of this number, how many devices were sold to (a) retailers/resellers, and (b) directly to consumers?
5. What were your approximate gross receipts for the sale of these bump stock devices in each calendar year (from 2014—present)?
6. For what use or uses have you marketed bump stock devices?
7. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, what would you expect to be the impact on your gross receipts for calendar year 2018?
8. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, what other economic impact would you expect (*e.g.,* storage, unsellable inventory)?
9. What costs do you expect to be associated with the disposition of existing bump stock device inventory?
10. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, do you believe that there would be a viable (profitable) law-enforcement and/or military market for these devices? If so, please describe that market and your reasons for believing such a viable market exists.

Retailers

Are you, or have you been, involved in the retail sale of bump stock devices? If so:

11. In what calendar years are/were you involved?
12. In each calendar year, how many bump stock devices did you sell?
13. In each calendar year, what was the average retail price of the bump stock devices you sold?

14. In each calendar year (from 2014—present) what were your approximate gross receipts derived from the retail sale of bump stock devices?

15. For what use or uses have you marketed bump stock devices?

16. In the 2018 calendar year, how many bump stock devices do you anticipate you will sell, assuming that such devices remain classified by ATF as an unregulated firearm part? What do you expect will be the average price at which those bump stock devices will be sold?

17. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, what would you expect to be the impact on your costs/expenses, gross receipts for calendar year 2018?

18. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, what other economic impact would you expect (*e.g.,* storage, unsellable inventory)?

19. What costs do you expect to be associated with the disposition of existing bump stock device inventory?

20. If ATF classified bump stock devices as ''machineguns'' under the Gun Control Act of 1968, as amended, and the National Firearms Act of 1934, as amended, do you believe that there would be a viable (profitable) law-enforcement and/or military market for these devices? If so, please describe that market and your reasons for believing such a viable market exists.

Consumers

21. In your experience, where have you seen these devices for sale and which of these has been the most common outlet from which consumers have purchased these devices (*e.g.,* brick and mortar retail stores; online vendors; gun shows or similar events; or private sales between individuals)?

22. Based on your experience or observations, what is (or has been) the price range for these devices?

23. For what purposes are the bump stock devices used or advertised?

IV. Statutory and Executive Order Review

This ANPRM has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), The Principles of Regulation, in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation, and in accordance with Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.''

The Department has determined that this ANPRM is a significant regulatory action under Executive Order 12866, section 3(f), and accordingly this ANPRM has been reviewed by the Office of Management and Budget. However, this action does not propose or impose any requirements. The ANPRM is being published to seek information from the public about the practical impacts of interpreting the statutory definition of ''machinegun'' such that certain bump stock type devices may fall under that definition.

Furthermore, the requirements of the Regulatory Flexibility Act (RFA) do not apply to this action because, at this stage, it is an ANPRM and not a ''rule'' as defined in 5 U.S.C. 601. Following review of the comments received in response to this ANPRM, if ATF proceeds with a notice or notices of proposed rulemaking regarding this matter, ATF will conduct all relevant analyses as required by statute or Executive Order.

V. Public Participation

A. Comments Sought

ATF requests comments on this ANPRM from all interested persons with information about the enumerated questions. ATF specifically requests comments on the questions listed above, on the costs or benefits of the proposal in this ANPRM, and on the appropriate methodology and data for calculating those costs and benefits. Each commenter or commenting party should include the identifying number of the specific question(s) to which it is responding. ATF does not expect commenters to respond to every question; please feel free to respond only to those questions you feel you are able to answer.

All comments must reference the docket number 2017R–22, be legible, and include the commenter's complete first and last name and full mailing address. ATF will not consider, or respond to, comments that do not meet these requirements or comments containing profanity. In addition, if ATF cannot read your comment due to technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will take into account, as appropriate, the comments received on or before the closing date, and will give comments received after that date the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not acknowledge receipt of comments.

B. Confidentiality

ATF will make all comments meeting the requirements of this section available for public viewing at ATF and on the internet as part of the eRulemaking initiative, and subject to the Freedom of Information Act. ATF will not redact personal identifying information that appears within the comment and it will appear on the internet.

C. Proprietary or Confidential Business Information

A commenter may submit to ATF information identified as proprietary or confidential business information. The commenter shall place any portion of a comment that is proprietary or confidential business information under law on pages separate from the balance of the comment with each page prominently marked ''PROPRIETARY OR CONFIDENTIAL BUSINESS INFORMATION'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it received, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

D. Submitting Comments

Submit comments in any of three ways (but do not submit the same comments multiple times or by more than one method).

- *Federal eRulemaking Portal:* We strongly recommend that you submit your comments to ATF via the Federal eRulemaking portal. Visit *http://www.regulations.gov* and follow the instructions for submitting comments. 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 *regulations.gov* provides after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section

of this document. Written comments must appear in minimum 12 point font size (.17 inches), include the commenter's complete first and last name and full mailing address, be signed, and may be of any length.

• *Facsimile:* Submit comments by facsimile transmission to (202) 648–9741. Faxed comments must (1) Be legible and appear in minimum 12-point font size (.17 inches); (2) Be on 8½″ x 11″ paper; and (3) Be signed and contain the commenter's complete first and last name and full mailing address.

Disclosure

Copies of this advance notice, and the comments received will be available at *http://www.regulations.gov* (search for Docket No. 2017R–22) and for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–063, 99 New York Avenue NE, Washington, DC 20226; telephone: (202) 648–8740.

List of Subjects

27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Customs duties and inspection, Exports, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Excise taxes, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, and Transportation.

Authority and Issuance

This document is issued under the authority of 5 U.S.C. 552(a); 18 U.S.C. 921 *et seq.;* 26 U.S.C. 5841 *et seq.*

Dated: December 19, 2017.

Thomas E. Brandon,

Deputy Director.

[FR Doc. 2017–27898 Filed 12–21–17; 4:15 pm]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

28 CFR Parts 35 and 36

[CRT Docket No. 138]

RIN 1190–AA61; RIN 1190–AA62; RIN 1190–AA64; RIN 1190–AA65

Nondiscrimination on the Basis of Disability; Notice of Withdrawal of Four Previously Announced Rulemaking Actions

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Notice of withdrawal.

SUMMARY: The Department of Justice is announcing the withdrawal of four previously announced Advance Notices of Proposed Rulemaking (ANPRMs), pertaining to title II and title III of the Americans with Disabilities Act (ADA), for further review.

DATES: As of December 26, 2017, these four previously announced ANPRMs are formally withdrawn.

ADDRESSES: Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 2885, Fairfax, VA 22031–0885.

FOR FURTHER INFORMATION CONTACT: Anne Raish, Acting Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, at (202) 307–0663 (voice or TTY) (not a toll-free number). Information may also be obtained from the Department's toll-free ADA Information Line at (800) 514–0301 (voice), or (800) 514–0383 (TTY).

You may obtain copies of this document in an alternative format by calling the ADA Information Line at (800) 514–0301 (voice), or (800) 514–0383 (TTY).

SUPPLEMENTARY INFORMATION: The Department of Justice is formally announcing the withdrawal of four previously announced Advance Notices of Proposed Rulemaking (ANPRMs) pertaining to title II and title III of the Americans with Disabilities Act (ADA): (1) Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations (RIN 1190–AA61); (2) Nondiscrimination on the Basis of Disability in State and Local Government Services; Next Generation 9–1–1 (RIN 1190–AA62); (3) Nondiscrimination on the Basis of Disability by State and Local Governments and Places of Public Accommodation; Equipment and Furniture (RIN 1190–AA64); and (4) Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government (RIN 1190–AA65).

Reasons for Withdrawal

A. Accessibility of Web Information

On July 26, 2010, the Department published an ANPRM regarding the accessibility of Web information and services of state and local government entities (title II) and public accommodations (title III). 75 FR 43460. The Department subsequently bifurcated the rulemaking to deal separately with state and local government entities subject to title II (RIN 1190–AA65) and public accommodations subject to title III (RIN 1190–AA61), and proceeded first with the title II rulemaking. On May 9, 2016, the Department published a Supplemental Advance Notice of Proposed Rulemaking (SANPRM) regarding title II Web accessibility to seek additional public input regarding a wide range of issues pertaining to the accessibility of Web information and services of state and local governments. 81 FR 28658. The Department has not published any rulemaking document regarding title III Web accessibility since the 2010 ANPRM.

The Department is evaluating whether promulgating regulations about the accessibility of Web information and services is necessary and appropriate. Such an evaluation will be informed by additional review of data and further analysis. The Department will continue to assess whether specific technical standards are necessary and appropriate to assist covered entities with complying with the ADA. Accordingly, the Department is withdrawing the two previously announced ANPRMs related to the accessibility of Web information and services, ''Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations'' (RIN 1190–AA61) (75 FR 43460), and ''Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Government'' (RIN 1190–AA65) (81 FR 28658).

B. Accessibility of Equipment and Furniture

The Department initiated a review of accessibility of equipment and furniture on July 26, 2010, with the publication of an ANPRM to consider possible changes to requirements under titles II and III of the ADA to ensure that non-fixed equipment and furniture provided by covered entities are accessible to individuals with disabilities. 75 FR 43452. While some types of fixed equipment and furniture are explicitly covered by the ADA Standards for Accessible Design, *see, e.g.,* 28 CFR

36.406(b), there are currently no specific provisions in the ADA regulations that include standards governing the accessibility of equipment and furniture that are not fixed. The Department has not published any rulemaking document regarding non-fixed equipment and furniture since the 2010 ANPRM.

The Department is reevaluating whether regulation of the accessibility of non-fixed equipment and furniture is necessary and appropriate. Accordingly, the Department is withdrawing the previously announced ANPRM entitled ''Nondiscrimination on the Basis of Disability by State and Local Governments and Places of Public Accommodation; Equipment and Furniture'' (RIN 1190–AA64) (75 FR 43452).

C. Next Generation 9–1–1

On July 26, 2010, the Department published an ANPRM announcing the Department's intention to consider a rule to revise the ADA title II regulation to address how Public Safety Answering Points, which provide 9–1–1 services at the local level, can shift from analog telecommunications technology to new internet-Protocol-enabled Next Generation 9–1–1 (NG 9–1–1) services that will provide voice and data (such as text, pictures, and video) capabilities. 75 FR 43446. The Department has not published any rulemaking document regarding NG 9–1–1 since the 2010 ANPRM.

The Department is evaluating how best to address the accessibility of NG 9–1–1 services in light of changing circumstances. With the increased adoption of NG 9–1–1, the Department is evaluating whether regulatory action is necessary and appropriate to promote the increased availability of text to 9–1–1 services to improve access for people with communication disabilities. Accordingly, the Department is withdrawing the previously announced ANPRM entitled ''Nondiscrimination on the Basis of Disability in State and Local Government Services; Accessibility of Next Generation 9–1–1'' (RIN 1190–AA62) (75 FR 43446).

Conclusion

In consideration of the foregoing, the Department announces the withdrawal of the four above-named ANPRMs. Such ANPRMs had no force or effect of law, and no party should rely upon them as presenting the Department of Justice's position on these issues. This notification does not preclude the Department from issuing other documents on these subjects in the future or commit the Department to any future course of action, nor does it constitute an interpretation of existing law. Should the Department decide to undertake rulemaking in the future, the Department will publish new rulemaking actions and provide new opportunities for public comment. Furthermore, this notification only addresses the specific ANPRMs identified in this document, and does not address any other pending proposals that the Department has issued or is considering.

Dated: December 15, 2017.

John M. Gore,

Acting Assistant Attorney General, Civil Rights Division.

[FR Doc. 2017–27510 Filed 12–22–17; 8:45 am]

BILLING CODE 4410–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0850; FRL–9971–17—Region 6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter National Ambient Air Quality Standard and Revised Statutes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Mexico to address the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for 2012 fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS). The revisions address how the existing SIP provides for implementation, maintenance, and enforcement of $PM_{2.5}$ (infrastructure SIP or i-SIP). Under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of a revised primary or secondary NAAQS. CAA section 110(a)(1) and (2) require each state to make a new SIP submission within three years after EPA promulgates a new or revised NAAQS for approval into the existing SIP to assure that the SIP meets the applicable requirements for such new and revised NAAQS. This type of SIP submission is commonly referred to as an ''infrastructure SIP or ''i-SIP.'' We propose approval of this action under Section 110 of the Act. EPA is also proposing to approve a SIP revision to update the New Mexico statutes incorporated into the SIP.

DATES: Written comments must be received on or before January 25, 2018.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0850, at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, (214) 665–6454, *fuerst.sherry@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665–6454, *fuerst.sherry@epa.gov.* To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at (214) 665–7253.

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

I. Background

On December 14, 2012 we promulgated a revised primary annual $PM_{2.5}$ NAAQS of 12.0 μg/m^3 (78 FR 3085, January 15,2013), and we retained the primary 24-hour $PM_{2.5}$ standard of 35 μg/m^3 and the secondary standards.

Primary standards are set to protect human health while secondary standards are set to protect public welfare.

Pursuant to section 110(a)(1) of the CAA, states are required to submit an i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must include to adequately address such new or revised NAAQS as applicable. EPA issued guidance addressing the i-SIP elements for NAAQS.[1] The New Mexico Environment (NMED) and Albuquerque-Bernalillo County each provided demonstrations of how the existing New Mexico SIP meets the applicable 110(a)(2) requirements for the 2012 $PM_{2.5}$ NAAQS on August 6, 2015 and December 8, 2015, respectively. Our technical evaluation of these submittals is provided in the Technical Support Document (TSD), which is in the rulemaking.[2]

Additionally, NMED provided updated statutes for the SIP. Sections 110(a)(2)(E)(ii) and 128 of the CAA require SIPs to contain statutory or regulatory provisions that: (1) Any board or body which approves permits or enforcement orders under the CAA have at least a majority of its members represent the public interest and not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA; and (2) any potential conflict of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

II. EPA's Evaluation of New Mexico's and Albuquerque-Bernalillo County's NAAQS Infrastructure Submissions

The State's submissions on August 6, 2015 and December 8, 2015, demonstrate how the existing New Mexico SIP meets the infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS. A detailed discussion of our evaluation can be found in the Technical Support Document TSD for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0850). Below is a summary of EPA's evaluation of the New Mexico i-SIP and Albuquerque-Bernalillo County i-SIP for each applicable element of 110(a)(2) A–M.

(A) Emission limits and other control measures: The CAA § 110(a)(2)(A) requires the SIP to include enforceable emission limits and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the Act and other related matters as needed to implement, maintain and enforce each of the NAAQS.[3] The New Mexico *Environmental Improvement Act* (EIA), codified in Chapter 74, Article 1 of the New Mexico Statutes Annotated 1978 (NMSA), created the New Mexico Environment Department (NMED) and the New Mexico Environmental Improvement Board (EIB). Statutory authority for Albuquerque-Bernalillo County's air quality program, codified in Chapter 74 EIA, Article 2, *Air Pollution,* of the New Mexico statutes, gives the Air Board and Albuquerque Environmental Health Department's Air Quality Program (AQP) the authority to implement the CAA in Albuquerque-Bernalillo County, New Mexico. NMED has jurisdiction over all of New Mexico except for Albuquerque-Bernalillo County. We will distinguish between these two authorities by referring to them as NMED, EIB or the State for everywhere outside of Albuquerque-Bernalillo County and as AQP or the Air Board as everything pertaining to within Bernalillo County.

The New Mexico *Air Quality Control Act* (AQCA) codified at NMSA 1978, Subpart 74–2 *et seq.,* delegates authority to the EIB to adopt, promulgate, publish, amend and repeal regulations consistent with the AQCA to attain and maintain the NAAQS and prevent or abate air pollution. The AQCA also designates the NMED as the State's air pollution control agency and the EIA provides NMED with enforcement authority everywhere within the State of New Mexico excluding Albuquerque-Bernalillo County. Chapter 2 Title 20 of the New Mexico Administrative Code (NMAC) establishes NMED as the State's air pollution control agency (within the State of New Mexico excluding Albuquerque-Bernalillo County) and establishes its enforcement authority, referencing the NMSA 1978 (44 FR21019, April 9, 1979; revised 49 FR 44101, November 2, 1984; recodification approved in 62 FR 50518, September 26, 1997, approving various statutory and regulatory provisions in New Mexico's SIP). This authority has been employed to adopt and submit multiple revisions to the New Mexico SIP.

With regard to Albuquerque-Bernalillo County, enforceable emission limitations and other control measures are authorized by the New Mexico AQCA which established the Air Board and those provisions of NMAC Title 20, *Environmental Protection,* Chapter 11, *Albuquerque-Bernalillo County Air Quality Control Board.* It can adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards; and, enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief within the boundaries of Bernalillo County. This authority has been employed to adopt and submit multiple revisions to the Albuquerque-Bernalillo County, New Mexico SIP. The approved SIP for the State of New Mexico, including Albuquerque-Bernalillo County is documented at 40 CFR part 52.1620, Subpart GG.[4] EPA is therefore proposing to find that the New Mexico SIP meets the requirements of section 110(a)(2)(A) of the Act with respect to 2012 $PM_{2.5}$.

(B) Ambient air quality monitoring/data system: Section 110(a)(2)(B) of the CAA requires SIPs to include provisions for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request.

The AQCA provides the authority allowing EIB, NMED and AQP to collect air monitoring data, quality-assure the results, and report the data (NMSA 1978, 74–2–5.1(B). New Mexico and AQP each maintain and operate $PM_{2.5}$ networks to measure ambient levels. All monitoring data is measured using EPA approved methods and subject to the EPA quality assurance requirements. NMED and AQP submit all required

[1] "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

[2] A detailed discussion of our evaluation can be found in the TSD for this action. The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–OAR–2015–0850).

[3] The specific nonattainment area plan requirements of CAA section 110(a)(2)(I) are subject to the timing requirements of CAA section 172, not the timing requirement of CAA section 110(a)(1). Thus, CAA section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2012 $PM_{2.5}$ NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of CAA section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

[4] *http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=d13cf1de493c65047374561758ed5ea3&mc=true&r=PART&n=pt40.4.52#sp40.4.52.gg.*

data to EPA, following the EPA rules. These networks have been approved into the SIP (46 FR 4005, August 6, 1981) and they undergo recurrent annual review by EPA.[5] In addition, NMED and AQP conduct recurrent assessments of their monitoring networks every five years, which includes an evaluation of ambient monitoring for $PM_{2.5}$, as required by EPA rules. The most recent of these 5-year monitoring network assessments were conducted by NMED and AQP in 2015 and EPA reviewed and commented on these reviews. The comment letter is in the docket.[6] The NMED and AQP websites provide the monitor locations and posts past and current concentrations of criteria pollutants measured in these network of monitors.[7]

In summary, New Mexico and Albuquerque-Bernalillo County meet the requirement to establish, operate, and maintain an ambient air monitoring network; collect and analyze the monitoring data; and make the data available to EPA upon request. EPA is proposing to find that the current New Mexico SIP meets the requirements of section 110(a)(2)(B) with respect to 2012 $PM_{2.5}$.

(C) Program for enforcement of control measures: The CAA § 110(a)(2)(C) requires SIPs include the following three elements: (1) A program providing for enforcement of the measures in paragraph *A* above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[8]

(1) Enforcement of SIP Measures. As noted in (*A*), the AQCA provides authority for the EIB, NMED and AQP to enforce the requirements of the AQCA within Albuquerque-Bernalillo County and New Mexico, and any regulations, permits or final compliance orders. Its statutes also provide the EIB, NMED and AQP with general enforcement powers. Among other things, they can file lawsuits to compel compliance with statutes and regulations; commence civil actions; issue field citations, conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The AQAC also provides additional enforcement authorities and funding mechanisms. (NMSA 1978, sections 74–2–12, 74–2–2, and 74–1–6.F.

(2) Minor New Source Review. Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. Both the New Mexico (78 FR 15296, March 11, 2013) and Albuquerque-Bernalillo County (69 FR 78312, December 30, 2004) minor NSR permitting requirements are approved as part of the SIP.[9]

(3) Prevention of Significant Deterioration (PSD) permit program. Both Albuquerque-Bernalillo County (80 FR 52401, August 31, 2015) and New Mexico (78 FR 15296, March 11, 2013) PSD program portions of the SIP cover all NSR regulated pollutants as well as the requirements for the 2012 $PM_{2.5}$ NAAQS and have been approved into the SIP by EPA.[10]

(D) Interstate and international transport: Under CAA section 110(a)(2)(D)(i), there are four requirements the SIP must include relating to interstate transport. The first two of the four requirements are outlined in CAA section 110(a)(2)(D)(i)(I) and require that the SIP contain adequate provisions prohibiting emissions to other states which will (1) contribute significantly to nonattainment of the NAAQS, and (2) interfere with maintenance of the NAAQS. The third and fourth requirements are outlined in CAA section 110(a)(2)(D)(i)(II) and require that the SIP contain adequate provisions prohibiting emissions to other states which will (1) interfere with measures required to prevent significant deterioration or (2) interfere with measures to protect visibility.

Both SIP revision submittals included the same attachment with the evaluation of CAA section 110(a)(2)(D)(i)(I). This evaluation considered the following factors:

- An analysis of the most recent annual $PM_{2.5}$ design values to determine which areas near New Mexico violate, or are close to violating the 2012 annual $PM_{2.5}$ NAAQS;
- An analysis of the $PM_{2.5}$ annual design value trends in New Mexico (including Bernalillo County) to determine if the $PM_{2.5}$ concentrations in New Mexico are increasing or decreasing; and,
- An investigation of $PM_{2.5}$ annual design value trends in other states to determine whether $PM_{2.5}$ concentrations in those areas are increasing or decreasing.

This evaluation concluded that New Mexico did not significantly contribute to nonattainment or interfere with maintenance of the $PM_{2.5}$ NAAQS in other states.

On March 17, 2016 EPA issued a memo providing information on the development and review of SIPs that address CAA section 110(a)(2)(D)(i) for the 2012 $PM_{2.5}$.[11] We used the information in the memo and additional supplemental information for our evaluation and came to the same conclusion as the state. In our evaluation, potential downwind nonattainment and maintenance receptors were identified. These potential receptors were evaluated to determine if New Mexico emissions could possibly contribute to the attainment challenges. After reviewing air quality reports, modeling reports, designation letters, designation technical support documents, attainment plans and other reports for these areas, EPA is proposing to approve the SIP revisions as meeting the CAA section 110(a)(2)(i)(I) requirement that New Mexico (including Albuquerque-Bernalillo County) emissions will not interfere with maintenance or contribute significantly to nonattainment of the 2012 $PM_{2.5}$ NAAQS for any other state.

With regard to CAA section 110(a)(2)(D)(i)(II), both New Mexico and Albuquerque-Bernalillo County state that as noted in Element C above, they each have a comprehensive EPA-approved PSD and regional haze

[5] A copy of the 2016 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

[6] A copy of the 2015 5-year ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

[7] See *https://www.env.nm.gov/aqb/monitor/airmonitoringnetwork.html.*

[8] As discussed in further detail in the TSD.

[9] EPA is not proposing to approve or disapprove the existing New Mexico or Albuquerque-Bernalillo County minor NSR programs to the extent that it may be inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079, July 13 2011). EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. The statutory requirements of CAA section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

[10] As discussed further in the TSD.

[11] March 17, 2016 information memo ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I).''

programs. As we have approved both New Mexico and Albuquerque-Bernalillo County comprehensive PSD programs (80 FR 40915, July 14, 2015 and 80 FR 52402, August 31, 2015, respectively) and regional haze plans (79 FR 60992, October 9, 2014, 77 FR 71119, November 29, 2012, respectively), we propose to approve the revisions pertaining to CAA section 110(a)(2)(D)(i)(II). A more detailed evaluation of how the SIP revisions meet the requirements of CAA section 110(a)(2)(D)(i) may be found in the TSD.

CAA section 110(a)(2)(D)(ii) requires that the SIP contain adequate provisions insuring compliance with the applicable requirements of sections 126 (relating to interstate pollution abatement) and 115 (relating to international pollution abatement). As stated in their submittals, New Mexico and Albuquerque-Bernalillo County meet the section 126 requirements as (1) they have fully approved PSD SIPs (Albuquerque-Bernalillo County 80 FR 52401, August 31, 2015 and New Mexico 78 FR 15296, March 11, 2013) which include notification to neighboring air agencies of potential impacts from each new or modified major source and (2) no source or sources have been identified by the EPA as having any interstate impacts under section 126 in any pending action related to any air pollutant. New Mexico and Albuquerque-Bernalillo County meet section 115 requirements as there are no findings by EPA that New Mexico or Albuquerque-Bernalillo County air emissions affect other countries. Therefore, we propose to approve the submitted revisions pertaining to CAA section 110(a)(2)(D)(ii).

(E) Adequate authority, resources, implementation, and oversight: CAA 110(a)(2)(E) requires that the SIP provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) Compliance with requirements relating to state boards as required under section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan. Both elements (A) and (E) address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

The i-SIP submissions for the 2012 $PM_{2.5}$ NAAQS describe the SIP regulations governing the various functions of personnel within the EIB, NMEQ, AQP and the Air Board, including the administrative, technical support, planning, enforcement, and permitting functions of the program. (NMSA 1978, sections 9–7A–6(B)(4), 9–7A–11A, 74–2–5.1(F) and 74–2–5.2).

With respect to funding, the AQCA requires NMED to establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes NMED to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications (NMSA 1978, sections 9–7A–6(B)(4), 9–7A–11A, 74–2–5.1.(F) and 74–2–5.2). EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to among other things implement and enforce the SIP. With respect to funding for AQP and the Air Board, the resources to carry out the plan are provided through General Funds, Permit Fees and the CAA grant process. Permit Fees are collected under the authority of NMSA 1978 section 74–2–7.

As required by § 110(a)(2)(E)(ii) of the CAA, and the EIA, the SIP must stipulate that any board or body, or head of agency with similar powers adequately disclose any potential conflicts of interest. NMSA 1978 section 74–1–4 provides the Air Board, contain at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA or AQCA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the State and the Air Board have responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the EIA and the AQCA designate the NMED and the Air Board (within Albuquerque-Bernalillo County) as the primary air pollution control agencies. The statutes allow for local agencies to carry out some or all the Act's responsibilities (NMSA 1978 section 74–2–4.D).

There is one local air quality control agency, the Air Board, which assumes jurisdiction for local administration and enforcement of the AQCA in Bernalillo County. There are Albuquerque-Bernalillo County SIP provisions which are part of the New Mexico SIP.[12]

(F) Stationary source monitoring system: CAA § 110(a)(2)(F) requires the SIP provide for the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The AQCA authorizes the NMED and Air Board to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions NMSA 1978 section 74–2–5(C)(6). There also are SIP-approved state regulations pertaining to sampling and testing and requirements for reporting of emissions inventories (20.2 NMAC Parts 5,7–8, 10–20, 30–34, 40–41, and 72–74. In addition, SIP rules establish general requirements for maintaining records and reporting emissions (20 NMAC Part 11.47).

The NMED uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with SIP regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP's regulations (20 NMAC Part 11.90). These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources. We are proposing that the New Mexico SIP meets the requirements of CAA§ 110(a)(2)(F).

(G) Emergency authority: CAA § 110(a)(2)(G) requires a demonstration that the NMED has the authority to

[12] Albuquerque/Bernalillo County SIP 40 CFR part 52.1620(e) *https://www.ecfr.gov/cgi-bin/text-idx?SID=5388fcaf4e0e68b29abfaececc68fca9&mc=true&node=sp40.4.52.gg&rgn=div6.*

restrain any source from causing imminent and substantial endangerment to public health or welfare or the environment. The SIP must include an adequate contingency plan to implement such authorities as necessary.

The AQCA provides the NMED and the Air Board with authority to address environmental emergencies, inclusive of contingency plans to implement emergency episode provisions.

Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, AQCA authorizes NMED to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately (NMSA 1978 74–2–10).

New Mexico promulgated the ''Air Pollution Episode Contingency Plan for New Mexico,'' which includes contingency measures, and these provisions were approved into the SIP on August 21, 1990 (55 FR 34013).

Pursuant to 40 CFR 51, Subpart H, *Prevention of Air Pollution Emergency Episodes,* on January 26, 1989, the Air Board adopted the *Air Pollution Contingency Plan for Bernalillo County* [8/21/91, 56 FR 38074; 40 CFR 52.1639, *Prevention of Air Emergency Episodes*], which is part of the SIP, which covers air pollution episodes and the occurrence of an emergency due to the effects of the pollutants on the health of persons.

(H) Future SIP revisions: CAA § 110(a)(2)(H) requires that States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The AQCA requires the NMED to revise its SIP, as necessary, to account for revisions of the NAAQS, new NAAQS, to attain and maintain the NAAQS, to abate air pollution, to adopt more effective methods of attaining the NAAQS, and to respond to EPA SIP calls concerning NAAQS adoption or implementation (NMSA 1978 sections 74–2–5(B)(1) and 74–2–5.2(B)).

Albuquerque-Bernalillo County's SIP is a compilation of regulations, plans and submittals that act to improve and maintain air quality in accordance with national standards. The authority to develop or revise the SIP is based on the authority to adopt new regulations and revise existing regulations to meet the NAAQS. NMSA 1978 section 74–7–5 gives the Air Board the authority to perform these functions. Section 74–7–5 also gives the Air Board the authority to adopt regulations to abate, control and prohibit air pollution throughout Albuquerque-Bernalillo County in accordance with the *State Rules Act.* Nothing in New Mexico's statutory or regulatory authority prohibits Albuquerque-Bernalillo County from revising the SIP in the event of a revision to the NAAQS. The AQCA specifically requires revisions to the SIP if the scenarios set forth in CAA section 110(a)(2)(H) occur.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

As noted in element C, above, EPA does not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following three CAA requirements: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) prevention of significant deterioration of air quality and (4) visibility protection.

(1) *Interagency consultation:* As required by the AQCA, there must be a public hearing before the adoption of any regulations or emission control requirements and all interested persons must be given a reasonable opportunity to submit data, view documents, or argue orally or in writing and to examine testimony of witnesses from the hearing (NMSA 1978 section 74–2–6B, C, and D). In addition, the AQAC provides for the power and duty to ''advise, consult, contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control.'' (NMSA 1978 section 74–2–5.2(B)). Furthermore, New Mexico's PSD SIP rules mandate public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Managers (FLMs) whose lands may be affected by emissions from the source or modification. The State's Transportation Conformity SIP rules also provide procedures for interagency consultation, resolution of conflicts, and public notification. These rules apply to both New Mexico and Albuquerque-Bernalillo County.

(2) *Public Notification:* The submitted revisions provide the SIP regulatory citations requiring both the Air Board and NMED to regularly notify the public of instances or areas in which any NAAQS are exceeded, advise the public of the health hazard associated with such exceedances, and enhance public awareness of measures that can prevent such exceedances and ways in which the public can participate in efforts to improve air quality. 20.11.82 NMAC, *Rulemaking Procedures—Air Quality Board,* stipulates notice requirements for rulemaking and is used as a guide for notice requirements when adopting SIPs.

(3) *PSD and Visibility Protection:* The PSD requirements here are the same as those addressed under (C). The New Mexico SIP requirements for both the state and Albuquerque-Bernalillo County relating to visibility and regional haze are not affected when EPA establishes or revises a NAAQS. Therefore, EPA has determined that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element J after the promulgation of a new or revised NAAQS.

(K) *Air quality and modeling/data:* The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request (NMSA 1978 section 74–2–5.2(B)).

AQP has the duty, authority and technical capability to conduct air quality modeling, pursuant to the AQCA, in order to assess the effect on ambient air quality of relevant pollutant emissions; and can provide relevant data as part of the permitting and NAAQS implementation process (NMSA 1978 section 74–2–5.2(B) and 20.2.72 NMAC and 20.2.74 NMAC). AQP follows EPA guidelines for air dispersion modeling. Upon request, AQP will submit current and future data relating to air quality modeling to EPA.

Likewise, The NMED has the power and duty, under the AQCA to investigate and develop facts providing for the functions of environmental air quality assessment (20.2.72 NMAC and 20.2.74 NMAC). Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP.

The New Mexico AQCA authorizes and requires NMED to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under CAA section 504, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

The fee requirements of 20.11.2 NMAC have been approved by EPA as meeting the CAA requirements and were incorporated into the Albuquerque-Bernalillo County, New Mexico SIP [4/10/80, 45 FR 24468]. Albuquerque-Bernalillo County's title V operating permit program codified at 20.11.42 NMAC, *Operating Permits,* was approved by EPA on 9/8/04 [FR vol. 69, No. 173, pp. 54244–47]. In addition, see element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP for the entire state.

(M) Consultation/participation by affected local entities: CAA § 110(a)(2)(M) requires that the SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

See element J (1) and (2) for a discussion of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the AQCA also requires initiation of cooperative action between local authorities and the NMED, between one local authority and another, or among any combination of local authorities and the NMED for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate (NMSA 1978 section 74–2–5.2(B)). The transportation conformity component of New Mexico's SIP requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues.

Additionally, with regard to the Air Board, the New Mexico State Statute section 74–2–5.2 *State Air Pollution Control Agency; Specific Duties and Powers of the Department,* states that, ''The department is the state air pollution control agency for all purposes under federal legislation relating to pollution. The department is required to ''advise, consult, contract and cooperate with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control.''

III. EPA's Evaluation of CAA Section 128: State Boards and Heads of Executive Agency, Conflicts of Interest

On August 6, 2015, New Mexico submitted a SIP revision that contains revisions to the New Mexico Statutes Annotated 1978 for inclusion into the SIP. The revisions that are necessary for inclusion into the State's SIP address the requirements of CAA section 128 in relation to State Boards/Heads of Executive Agency and Conflicts of Interest/Disclosure.

In this submittal, New Mexico demonstrated how State Boards or the head of an executive agency who approves CAA permits or enforcement orders disclose any potential conflicts of interest as required by CAA section 128. The State's Conflict of Interest Act and NM EIB Code of Conduct was initially approved into the SIP on June 1, 1999. This submission updates the prior submission by providing an official change of name for the ''Conflict of Interest Act'' to ''Governmental Conduct Act'', adding definitions, prohibits public officials from disclosing confidential information acquired from local government agency positions, more clearly defining contracts involving public officers or employees, expanding EIB from 5 to 7 members and correcting grammatical errors. The submission included a table specifically outlining all these changes. This table is included in the docket.

IV. Proposed Action

EPA is proposing to approve the August 6, 2015, and December 8, 2015 submitted revisions for the SIP for New Mexico and Albuquerque-Bernalillo County pursuant to the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2012 $PM_{2.5}$ NAAQS. The Table below outlines the specific actions EPA is proposing to approve. By this action, EPA is also approving revisions to the New Mexico SIP regarding State Boards or the head of an executive agency who approves CAA permits or enforcement orders for the State of New Mexico. The SIP revisions were submitted by the State to update the SIP with updated language from NMSA.

TABLE 1—PROPOSED ACTION ON NEW MEXICO INFRASTRUCTURE SIP SUBMITTAL FOR VARIOUS NAAQS

Element	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)(i): Enforcement of SIP measures	A
(C)(ii): PSD program for major sources and major modifications	A
(C)(iii): Permitting program for minor sources and minor modifications	A
(D)(i): Prohibit emissions to other states which will (1) significantly contribute to nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with PSD requirements or (4) interfere with visibility protection	A
(D)(ii): Interstate and International Pollution Abatement	A
(E)(i): Adequate resources	A
(E)(ii): State boards	A
(E)(iii): Necessary assurances with respect to local agencies	A
(F): Stationary source monitoring system	A
(G): Emergency power	A

TABLE 1—PROPOSED ACTION ON NEW MEXICO INFRASTRUCTURE SIP SUBMITTAL FOR VARIOUS NAAQS—Continued

Element	2012 $PM_{2.5}$
(H): Future SIP revisions	A
(I): Nonattainment area plan or plan revisions under part D	+
(J)(i): Consultation with government officials	A
(J)(ii): Public notification	A
(J)(iii): PSD	A
(J)(iv): Visibility protection	+
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

Key to Table:
A—Proposed Approval.
+—Not germane to infrastructure SIPs.

Based upon our review of these infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in the Albuquerque-Bernalillo County, New Mexico or New Mexico SIP, EPA finds that New Mexico and Albuquerque-Bernalillo County have the infrastructure in place to address all applicable required elements of CAA sections 110(a)(1) and (2) to ensure that the 2012 $PM_{2.5}$, NAAQS are implemented in the state and in Albuquerque-Bernalillo County.

We are proposing to approve the submitted revisions to the New Mexico SIP that provides emendation to the New Mexico Statutes Annotated 1978 and update the federally approved New Mexico SIP accordingly. Those include emendation to the following: New Mexico Statutes at Chapter 9 Department of Environment Act Article 7A–6 Secretary; duties and general powers; and 7A–11 Cooperation with the federal government; authority of secretary; single state agency status; Chapter 10 Public Officers and Employees Article 16–1 through 10–16–16 Governmental Conduct; and Chapter 74 Environmental Improvement Article 1 General Provisions and Article 2 Air Pollution.

V. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the New Mexico Statutes as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the EPA Region 6 office (please contact Ms. Sherry Fuerst for more information).

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. 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 proposes to approve 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 FR3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: December 13, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2017–27296 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2017–0638; FRL–9972–45–OAR]

Denial of Petition To List Concentrated Animal Feeding Operations Under Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action denying petition for rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for rulemaking titled ''Petition To List Concentrated Animal Feeding Operations under Clean Air Act Section 111(b)(1)(A) of the Clean Air Act, and To Promulgate Standards of Performance Under Clean Air Act Sections 111(b)(1)(B) and 111(d).'' The Administrator denied the request in a separate letter to the petitioners. The letter, which provides a full explanation of the agency's rationale for the denial, is in the docket for this action.

DATES: This action is effective on December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Mrs. Allison Costa, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1322; fax number: (919) 541–0516; email address: *costa.allison@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. How can I get copies of this document and other related information?

This **Federal Register** document, the petition for rulemaking, and the letter denying the petition for rulemaking are available in the docket the EPA established under Docket ID No. EPA–HQ–OAR–2017–0638. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air Docket is (202) 566–1742.

II. Judicial Review

Section 307(b)(1) of the Clean Air Act indicates which Federal Courts of Appeals have venue for petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such actions are locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

Any petitions for review of the letter denying the petition to list concentrated animal feeding operations as a source category described in this notice must be filed in the United States Court of Appeals for the District of Columbia Circuit by February 26, 2018.

Dated: December 18, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–27622 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0234; FRL–9969–97]

Alpha-cypermethrin; Proposed Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to amend existing tolerances for residues of alpha-cypermethrin in or on fruit, citrus, group 10–10 and hog fat under the Federal Food, Drug, and Cosmetic Act (FFDCA). This proposal sets an expiration date for the existing tolerances while establishing new lower tolerance levels that will cover the same commodities when the current tolerances expire. EPA is proposing these changes to correct an error in a previous rulemaking that established these tolerances at an unintended level.

DATES: Comments must be received on or before February 26, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0234, by one of the following methods:

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that

you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. This Proposal

EPA, on its own initiative under FFDCA section 408(e), 21 U.S.C. 346a(e), is proposing to amend the existing tolerances for the insecticide alpha-cypermethrin to reduce the allowable levels of the pesticide in or on fruit, citrus, group 10–10 from 10 parts per million (ppm) to 0.35 ppm and in or on hog, fat from 1.0 ppm to 0.10 ppm. EPA is proposing this action in order to correct a typographical error that occurred in the final rule establishing these tolerances on February 1, 2013 (78 FR 7266) (FRL–9376–1). In support of the 2013 final rule, EPA had reviewed residue field trial data and determined that the appropriate tolerance levels for fruit, citrus, group 10–10 and for hog, fat were 0.35 ppm and 0.10 ppm, respectively. Unfortunately, the instructions to the **Federal Register** contained incorrect tolerance values for these commodities and the incorrect tolerance levels were finalized in that rule. To remedy that error, EPA is proposing to correct the tolerance levels.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with FFDCA section 408(b)(2), for tolerances for residues of alpha-cypermethrin.

Alpha-cypermethrin and zeta-cypermethrin are enriched isomers of the pyrethroid insecticide cypermethrin. Although cypermethrin, zeta-cypermethrin, and alpha-cypermethrin are separate active ingredients with different end-use products, they are included together in the hazard evaluation for the purpose of human health risk assessment. The toxicology database for the cypermethrins includes studies with cypermethrin and both of its enriched isomers, and is considered complete for the purpose of risk assessment. When considering alpha-cypermethrin, the EPA also considers potential exposures from the other registered cypermethrins (*i.e.,* cypermethrin and zeta-cypermethrin), since the three active ingredients are essentially the same active from the mammalian toxicity perspective.

In the final rule published in the **Federal Register** of February 1, 2013 (78 FR 7266) (FRL–9376–1), EPA established tolerances for residues of alpha-cypermethrin in multiple commodities. Since the publication of that final rule, the toxicity profile of alpha-cypermethrin (as described in that rule) has not changed, and there have been no revisions to the toxicological database for the cypermethrins since that rule. In addition, although new tolerances have been established since that 2013 rule (tolerances for residues of alpha-cypermethrin in or on food commodities/feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments at 0.05 ppm December 1, 2014 (79 FR 73210) (FRL–9918–88); zeta-cypermethrin in or on alfalfa, forage at 15 ppm and alfalfa, hay at 30 ppm December 24, 2014 (79 FR 77391) (FRL–9920–23) and corn, field, forage at 9.0 ppm, corn, field, stover at 30 ppm, corn, pop, stover at 30 ppm July 30, 2015 (80 FR 45435) (FRL–9929–74), these new tolerances have not increased exposure warranting a new risk assessment since the rulemaking in February 2013. Because the risk assessments supporting the establishment of the February 2013 tolerances assessed the correct tolerances associated with fruit, citrus, group 10–10 (0.35 ppm) and hog fat (0.10 ppm) and found them to be adequate, that risk assessment continues to support this proposal. Therefore, EPA is relying on those risk assessments in order to support the corrected tolerances for alpha-cypermethrin in fruit, citrus, group 10–10 and hog fat. EPA did ensure that the percent crop treated information assessed in the 2010 risk assessment is still valid. The most recent Screening Level Usage Analysis (SLUA) dated September 29, 2016 updating PCT data shows that the 2010 estimates are actually overestimates. For a detailed discussion of the aggregate risk assessments and determination of safety, refer to the February 1, 2013 **Federal Register** final rule and its supporting documents, available at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2010–0234.

Based on the risk assessments and information described in this unit, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to alpha-cypermethrin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate tolerance-enforcement methods are available in PAM Volume II for determining residues of cypermethrin, zeta-cypermethrin and alpha-cypermethrin in plant (Method I) and livestock (Method II) commodities. Both methods are gas chromatographic methods with electron-capture detection (GC/ECD), and have undergone successful Agency petition method validations (PMVs). Method I has a limit of detection (LOD) of 0.01 ppm, and Method II has LODs of 0.005 ppm in milk, and 0.01 ppm in livestock tissues. These methods are not stereospecific; thus no distinction is made between residues of cypermethrin (all eight stereoisomers), zeta-cypermethrin (enriched in four isomers) and alpha-cypermethrin (two isomers).

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are multiple Codex MRLs for alpha-cypermethrin, but all are in conjunction with MRLs for total cypermethrin isomers (no MRLs have been established solely for alpha-cypermethrin). However, although the definitions of the isomers covered differ formally between U.S. tolerances and Codex MRLs, the definitions of coverage are effectively harmonized since the tolerance enforcement methods are not stereospecific, and thus do not distinguish between residues of cypermethrin, zeta-cypermethrin and alpha-cypermethrin. For enforcement purposes, the same moiety is being regulated.

There is a Codex MRL established for citrus fruits at 0.3 ppm and there is no Codex MRL for hog fat. Because the U.S. use patterns differ from those upon which the Codex MRLs are based, EPA is not proposing to harmonize the U.S. tolerance for citrus fruit.

C. International Trade Considerations

In this proposal, EPA is proposing to reduce the existing tolerances for commodities in crop group 10–10 from 10 ppm to 0.35 ppm and on hog, fat from 1.0 ppm to 0.1 ppm. The Agency intends to reduce these tolerances to correct the tolerance levels that EPA intended to establish in a previous rulemaking based on available residue data.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures (SPS) Agreement, EPA will notify the WTO of its intent to revise this tolerance. In addition, the SPS Agreement requires that Members provide a ''reasonable interval'' between the publication of a regulation subject to the Agreement and its entry into force in order to allow time for producers in exporting Member countries to adapt to the new requirement. At this time, EPA is proposing to allow the existing tolerances remain for a period of six months after the effective date of the final rule, in order to address this requirement.

This reduction in tolerance levels is not discriminatory; the same food safety standard contained in the FFDCA applies equally to domestically produced and imported foods.

V. Conclusion

Therefore, EPA is proposing to amend existing tolerances for residues of alpha-cypermethrin in or on fruit, citrus, group 10–10 and hog, fat at 0.35 ppm and 0.10 ppm, respectively. EPA is also proposing to establish a six-month expiration date for the existing tolerances while establishing new lower tolerances for these commodities.

VI. Statutory and Executive Order Reviews

This proposed action would amend existing tolerances under FFDCA section 408(e) in an action taken on the Agency's own initiative. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this proposed action has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), nor is it subject to Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This proposed action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). Nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This proposed action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published in the **Federal Register** of May 4, 1981 (46 FR 24950) and December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. Furthermore, for alpha-cypermethrin, the Agency knows of no extraordinary circumstances that exist as to the present rule that would change EPA's previous analysis. Taking into account this analysis, and available information concerning the pesticides listed in this rule, EPA hereby certifies that this rule will not have a significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this proposed action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed action directly regulates growers, food processors, food handlers, and food retailers, not States. This proposed action does not alter the relationships or distribution of power and responsibilities established by Congress

in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this proposed action does not have any ''tribal implications'' as described in Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed action will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed action.

List of Subjects in 40 CFR Part 180

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

Dated: November 13, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.418, paragraph (a)(3):

■ a. Revise the existing entries for ''Fruit, citrus, group 10–10''; and ''Hog, fat''; and add footnote 1''; and

■ b. Add alphabetically the following entries for ''Fruit, citrus, group 10–10''; and ''Hog, fat''.

The additions and revisions read as follows:

§ 180.418 Cypermethrin and isomers alpha-cypermethrin and zeta-cypermethrin; tolerances for residues.

(a)(3) * * *

Commodity	Parts per million
* * * * *	
Fruit, citrus, group 10–10 [1]	10
Fruit, citrus, group 10–10	0.35
* * * * *	
Hog, fat [1]	1.0
Hog, fat	0.10
* * * * *	

[1] This tolerance expires on June 26, 2018.

* * * * *

[FR Doc. 2017–27806 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0011; FRL–9972–58—Region 9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Pacific Coast Pipe Lines Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) Region 9 is issuing a Notice of Intent for Partial Deletion of the surface soil portion of the Pacific Coast Pipe Lines (PCPL) Superfund Site (Site) located in Fillmore, California, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of California, through the Department of Toxic Substances Control (DTSC), have determined that there is no exposure to contaminated soil at the Site and that all appropriate response actions at the identified parcel under CERCLA, other than maintenance, monitoring and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to the surface soil; a map indicating the area to be deleted is in the public docket. The groundwater will remain on the NPL and is not being considered for deletion as part of this action.

DATES: Comments must be received by January 25, 2018.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0011, by one of the following methods:

- *http://www.regulations.gov*. Follow on-line instructions for submitting comments.
- *Email:* Project Manager: *Hadlock.holly@epa.gov* or Community Involvement Coordinator: *Lane.jackie@epa.gov.*
- *Mail:* Holly Hadlock (SFD–7–3), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105.
- *Hand delivery:* Holly Hadlock (SFD–7–3), U.S. EPA, 75 Hawthorne Street, San Francisco, California. Such deliveries are accepted only during EPA's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1989–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is

not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the following repositories:

Superfund Records Center, 75 Hawthorne Street Room 3110, San Francisco, California, Hours: 8:00 a.m.–4:00 p.m.; (415) 947–8717.

Site Repository: Fillmore Library, 502 2nd Street, Fillmore, California. Call (805) 524–3355 for hours of operation.

FOR FURTHER INFORMATION CONTACT:

Holly Hadlock, Remedial Project Manager, U.S. EPA, Region 9 (SFD–7–3), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3171, email: *hadlock.holly@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Partial Site Deletion

I. Introduction

EPA Region 9 announces its intent to delete the surface soil portion of the PCPL Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL in order to identify sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL are eligible for remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Pacific Coast Pipeline Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially delete this site for thirty (30) days after publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the surface soil portion of the Site:

(1) EPA consulted with the State before developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the State 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of California, through DTSC, has concurred with the deletion of the surface soil portion of the Pacific Coast Pipe Lines Superfund Site from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in two major local newspapers, the Ventura County Star and the Fillmore Gazette. The notices announce the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) EPA placed copies of documents supporting the proposed partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to delete the surface soil portion. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the surface soil portion of the PCPL Superfund Site, the Regional Administrator will publish a final Notice of Partial Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting the surface soil portion of the PCPL Superfund Site from the NPL:

Site Background and History

The Site (CERCLIS ID #CAD980636781) is just east of the City of Fillmore in Ventura County, California. It is north of Highway 126 and the Santa Clara River and east of Pole Creek. It was a former oil refinery that shut down in 1950, then a crude oil pumping station until 2002. Refinery wastes from numerous on-site waste pits resulted in groundwater becoming contaminated with benzene, toluene, ethylbenzene, and xylene. On June 24, 1988, the Site was proposed for NPL listing (53 FR 23988). On October 4, 1989, EPA added the Site to the NPL (54

FR 41015). There is one site-wide Operable Unit that covers both groundwater and surface soil. The surface soil is being addressed in this proposed action. A map of the proposed deletion area is in the docket.

Ongoing Development

The 55-acre former refinery property is zoned for industrial and agricultural use. Land use in the surrounding area is commercial, residential, agricultural, and undeveloped open space. Concurrent with the remedial action, the property was graded into lots for commercial use. The property owner, Chevron Corporation, has leased the property to Cenergy Power for use as a solar energy facility.

2011 Remedial Investigation and Feasibility Study (RI/FS)

In 2011 EPA conducted a focused RI of the surface soil, defined as 0 to 10 feet below ground surface (bgs) for the Site, to determine the nature and extent of soil contamination and to evaluate the potential for soil vapor intrusion. Investigations before the 1992 Record of Decision (ROD) determined that the surface soil was no longer a source of contamination to groundwater because none of the contaminants in the soil were found in the groundwater. Because the contaminants in soil were not migrating to groundwater, EPA limited its soil investigation for the 2011 RI to the surface soil. EPA concluded that there are no exposure pathways for contaminants below 10 feet bgs, as no on-site workers, recreational users, residents, or ecological receptors would be exposed to contaminants below 10 feet.

The primary contaminants of concern in the soil were lead and polycyclic aromatic hydrocarbons (PAHs). Three contaminants were detected in soil gas above health-based screening levels in a few areas on the Site: Benzene, ethylbenzene, and naphthalene. The vapor intrusion investigation conducted as part of the 2011 RI showed that benzene in groundwater does not pose a vapor intrusion health risk because the benzene vapors are naturally biodegrading to concentrations below health-based levels before making their way to the surface.

EPA evaluated five remedial alternatives for the soil remedy in the 2011 FS: (1) No action; (2) excavation with off-site disposal; (3) excavation with on-site disposal and capping; (4) excavation with composting; and (5a and 5b) excavation with solidification and on-site disposal (two solidification options were evaluated). All alternatives except for the no action alternative included institutional controls to restrict future use of the property. Alternatives 4 and 5b did not address all soil contaminants and EPA deemed them, along with Alternative 1, not protective of human health and the environment.

2011 Remedy for Soils

EPA selected Alternative 3 for the soil remedy in the ROD Amendment dated September 29, 2011. An earlier ROD for the site, dated March 31, 1992, selected groundwater extraction and treatment as the remedy for the contaminated groundwater and soil vapor extraction for the contaminated vadose zone but did not address soil contamination at the Site. The major components of the soil remedy were: (1) Consolidation of excavated soil in a former on-site waste pit; (2) an engineered cap to prevent leaching of contaminants into groundwater; and (3) institutional controls to ensure the cap integrity would be maintained and to restrict the future use of the property to commercial and recreational uses only. The Remedial Action Objectives for soil were: (1) Prevent human exposure through direct dermal contact, ingestion, and inhalation of shallow soil and soil vapor contaminated above threshold levels for commercial land use, construction activities, and recreational activities; (2) prevent contaminants in waste pit (lead, PAHs) from migrating into underlying groundwater; and (3) reduce contamination in soil below toxicity threshold levels so it is not toxic to the plants and animals of the existing scrub habitat.

The 2011 ROD Amendment cleanup level for surface soil lead is 320 mg/kg. This concentration, based on the Adult Blood-Lead Model, could result in a blood-lead concentration equal to 1 µg/dL in exposed workers and recreational users. In selecting this cleanup level, EPA has prohibited the Site being used for residences, schools, day cares, or a hospital. In addition, two other lead cleanup levels were chosen for ecological receptors in the hillside scrub habitat at the east edge of the site: 26 mg/kg for the top six inches of soil and 56 mg/kg for soil from six inches down to six feet.

Response Actions

Pursuant to a Consent Decree, Chevron prepared all remedial design (RD) documents and conducted all soil cleanup activities with EPA and DTSC oversight. RD activities included preparing work plans and design documents, notifying the public, obtaining necessary permits, and conducting additional soil sampling to further delineate the lateral extent of contamination and to determine if the historical soil berms throughout the Site had contamination exceeding ROD Amendment cleanup levels. The main consolidation area (CA) was designed to accommodate 23,500 cubic yards (cy) of soil; however, a supplemental CA was designed as a contingency in case more volume was needed than the original estimate of 19,600 cy.

RA construction activities took place during two construction seasons, from May 2013 to November 2013 and from March 2014 to November 2014. Contaminated soil was removed from locations with concentrations above cleanup levels including 39 locations with elevated lead, 40 locations with elevated PAHs, and 17 locations with elevated levels of both. In addition, it was determined that elevated levels of chemicals with soil gas survey results exceeding risk-based criteria were co-located with soil containing elevated levels of PAHs and these soils were removed during excavation (RA Report, page 13). Approximately 43,612 cy of soil were excavated during the RA. 41,899 cy were placed in the two CAs: 22,425 cy in the main CA and 19,474 cy in the Supplemental CA. The remaining 1,713 cy, encountered and excavated after the two CA caps were in place, were disposed of as a non-hazardous waste at Clean Harbors' Buttonwillow, California, landfill because these soils did not meet hazardous waste criteria and did not contain RCRA-listed waste. Once analytical results from the lab confirmed that ROD Amendment soil-cleanup levels had been met, the excavations were backfilled with clean fill. A 5-foot-thick engineered cap was placed on each CA. Each cap consists of several layers designed to prevent penetration and vertical water infiltration.

Cleanup Levels

EPA reviewed data from soil samples collected and analyzed from each excavation location to confirm that ROD Amendment cleanup levels had been met. Post-remediation soil vapor sampling was conducted to confirm that soil gas cleanup levels had been met. In 2015 EPA determined that all contaminants of concern were below their cleanup levels and that the remedy was functioning as designed.

Operation, Maintenance, and Monitoring

The operation, maintenance, and monitoring (OM&M) of the soil remedy includes periodic inspections of the CA caps and performance of any necessary

maintenance. The Final Soil Operation, Maintenance, and Monitoring Plan establishes an inspection, monitoring, and maintenance program and a schedule of activities for the first five years following the 2014 completion of the soil RA. Chevron is responsible for OM&M activities and EPA is responsible for oversight.

Institutional Controls/Restrictions on Use of the Site

The soil remedy for the Site includes institutional controls to restrict future property use to commercial and recreational purposes and to limit actions that could interfere with the remedy (the caps). Consistent with the institutional controls selected in the ROD Amendment, EPA, DTSC, and Chevron developed a land use covenant to restrict the use of the Site; this covenant was recorded at the Ventura County Recorder's Office on August 19, 2016, and ''runs with the land,'' meaning the restrictions are binding on current and subsequent property owners and remain in effect until they are formally removed or modified. A copy of the covenant is in the docket.

2016 Five-Year Review

EPA conducts reviews every five years to determine if remedies are functioning as intended and if they continue to be protective of human health and the environment. Because contaminants remain in the PCPL Site soil above levels that would allow for unlimited use and unrestricted exposure, EPA will continue to conduct five-year reviews, as required by statute. EPA issued the Fourth Five-Year Review Report on August 22, 2016, and concluded that the soil remediation is complete and the remedy at the PCPL Site is functioning as intended and is protective of human health and the environment in both the short-term and the long-term. There were no issues or recommendations. EPA will conduct the next five-year review in 2021.

Community Involvement

EPA prepared a Community Involvement Plan in 2011. EPA held numerous community meetings before and during the soil cleanup, and issued fact sheets and postcard updates. EPA also conducted Site tours before the soil cleanup began. At EPA's request, the Agency for Toxic Substances and Disease Registry prepared a Health Consultation that evaluated the possible health effects from airborne dust at the Site. It concluded that community members were not likely to be exposed to lead or PAHs in Site soil or dust at levels that could cause health effects. EPA released a fact sheet shortly before publication of this Notice informing the community of the proposal to delete the surface soil portion of the Site from the NPL and how to submit comments.

Determination That the Criteria for Deletion Have Been Met

EPA has followed all procedures required by 40 CFR 300.425(e), Deletion from the NPL. EPA consulted with the State of California prior to developing this Notice. EPA determined that the responsible party has implemented all appropriate response actions required and that no further response action for the surface soil portion of the Site is appropriate. EPA is publishing a notice in two major local newspapers, The Ventura County Star and the Fillmore Gazette, of its intent to partially delete the Site and how to submit comments. EPA placed copies of documents supporting the proposed partial deletion in the Site information repositories; these documents are available for public inspection and copying.

The implemented soil remedy achieved the degree of cleanup and protection specified in the ROD Amendment for the surface soil portion of the Site. The selected remedial action objectives and associated cleanup levels for the surface soil are consistent with agency policy and guidance. Based on information currently available to EPA, no further Superfund response in the area proposed for deletion is needed to protect human health and the environment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p.306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: December 18, 2017.

Alexis Strauss,

Acting Regional Administrator.

[FR Doc. 2017–27794 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–9972–37—Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the C&D Recycling Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a Notice of Intent to Delete the C&D Recycling Superfund Site (Site) located in Foster Township, Pennsylvania, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that all appropriate response actions under CERCLA, have been completed. However, this deletion does not preclude EPA from taking future actions at the Site under Superfund.

DATES: Comments must be received by January 25, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1987–0002, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gregory Voigt, Remedial Project Manager, U.S. Environmental Protection Agency, Region III, Mail Code 3HS21, 1650 Arch Street, Philadelphia, PA 19001, (215) 814–5737, email: *voigt.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the C&D Recycling Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: December 1, 2017.

Cosmo Servidio,

Regional Administrator, EPA, Region III.

[FR Doc. 2017–27802 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 82, No. 246

Tuesday, December 26, 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

Submission for OMB Review; Comment Request

December 20, 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 January 25, 2018 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), *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.

Agricultural Research Service

Title: SNAP-Ed Connection Recipe Submission and Review Form (''What's Cooking?'' USDA Mixing Bowl).

OMB Control Number: 0584–0624.

Summary of Collection: The authority for FNS to collect this information is contained in Section 28 of the Food and Nutrition Act (FNA) of 2008, as amended through Public Law 113–128. The What's Cooking? USDA Mixing Bowl (formerly the Food Stamp Nutrition Connection Recipe Finder, and then SNAP-Ed Connection Recipe Finder) *https://whatscooking.fns.usda.gov* is an online recipe database.

Need and Use of the Information: This database is a central location for recipe users to search for healthy recipes that support the Dietary Guidelines for Americans. The recipe database is a combination of recipes from USDA Food and Nutrition Service (FNS) programs such as the Food Distribution Program on Indian Reservations (FDPIR), Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP), SNAP-Ed, and the Center for Nutrition Policy and Promotion (CNPP). The recipes benefit consumers (Individuals/Households), SNAP-Ed personnel, State Agency staff, school nutrition personnel (State, Local & Tribal Agencies) and the private sector (Business).

Description of Respondents: (105) Individual/Households, (55) Business-for-profit; Not-for-profit institutions; (90) State, Local or Tribal Government.

Number of Respondents: 250.

Frequency of Responses: Reporting: Once, On occasion.

Total Burden Hours: 27.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–27727 Filed 12–22–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 20, 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 January 25, 2018 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.

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Risk Management Agency

Title: General Administrative Regulations; Subpart V—Submission of Policies, Provisions of Policies, Rates of Premium, and Non-Reinsured Supplemental Policies.

OMB Control Number: 0563–0064.

Summary of Collections: The Federal Crop Insurance Corporation (FCIC) amends the procedures for the submission of policies, plans of insurance, or other rates or premium by

insurance companies, entities or other persons. Public Law 96–365 provided for nationwide expansion of a comprehensive crop insurance program. The Federal Crop Insurance Act, as amended, expanded the role of the crop insurance to be the principal tool for risk management by producers of farm products and required that the crop insurance program operate on an actuarially sound basis. It provides for independent reviews of insurance products by persons experienced as actuaries and in underwriting. The Act was further amended in 2008 to provide the opportunity for the submission of a concept proposal to the FCIC Board of Directors (Board) for approval for advance payment of estimated research and development expenses.

Need and Use of the Information: An applicant has the option to submit a concept proposal or a submission package for a crop insurance product and have it presented to the Board. The Board will review an applicant's submissions to determine, if the interests of agricultural producers and taxpayers are protected; the submission is actuarially appropriate; appropriate insurance principles are followed; the requirements of the Act are met; and that sound, reasonable and appropriate underwriting principals are followed. If the information is incomplete, the submission will be disapproved.

Description of Respondents: Business or other-for-profit.

Number of Respondents: 195.

Frequency of Responses: Recordkeeping: Reporting; Other.

Total Burden Hours: 44,947.

Ruth Brown,

Departmental Information Clearance Officer.

[FR Doc. 2017–27708 Filed 12–22–17; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 20, 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 January 25, 2018 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.

Office of the Assistant Secretary for Civil Rights

Title: USDA Program Discrimination Complaint Form.

OMB Control Number: 0508–0002.

Summary of Collection: Under 7 CFR 15.6 ''any person who believes himself or any specific class of individuals to be subjected to discrimination . . . may by himself or by an authorized representative file a written complaint based on the ground of such discrimination.'' The collection of this information is the avenue by which the individual or his representative may file such a complaint. The requested information is necessary in order for the Office of Civil Rights to address the alleged discriminatory action.

Need and Use of the Information: The requested information which can be submitted by filling out the Program Discrimination Form or by submitting a letter, is necessary in order for the USDA Office of the Assistant Secretary for Civil Rights (OASCR) to address the alleged discriminatory action. The respondent is asked to provide his/her name, mailing address, property address (if different from mailing address), telephone number, email address (if any) and to provide a name and contact information for the respondent's representative (if any). A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. The program discrimination complaint filing information, which is voluntarily provided by the respondent, will be used by the staff of USDA OASCR to investigate, attempt resolution and settle the case. If information regarding alleged discrimination is not collected from the individual who believes he/she has experienced discrimination in a USDA program, it would not be possible for the USDA to address and rectify the alleged discrimination.

Description of Respondents: Individuals or households; Business or other for-profit; and Not-for-profit institutions.

Number of Respondents: 141.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 141.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–27709 Filed 12–22–17; 8:45 am]

BILLING CODE 3410–9R–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 20, 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 December 26, 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.

Animal & Plant Health Inspection Service

Title: Gypsy Moth Identification Worksheet.

OMB Control Number: 0579–0104.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701— *et seq.*), the Secretary of Agriculture either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pest new to the United States or not widely distributed throughout the United States. The Plant Protection and Quarantine (PPQ), a program within the Animal and Plant Health Inspection Service (APHIS), is responsible for implementing the intent of this Act, and does so through the enforcement of its Domestic Quarantine Regulations contained in Title 7 of the Code of Federal Regulations (CFR) Part 301. The European gypsy moth is one of the most destructive pests of fruit and ornamental trees as well as hardwood forests. The Asian gypsy moth is an exotic strain of gypsy moth that is closely related to the European variety already established in the U.S. Due to significant behavioral differences, this strain is considered to pose an even greater threat to trees and forested areas. In order to determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, APHIS sets traps in high-risk areas to collect specimens.

Need and Use of the Information: APHIS will collect information from the Specimens for Determination, PPQ Form 391, to identify and track specific specimens that are sent to the Otis Development Center for identification tests based on DNA analysis. This information collected is vital to APHIS' ability to monitor, detect, and eradicate gypsy moth infestations and the worksheet is completed only when traps are found to contain specimens.

Information on the worksheet includes the name of the submitter, the submitter's agency, the date collected, the trap number, the trap's location (including the nearest port of entry), the number of specimens in the trap, and the date the specimen was sent to the laboratory. APHIS will also use the Gypsy Moth Checklist and Record Your Self-Inspection, PPQ Form 377 to collect information on required inspection of outdoor household articles that are to be moved from a gypsy moth quarantined area to a non-quarantined area to ensure that they are free of all life stages of gypsy moth.

Description of Respondents: Individuals or households; State, Local or Tribal Government; and Business.

Number of Respondents: 2,500,100.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 2,711,543.

Animal and Plant Health Inspection Service

Title: Karnal Bunt; Revision of Regulations for Importing Wheat.

OMB Control Number: 0579–0240.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS), domestic Karnal bunt regulations are contained in Subpart-Karnal Bunt (7 CFR 301.89–1 through 301.89–16). Karnal bunt is a fungal disease of wheat. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed.

Need and Use of the Information: In order for APHIS to verify that the articles are being imported in compliance with the regulations, the articles would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin. The certificate must include a declaration stating that the regulated articles originated in areas where Karnal bunt is not known to occur, as attested to either by survey resulting or by testing for bunted karnals or spores.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 150.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–27722 Filed 12–22–17; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee to the U.S. Commission on Civil Rights

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 Indiana Advisory Committee (Committee) will hold a meeting on Friday January 5, 2018, at 3:00 p.m. EST for the purpose of preparing for its public meeting on voting rights issues in the state.

DATES: The meeting will be held on Friday, January 5, 2018, at 3:00 p.m. EST.

PUBLIC CALL INFORMATION: Dial: 877–879–6207, Conference ID: 5031484.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll free number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and

providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Indiana Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=247*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Voting Rights in Indiana
Public Comment
Future Plans and Actions
Adjournment

Dated: December 20, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–27779 Filed 12–22–17; 8:45 am]

BILLING CODE 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, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: 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 the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

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 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. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[11/17/2017 through 12/18/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Eminence Speaker, LLC	838 Mulberry Pike, Eminence, KY 40019.	12/14/2017	The firm manufactures loudspeakers for home use, automobiles, and professional and commercial uses.
SolarWorld Americas, Inc	25300 NW Evergreen Road, Hillsboro, OR 97124.	12/14/2017	The firm manufactures solar cells and solar modules.

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. 2017–27725 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2042]

Approval of Expanded Subzone Status; BMW Manufacturing Company, LLC; Duncan, South Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 38, has made application to the Board to expand subzone 38A on behalf of BMW Manufacturing Company, LLC, located in Duncan, South Carolina (FTZ Docket B–55–2017, docketed August 16, 2017);

Whereas, notice inviting public comment has been given in the **Federal Register** (82 FR 39759, August 22, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the

examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of subzone 38A on behalf of BMW Manufacturing Company, LLC, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: December 20, 2017.

Gary Taverman,

Deputy Assistant Secretary for AD/CVD Operations performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement & Compliance Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2017–27783 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979, C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke Antidumping and Countervailing Duty Orders in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 6, 2017, the Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (China) with respect to certain solar panels. We preliminarily determine that the *Orders* shall be revoked, in part, with respect to certain solar panels of a sufficiently small size, voltage, amperage, and wattage, among other characteristics, as described below. Commerce invites interested parties to comment on these preliminary results.

DATES: Applicable December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Lauren Caserta or Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4737 and (202) 482–3857, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012, Commerce published AD and CVD orders on certain crystalline silicon photovoltaic cells, whether or not assembled into modules, from China.[1] On October 6, 2017, Pitsco, Inc. d/b/a/Pitsco Education (Pitsco), an importer of the subject merchandise, requested through a changed circumstances review revocation, in part, of the *Orders* pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b), with respect to certain solar panels.[2] On October 13, 2017, SolarWorld Americas, Inc. (the petitioner) submitted a letter stating that it does not oppose the scope exclusion language proposed by Pitsco.[3] From October 25, 2017, through November 8, 2017,[4] Commerce consulted with both Pitsco and SolarWorld regarding revisions to the proposed exclusion language; specifically, Commerce suggested limiting the language to a description of the physical characteristics of the product and also expressed concerns regarding the dimensions indicated in the description.[5] Accordingly, on November 10, 2017, Pitsco submitted revised exclusion language based on these consultations.[6] On November 13, 2017, SolarWorld submitted a letter stating that it does not oppose the revised exclusion language submitted by Pitsco on November 10, 2017.[7]

On November 27, 2017, Commerce published the notice of initiation of the requested changed circumstances reviews.[8] Because the statement submitted by the petitioner in support of Pitsco's amended request did not indicate whether the petitioner accounts for substantially all of the domestic production of crystalline silicon photovoltaic cells, in the *Initiation Notice,* we invited interested parties to submit comments concerning industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews.[9] No comments or factual information was submitted by any party.

Scope of the Antidumping and Countervailing Duty Orders on Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China

The merchandise covered by the orders is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

The orders cover crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the orders.

Excluded from the scope of the orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the orders are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than

[1] *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012) and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012) (collectively, *Orders*).

[2] Pitsco's Letter, ''Request for Changed Circumstances Review (A–570–980; C–570–979),'' dated October 6, 2017 (Pitsco's Request).

[3] SolarWorld's Letter, ''Pitsco, Inc.'s Scope Exclusion Language—Letter of No Opposition,'' dated October 13, 2017 (Letter of No Opposition).

[4] Memorandum, ''*Ex Parte* Communications with Adduci, Mastriani and Wiley Rein,'' dated November 13, 2017 (*Ex Parte* Memo).

[5] *Id.*

[6] Pitsco's Letter, ''Amended Changed Circumstances Review (A–570–980; C–570–979),'' dated November 10, 2017 (Pitsco's Amended Request).

[7] SolarWorld's Letter, ''Pitsco, Inc.'s Scope Exclusion Language—Letter of No Opposition,'' dated November 13, 2017 (Revised Letter of No Opposition).

[8] *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 82 FR 55987 (Nov. 27, 2017) (Solar CCR Initiation Notice).

[9] *Id.*

power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in China are covered by the orders; however, modules, laminates, and panels produced in China from cells produced in a third-country are not covered by the orders.

Merchandise covered by these orders is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the orders is dispositive.

Scope of Changed Circumstances Reviews

Pitsco requests that Commerce revoke the *Orders,* in part, to exclude certain small solar panels, as described below. The revised unopposed language submitted by Pitsco is as follows: [10]

> Excluded from the scope of these orders are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. No panel shall contain an internal battery or external computer peripheral ports.

Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) Producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.[11] Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[12]

Commerce's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that Commerce will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.[13] Commerce did not issue a combined notice of initiation and preliminary results. As discussed above, the statement provided by the petitioner and offered in support of Pitsco's amended request did not indicate whether the petitioner accounts for substantially all domestic production of certain crystalline silicon photovoltaic cells.[14] Thus, Commerce did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders* as to the certain solar panels under consideration here. Further, Commerce requested interested party comments on the issue of domestic industry support of a potential partial revocation of the *Orders.*[15] Commerce received no comments concerning a lack of industry support with respect to these changed circumstances reviews.

As noted in the *Initiation Notice,* Pitsco requested revocation of the *Orders,* in part, and supported its request. In light of Pitsco's amended request, the petitioner's agreement with the scope exclusion language proposed by Pitsco, and in the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Orders,* in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain small solar panels, as described above. We will consider comments from interested parties on these preliminary results of reviews before issuing the final results of these reviews.[16]

Accordingly, we are notifying the public of our intent to revoke the *Orders,* in part. We intend to carry out this revocation by including the following exclusion language in the scope of each of the *Orders*:

> Excluded from the scope of these orders are panels with surface area from 3,450 mm^2 to 33,782 mm^2 with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. No panel shall contain an internal battery or external computer peripheral ports.

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. If, at the time of the final determinations, there have been no completed administrative reviews of an order, then the partial revocation will be applied to unliquidated entries of merchandise subject to the changed circumstances review that were entered or withdrawn from warehouse, for consumption, on or after the date that corresponds to the date suspension of liquidation first began in the relevant proceeding. If, at the time of the final determinations, there have been completed administrative reviews of an order, then the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the applicable order. The most recently

[10] *See* Pitsco's Amended Request.

[11] Section 782(h) of the Act and 19 CFR 351.222(g).

[12] *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey from Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012).

[13] 19 CFR 351.216(e).

[14] *Solar CCR Initiation Notice.*

[15] *Id.*

[16] *E.g., Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); 19 CFR 351.222(g)(1)(v).

completed administrative review of the AD order (A–570–979) was completed on June 20, 2017, and covered December 1, 2014 through November 30, 2015.[17] Therefore, under this scenario, the partial revocation for merchandise subject to the AD orders would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after December 1, 2015. The most recently completed administrative review of the CVD order (C–570–980) was completed on July 10, 2017, and covered January 1, 2014 through December 31, 2014.[18] Therefore, the partial revocation for merchandise subject to the CVD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after January 1, 2015, as applicable.

Public Comment

Interested parties are invited to comment on these preliminary results of reviews in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs may be submitted no later than 14 days after the date of publication of these preliminary results.[19] Rebuttals to case briefs, limited to issues raised in the case briefs, may be filed no later than 5 days after the due date for case briefs.[20] All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the due dates set forth in this notice.

Any interested party may request a hearing within 14 days of publication of this notice. Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.[21]

Commerce intends to issue the final results of these changed circumstances reviews, which will include its analysis of any written comments received, no later than 270 days after the date on which these reviews were initiated.

If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to AD or CVD duties all unliquidated entries of the merchandise covered by the exclusion language above entered or withdrawn from warehouse, for consumption, on or after the effective dates indicated above. In addition, we will instruct CBP to refund any estimated AD or CVD cash deposits collected on such entries.

The current requirement for cash deposits of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews. If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct CBP to discontinue collecting cash deposits on entries of merchandise covered by the exclusion language above effective on the date of publication of the final results of these changed circumstances reviews.

These preliminary results of reviews and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: December 20, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

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BILLING CODE 3510–DS–P

[17] *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 40560 (August 25, 2017).

[18] *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of countervailing Duty Administrative Review, and Partial Recession of countervailing Duty Administrative Review; 2014,* 82 FR 32678 (July 17, 2017).

[19] Commerce is altering the deadline for the submission of case briefs, as authorized by 19 CFR 351.309(c)(1)(ii).

[20] Commerce is altering the deadline for the submission of rebuttal briefs, as authorized by 19 CFR 351.309(d)(1).

[21] 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF507

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Boost-Back and Landing of Falcon 9 Rockets

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Space Exploration Technology Corporation (SpaceX) to incidentally harass, by Level B harassment only, marine mammals during boost-back and landing of Falcon 9 rockets at Vandenberg Air Force Base in California, and at contingency landing locations in the Pacific Ocean.

DATES: This Authorization is valid from December 1, 2017, through November 30, 2018.

FOR FURTHER INFORMATION CONTACT: Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact

on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

NMFS received a request from SpaceX for an IHA to take marine mammals incidental to Falcon 9 First Stage recovery activities, including in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket at Vandenberg Air Force Base (VAFB) in California, and at contingency landing locations offshore. SpaceX's request was for harassment only and NMFS concurs that mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

SpaceX's application for incidental take authorization was received on July 11, 2017. SpaceX submitted a revised version of the request on October 13, 2017. This revised version of the application was deemed adequate and complete. The planned activity may exceed one year, hence subsequent MMPA incidental harassment authorizations may be requested for this particular activity.

The planned activities include in-air boost-back maneuvers and landings of the First Stage of the Falcon 9 rocket. The action may occur as many as 12 times and may occur at any time of year. Species that are expected to be taken by the planned activity include harbor seal, California sea lion, Steller sea lion, northern elephant seal, northern fur seal, and Guadalupe fur seal. SpaceX's activities are expected to produce noise, in the form of sonic booms, that are expected to result in harassment of marine mammals that are hauled out of the water. Take by Level B harassment only is expected; no injury or mortality of marine mammals is expected to result from the activities.

This is the second IHA issued by NMFS for this activity. SpaceX applied for, and was granted, an IHA in 2016 that was valid from June 30, 2016 through June 29, 2017 (81 FR 34984; June 30, 2016). SpaceX complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA.

Description of Activity

The Falcon 9 is a two-stage rocket designed and manufactured by SpaceX for transport of satellites and SpaceX's Dragon spacecraft into orbit. SpaceX currently operates the Falcon Launch Vehicle Program at Space Launch Complex 4E (SLC–4E) at VAFB. SpaceX plans to conduct recovery of the Falcon 9 First Stage by returning the First Stage to SLC–4 West (SLC–4W) at VAFB for potential reuse, up to twelve times per year. This includes performing in-air boost-back maneuvers and landings of the Falcon 9 First Stage on the pad at SLC–4W. The reuse of the Falcon 9 First Stage enables SpaceX to efficiently conduct lower cost launch missions from VAFB in support of commercial and government clients.

Although SLC–4W is the preferred landing location, SpaceX has identified the need for contingency landing locations should it not be feasible to land the First Stage at SLC–4W. The first contingency landing option is on a barge located at least 27 nautical miles (nm) (50 kilometers (km)) offshore of VAFB. The second contingency landing option is on a barge within the Iridium Landing Area, an area approximately 33,153 square kilometers (km^2) area that is located approximately 122 nm (225 km) southwest of San Nicolas Island and 133 nm (245 km) southwest of San Clemente Island (see Figure 1–3 in the IHA application).

During descent, a sonic boom (overpressure of high-energy impulsive sound) would be generated when the First Stage reaches a rate of travel that exceeds the speed of sound. Sonic booms would occur in proximity to the landing areas and may be heard during or briefly after the boost-back and landing, depending on the location of the observer. Sound from the sonic boom has the potential to result in harassment of marine mammals, either on the mainland at or near VAFB, or at the Northern Channel Islands (NCI). Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce sonic booms with overpressures that would potentially be as high as 8.5 pounds per square foot (psf) at VAFB and potentially as high as 3.1 psf at the NCI. Sonic boom modeling indicates that landings that occur at either of the proposed contingency landing locations offshore would result in sonic booms below 1.0 psf. Take of marine mammals that are hauled out of the water are expected to occur only when those hauled out marine mammals experience sonic booms greater than 1.0 psf (this is discussed in greater detail below in the section on Estimated Take). Therefore, take of marine mammals may occur as a result of landings that occur at VAFB; however, take of marine mammals is not expected to occur as a result of landings that occur at either of the proposed contingency landing locations offshore. Sounds resulting from SpaceX's activities other than sonic booms, as well as other aspects of SpaceX's activities such as unsuccessful landings, are not expected to result in take of marine mammals and are not discussed further in this document.

The activities authorized in this IHA are limited to Falcon 9 First Stage boost-back maneuvers and landings. Incidental take of marine mammals resulting from Falcon 9 rocket launches from VAFB is already authorized via regulations (79 FR 10016; February 24, 2014) and a Letter of Authorization (LOA) (79 FR 18528; April 2, 2014). As such, NMFS does not authorize take of marine mammals incidental to launches of the Falcon 9 rocket in this IHA; incidental take resulting from Falcon 9 rocket launches is therefore not analyzed further in this document.

A detailed description of the planned activities is provided in the **Federal Register** notice of the proposed IHA (82 FR 49332; October 25, 2017). Since that time, no changes have been made to the planned activities. Therefore, a more detailed description is not provided here. Please refer to that **Federal Register** notice for a more detailed description of the specific activities. Mitigation, monitoring, and reporting measures are described in detail later in this document (please see ''Mitigation'' and ''Monitoring and Reporting'').

Comments and Responses

NMFS published a notice of proposed IHA in the **Federal Register** on October 25, 2017 (82 FR 49332). During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission). NMFS has posted the comments online at: *http://*

www.nmfs.noaa.gov/pr/permits/incidental. The following is a summary of the public comments received and NMFS's responses.

Comment 1: The Commission recommended that NMFS include Falcon 9 recovery activities as a proposed amendment to the United States Air Force's (USAF) final rule (79 FR 10016; February 24, 2014) rather than authorizing those activities in separate IHAs until the rule expires in 2019, and that NMFS ultimately include Falcon 9 recovery activities in the future proposed rule that will cover all other rocket activities conducted by USAF at VAFB beginning in 2019. The Commission also recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation, monitoring, and reporting measures, which are included as proposed in the final IHA.

Response: NMFS agrees that streamlining in the MMPA incidental take authorization process is desirable when possible and we will work with the USAF to determine whether it is practicable to incorporate Falcon 9 recovery activities in any future regulations governing the take of marine mammals incidental to rocket launch activities that occur at VAFB.

Description of Marine Mammals in the Area of Specified Activities

Section 4 of the IHA application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. We have reviewed SpaceX's species descriptions, including life history information, distribution, regional distribution, and acoustics and hearing, for accuracy and completeness, and we refer the reader to Section 4 of the IHA application, rather than reprinting the information here. A detailed description of the species likely to be affected by the specified activities, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice of the proposed IHA (82 FR 49332; October 25, 2017). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

Table 1 lists all marine mammal species with expected occurrence in the project area (including at VAFB, on the NCI, and in the waters surrounding VAFB, the NCI and the contingency landing location) that are expected to be affected by the specified activities, and summarizes information related to the populations, including regulatory status under the MMPA and Endangered Species Act (ESA). There are an additional 28 species of marine mammals (all cetaceans) with expected or possible occurrence in the project area. However, we have determined that sonic booms are the only potential stressor associated with the activity that could result in take of marine mammals, and that sonic booms only have the potential to result in harassment of marine mammals that are hauled out of the water. Therefore, we have concluded that the likelihood of the planned activities resulting in the harassment of any cetacean to be so low as to be discountable. As we have concluded that the likelihood of any cetacean being taken incidentally as a result of SpaceX's activities to be so low as to be discountable, cetaceans are not considered further in this document and no take of cetaceans is authorized in the IHA. Please see Table 3–1 in SpaceX's IHA application for a complete list of species with expected or potential occurrence in the project area.

All values presented in Table 1 are the most recent available at the time of publication and are available in NMFS's stock assessment reports (SAR) (*e.g.,* Carretta *et al.,* 2017; Muto *et al.,* 2017). Please see the SARs, available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance. Abundance estimates presented in Table 1 represent the total number of individuals that make up a given stock or the total number estimated within a particular study area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS's SARs). While no mortality is anticipated or authorized in this IHA, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats. For taxonomy, we follow Committee on Taxonomy (2017). For status of species, we provide information regarding U.S. regulatory status under the MMPA and ESA.

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in project area; season of occurrence
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion (*Zalophus californianus*).	U.S.	-; N	296,750 (n/a; 153,337; 2011).	9,200	389	Abundant; year-round.
Northern fur seal (*Callorhinus ursinus*).	California	-; N	14,050 (n/a; 7,524; 2013).	451	1.8	Abundant; year-round; peak occurrence during summer.
Guadalupe fur seal (*Arctocephalus philippii townsendi*).	n/a	T/D; Y	20,000 (n/a; 15,830; 2010).	542	3.2	Rare; slightly more common in summer.

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA—Continued

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in project area; season of occurrence
Steller sea lion (*Eumetopias jubatus*).	Eastern U.S	-; N	71,562 (n/a; 41,638; 2015).	2,498	108	Rare; year-round.
Family Phocidae (earless seals)						
Harbor seal (*Phoca vitulina richardii*).	California	-; N	30,968 (n/a; 27,348; 2012).	1,641	43	Abundant; year-round.
Northern elephant seal (*Mirounga angustirostris*).	California breeding ...	-; N	179,000 (n/a; 81,368; 2010).	4,882	8.8	Abundant; year-round; peak occurrence during winter.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual mortality/serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Marine Mammal Hearing—Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms. The relevant functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Pinnipeds in water; Phocidae (true seals): generalized hearing is estimated to occur between approximately 50 hertz (Hz) to 86 kilohertz (kHz), with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

TABLE 2—RELEVANT MARINE MAMMAL FUNCTIONAL HEARING GROUPS AND THEIR GENERALIZED HEARING RANGES

Hearing group	Generalized hearing range*
Phocid pinnipeds (PW) (underwater) (true seals).	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals).	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Of the six marine mammal species that may be affected by the planned activities, four are classified as otariids and two are classified as phocids.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of noise from SpaceX's activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice of proposed IHA (82 FR 49332; October 25, 2017) included a discussion of the effects of anthropogenic noise on marine mammals and their habitat, therefore that information is not repeated here; please refer to that **Federal Register** notice for that information. No instances of injury, serious injury or mortality are expected as a result of SpaceX's activities.

Estimated Take by Incidental Harassment

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine

mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All authorized takes are by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sounds associated with the planned activities. Based on the nature of the activity, Level A harassment, serious injury, and mortality are neither anticipated nor authorized in this IHA.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed; (2) the area that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) and number of days of activities. Below, we describe these components in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). As described above, Level A harassment is not expected to occur as a result of the planned activities and we do not authorize take by Level A harassment, thus criteria and thresholds for Level A harassment are not discussed further. Thresholds have been developed identifying the received level of in-air sound above which exposed pinnipeds would likely be behaviorally harassed. In this case, we are concerned only with in-air sound as the planned activities are not expected to result in harassment of marine mammals that are underwater. Thus, only in-air thresholds are discussed further.

Level B Harassment for Non-Explosive Sources

Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment, and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. For in-air sounds, NMFS expects that harbor seals exposed to sound above received levels of 90 dB re 20 micro Pascals (μPa) (root mean squared (rms)) will be behaviorally harassed, and all other species of pinnipeds exposed to sound above received levels of 100 dB re 20 μPa (rms) will be behaviorally harassed (Table 3).

TABLE 3—RECOMMENDED CRITERIA FOR PINNIPED HARASSMENT FROM EXPOSURE TO AIRBORNE SOUND

Species	Level B harassment threshold
Harbor seals	90 dB re 20 μPa.
All other pinniped species.	100 dB re 20 μPa.

Typically, NMFS relies on the acoustic criteria shown in Table 3 to estimate take as a result of exposure to airborne sound from a given activity. However, in this case we have the benefit of more than 20 years of observational data on pinniped responses to the stimuli associated with the planned activity that we expect to result in harassment (sonic booms) in the particular geographic area of the planned activity (VAFB and the NCI). Therefore, we consider these data to be the best available information in regard to estimating take based on modeled exposures among pinnipeds to sounds associated with the planned activities. These data suggest that pinniped reactions to sonic booms are dependent on the species and the intensity of the sonic boom (Table 4).

The USAF has monitored pinniped responses to rocket launches from VAFB for over 20 years. Though rocket launches are not part of the planned activities (as described above), the acoustic stimuli associated with launches (*e.g.,* sonic booms) is expected to be substantially similar to those expected to occur with Falcon 9 boost-backs and landings; therefore, we rely on observational data on responses of pinnipeds to sonic booms associated with rocket launches from VAFB in making assumptions about expected pinniped responses to sonic booms associated with Falcon 9 boost-backs and landings.

Observed reactions of pinnipeds at the NCI and at VAFB to sonic booms have ranged from no response to heads-up alerts, from startle responses to some movements on land, and from some movements into the water to occasional stampedes (especially involving California sea lions on the NCI). We therefore assume sonic booms generated during the return flight of the Falcon 9 First Stage may elicit an alerting or other short-term behavioral reaction, including flushing into the water if hauled out.

Data from launch monitoring by the USAF has shown that pinniped reactions to sonic booms are correlated with the level of the sonic boom. Low energy sonic booms (<1.0 psf have resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus (Table 4). More powerful sonic booms have resulted in pinnipeds flushing from haulouts. No pinniped mortalities have been associated with sonic booms. No sustained decreases in numbers of animals observed at haulouts have been observed after the stimulus. Table 4 presents a summary of monitoring efforts at the NCI from 1999 to 2014. These data show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present have reacted to the sonic boom. Time-lapse video photography during four launch events revealed that harbor seals that reacted to the rocket launch noise but did not leave the haul-out were all adults.

Data from previous monitoring also suggests that for those pinnipeds that flush from haulouts in response to sonic booms, the amount of time it takes for those animals to begin returning to the haulout site, and for numbers of animals to return to pre-launch levels, is correlated with sonic boom sound levels. Pinnipeds may begin to return to the haulout site within 2–55 minutes of the launch disturbance, and the haulout site usually returned to pre-launch levels within 45–120 minutes.

Monitoring data has consistently shown that reactions among pinnipeds vary between species, with harbor seals and California sea lions tending to be more sensitive to disturbance than northern elephant seals and northern fur seals (Table 4). Because Steller sea lions and Guadalupe fur seals occur in the project area relatively infrequently, no data has been recorded on their reactions to sonic booms. At VAFB, harbor seals generally alert to nearby

launch noises, with some or all of the animals going into the water. Usually the animals haul out again from within minutes to two hours or so of the launch, provided rising tides or breakers have not submerged the haul-out sites. Post-launch surveys often indicate as many or more animals hauled out than were present at the time of the launch, unless rising tides, breakers or other disturbances are involved (SAIC 2012). When launches occurred during high tides at VAFB, no impacts have been recorded because virtually all haulout sites were submerged.

At the Channel Islands, California sea lions have been observed to react strongly to sonic booms relative to other species present. California sea lion pups have sometimes reacted more than adults, either because they are more easily frightened or because their hearing is more acute. Harbor seals also generally appear to be more sensitive to sonic booms than most other pinnipeds, often startling and fleeing into the water. Northern fur seals generally show little or no reaction. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring, especially if sea lions in the same area or mingled with the elephant seals react strongly to the boom. Post-launch monitoring generally reveals a return to normal patterns within minutes up to an hour or two of each launch, regardless of species (SAIC 2012).

Table 4 summarizes monitoring efforts at San Miguel Island during which acoustic measurements were successfully recorded and during which pinnipeds were observed. During more recent launches, night vision equipment was used. The table shows only monitoring data for launches during which sonic booms were heard and recorded. The table shows that little or no reaction from the four species usually occurs when overpressures are below 1.0 psf. In general, as described above, elephant seals do not react unless other animals around them react strongly or if the sonic boom is extremely loud, and northern fur seals seem to react similarly. Not enough data exist to draw conclusions about harbor seals at the NCI, but considering their reactions to launch noise at VAFB, it is likely that they are also sensitive to sonic booms (SAIC 2012).

TABLE 4—OBSERVED PINNIPED RESPONSES TO SONIC BOOMS AT SAN MIGUEL ISLAND

Launch event	Sonic boom level (psf)	Monitoring location	Species and associated reactions
Athena II (April 27, 1999)	1.0	Adams Cove	California sea lion—866 alerted; 232 (27%) flushed into water. Northern elephant seal—alerted but did not flush. Northern fur seal—alerted but did not flush.
Athena II (September 24, 1999)	0.95	Point Bennett	California sea lion—12 of 600 (2%) flushed into water. Northern elephant seal—alerted but did not flush. Northern fur seal—alerted but did not flush.
Delta II 20 (November 20, 2000)	0.4	Point Bennett	California sea lion—60 pups flushed into water; no reaction from focal group. Northern elephant seal—no reaction.
Atlas II (September 8, 2001)	0.75	Cardwell Point	California sea lion (Group 1)—no reaction (1,200 animals). California sea lion (Group 2)—no reaction (247 animals). Northern elephant seal—no reaction. Harbor seal—2 of 4 flushed into water.
Delta II (February 11, 2002)	0.64	Point Bennett	California sea lion and northern fur seal—no reaction among 485 animals in 3 groups. Northern elephant seal—no reaction among 424 animals in 2 groups.
Atlas II (December 2, 2003)	0.88	Point Bennett	California sea lion—approximately 40% alerted; several flushed to water (number unknown—night launch). Northern elephant seal—no reaction.
Delta II (July 15, 2004)	1.34	Adams Cove	California sea lion—10% alerted (number unknown—night launch).
Atlas V (March 13, 2008)	1.24	Cardwell Point	Northern elephant seal—no reaction (109 pups).
Delta II (May 5, 2009)	0.76	West of Judith Rock.	California sea lion—no reaction (784 animals).
Atlas V (April 14, 2011)	1.01	Cuyler Harbor	Northern elephant seal—no reaction (445 animals).
Atlas V (September 13, 2012)	2.10	Cardwell Point	California sea lion—no reaction (460 animals). Northern elephant seal—no reaction (68 animals). Harbor seal—20 of 36 (56%) flushed into water.
Atlas V (April 3, 2014)	0.74	Cardwell Point	Harbor seal—1 of ~25 flushed into water; no reaction from others.
Atlas V (December 12, 2014)	1.16	Point Bennett	Calif. sea lion—5 of ~225 alerted; none flushed.

As described above, data from launch monitoring by the USAF on the NCI and at VAFB have shown that pinniped reactions to sonic booms are correlated to the level of the sonic boom. Low energy sonic booms (<1.0 psf) have typically resulted in little to no behavioral responses, including head raising and briefly alerting but returning to normal behavior shortly after the stimulus. More powerful sonic booms have flushed animals from haulouts (but not resulted in any mortality or sustained decreased in numbers after the stimulus). Monitoring data from the NCI and VAFB from 1999 to 2014 show that reactions to sonic booms tend to be insignificant below 1.0 psf and that, even above 1.0 psf, only a portion of the animals present react to the sonic boom (Table 4). Therefore, for the purposes of estimating the extent of take that is likely to occur as a result of the planned activities, we assume that Level B harassment occurs when a pinniped (on land) is exposed to a sonic boom at or above 1.0 psf. Therefore, the number of expected takes by Level B harassment is based on estimates of the numbers of animals that would be within the areas exposed to sonic booms at levels at or above 1.0 psf.

Ensonified Area

As described above, modeling was performed to estimate overpressure levels that would be created during sonic booms that occur during the return flight of the Falcon 9 First Stage.

The predicted acoustic footprint of the sonic boom was computed using the computer program PCBoom (Plotkin and Grandi 2002; Page *et al.* 2010). As described above, the highest sound generated by a sonic boom would generally be focused on the area where the Falcon 9 ultimately lands. Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with overpressures as high as 8.5 psf at SLC–4W, which would attenuate to levels below 1.0 psf at approximately 15.90 mi. (25.59 km) from the landing area (Figure 2–2 in the IHA application). This estimate is based, in part, on actual observations from Falcon 9 boost-back and landing activities at Cape Canaveral, Florida. A boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with overpressures up to 3.1 psf on the NCI, based on model results.

During a contingency barge landing event, sonic boom overpressure would be directed at the ocean surface while the first-stage booster is supersonic. Model results indicate that sonic booms would not exceed 1.0 psf on any part of the NCI during a boost-back and landing of the Falcon 9 First Stage at the contingency landing location at least 27 nm (50 km) offshore (Figure 2–6 and Figure 2–7 in the IHA application). Additionally, First Stage boost-backs and landings within the Iridium Landing Area would not likely produce measurable overpressures at any land surface (Figure 2–8 and Figure 2–9 in the IHA application). Therefore, take of marine mammals is not expected to occur as a result of boost-back and landing activities at the contingency landing location at least 27 nm (50 km) offshore, nor within the Iridium Landing Area. Estimated takes are therefore based on the possibility of boost-back and landing activities occurring at SLC–4W.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Data collected from marine mammal surveys, including monthly marine mammal surveys conducted by the USAF at VAFB as well as data collected by NMFS, represent the best available information on the occurrence of the six pinniped species expected to occur in the project area. The quality and amount of information available on pinnipeds in the project area varies depending on species; some species are surveyed regularly at VAFB and the NCI (*e.g.,* California sea lion), while other species are surveyed less frequently (*e.g.,* northern fur seals and Guadalupe fur seals). However, the best available data was used to estimate take numbers. Take estimates for all species are shown in Table 6.

Harbor Seal—Pacific harbor seals are the most common marine mammal inhabiting VAFB, congregating on several rocky haulout sites along the VAFB coastline. They also haul out, breed, and pup in isolated beaches and coves throughout the coasts of the NCI. Harbor seals may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of harbor seals at VAFB was estimated based on the maximum count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of harbor seals at the NCI and at Point Conception was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the NMFS Southwest Fisheries Science Center (SWFSC) (Lowry *et al.,* 2017).

California sea lion— California sea lions are common offshore of VAFB and haul out on rocks and beaches along the coastline of VAFB, though pupping rarely occurs on the VAFB coastline. They haul out in large numbers on the NCI and rookeries exist on San Miguel and Santa Cruz islands. California sea lions may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of California sea lions at VAFB was estimated based on the maximum count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of California sea lions at the NCI was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the SWFSC (Lowry *et al.,* 2017). We note that in the **Federal Register** notice of the proposed IHA (82 FR 49332; October 25, 2017) we estimated takes of California sea lions on Santa Cruz Island (811 takes of California sea lions were estimated per boost-back and landing activity). However, since the notice of the proposed IHA was published, we have reviewed the sonic boom models presented in the IHA application and determined that a sonic boom of 1.0 psf or above is not expected to impact Santa Cruz Island, and, therefore, no takes of marine mammals on Santa Cruz Island are expected to occur as a result of the specified activities. Therefore we do not authorize any takes of California sea lions on Santa Cruz Island in this IHA.

Steller Sea Lion—Steller sea lions occur in small numbers at VAFB and on San Miguel Island. They have not been observed on the Channel Islands other than at San Miguel Island and they do not currently have rookeries at VAFB or the NCI. Steller sea lions may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of Steller sea lions at VAFB was estimated based on the largest count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Steller sea lions haul out in very small numbers on the NCI, and comprehensive survey data for Steller sea lions in the NCI is not available. Take of Steller sea lions at the NCI was estimated based on subject matter expert input suggesting that as many as four Steller sea lions have been observed on San Miguel Island at a time (pers. comm., S. Melin, NMFS Marine Mammal Laboratory (MML), to J. Carduner, NMFS, Feb 11, 2016).

Northern elephant seal—Northern elephant seals haul out sporadically on rocks and beaches along the coastline of VAFB and at Point Conception and have rookeries on San Miguel Island and Santa Rosa Island and at one location at VAFB. Northern elephant seals may be exposed to sonic booms above 1.0 psf on the mainland and the NCI. Take of northern elephant seals at VAFB was estimated based on the largest count totals from monthly surveys of VAFB haulout sites from 2013–2016 (ManTech SRS Technologies, Inc., 2014, 2015, 2016; VAFB, unpubl. data). Take of northern elephant seals at the NCI and at Point Conception was estimated based on the maximum count totals from aerial survey data collected from 2002 to 2012 by the NMFS SWFSC (Lowry *et al.,* 2017).

Northern fur seal—Northern fur seals have rookeries on San Miguel Island, the only island in the NCI on which they have been observed. No haulouts or rookeries exist for northern fur seals on the mainland coast, including VAFB, thus they may be exposed to sonic booms above 1.0 psf at the NCI but not on the mainland. Comprehensive survey data for northern fur seals in the project area is not available. Estimated take of northern fur seals was based on subject matter expert input which suggested a maximum of approximately 6,000–8,000 northern fur seals may be present on San Miguel Island at the height of breeding/pupping season (early July). After the height of the breeding/pupping season, numbers fluctuate but decrease as females go on foraging trips and males begin to migrate in late July/August. Numbers continue to decrease

until November when most of the population is absent from the island until the following breeding/pupping period (starting the following June) (pers. comm., T. Orr, NMFS NMML, to J. Carduner, NMFS OPR, February 27, 2016). It was therefore conservatively estimated that numbers peak at 8,000 animals hauled out at any given time in July and decrease to a minimum of 2,000 animals hauled out at any given time in the winter, then increase again until the following July. This results in an average estimate of 5,000 northern fur seals hauled out at San Miguel Island at any given time over the course of the entire year.

Guadalupe fur seal—There are estimated to be approximately 20–25 individual Guadalupe fur seals that have fidelity to San Miguel Island (pers. comm. S. Mellin, NMFS NMML, to J. Carduner, NMFS OPR, February 11, 2016). No haulouts or rookeries exist for Guadalupe fur seals on the mainland coast, including VAFB, thus they may be exposed to sonic booms above 1.0 psf at the NCI but not on the mainland. Comprehensive survey data on Guadalupe fur seals in the project area is not readily available. Estimated take of Guadalupe fur seals was based on the maximum number of Guadalupe fur seals observed at any one time on San Miguel Island (13) (pers. comm., J. LaBonte, ManTech SRS Technologies Inc., to J. Carduner, NMFS, Feb. 29, 2016); it was therefore conservatively assumed that 13 Guadalupe fur seals may be hauled out at San Miguel Island at any given time.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

NMFS currently uses a three-tiered scale to determine whether the response of a pinniped on land to acoustic or visual stimuli is considered an alert, a movement, or a flush. NMFS considers the behaviors that meet the definitions of both movements and flushes to qualify as behavioral harassment. Thus a pinniped on land is considered by NMFS to have been behaviorally harassed if it moves greater than two times its body length, or if the animal is already moving and changes direction and/or speed, or if the animal flushes from land into the water. Animals that become alert without such movements are not considered harassed. See Table 5 for a summary of the pinniped disturbance scale.

TABLE 5—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE ON LAND

Level	Type of response	Definition	Classified as behavioral harassment by NMFS
1	Alert	Head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.	No.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.	Yes.
3	Flush	All retreats (flushes) to the water	Yes.

As described above, the likelihood of pinnipeds exhibiting responses to sonic booms that would be considered behavioral harassment (based on the levels of pinniped disturbance as shown in Table 5) is dependent on both the species and on the intensity of the sonic boom. Data from rocket launch monitoring by the USAF at VAFB and the NCI show that pinniped reactions to sonic booms are correlated to the level of the sonic boom, with low energy sonic booms (<1.0 psf) typically resulting in little to no behavioral responses, and higher energy sonic booms resulting in responses ranging from no response to heads-up alerts, startle responses, some movements on land, and some movements into the water (flushing). Based on model results, a boost-back and landing of the Falcon 9 First Stage at SLC–4W would produce a sonic boom with greater intensity at VAFB (overpressures potentially as high as 8.5 psf) than at the NCI (overpressures potentially as high as 3.1 psf). Responses of pinnipeds to sonic booms are also highly dependent on species, with harbor seals, California sea lions and Steller sea lions generally displaying greater sensitivity to sonic booms than northern elephant seals and northern fur seals (Table 4). We are not aware of any data on Guadalupe fur seal responses to sonic booms, but we assume responses by Guadalupe fur seal responses to be similar to those observed in northern fur seals as the two species are physiologically and behaviorally very similar.

Take estimates were calculated by overlaying the modeled acoustic footprints of sonic booms from boost-back and landing events at SLC–4W with known pinniped haulouts on the mainland (including those at VAFB) and the NCI to determine the pinniped haulouts that would potentially be affected by sonic booms with overpressures of 1.0 psf and above. Only haulouts along northeastern San Miguel Island and northern and northwestern Santa Rosa Island would be expected to experience overpressures greater than 1.0 psf during a boost-back and landing at SLC–4W (Figures 2–3, 2–4, 2–5 and 2–6 in the IHA application). Take estimates also account for the likely intensity of the sonic boom as well as the relative sensitivity of the marine mammal species present, based on monitoring data as described above.

A boost-back and landing of the Falcon 9 First Stage at SLC–4W that results in a sonic boom of 1.0 psf and above at VAFB was conservatively estimated to result in behavioral harassment of 100 percent of all species hauled out at or near VAFB and Point Conception (Table 6). A boost-back and landing of the Falcon 9 First Stage at SLC–4W that results in a sonic boom of 1.0 psf and above at the NCI was estimated to result in the behavioral harassment of 100 percent of California sea lions, harbor seals, and Steller sea lions that are hauled out at the NCI and of five percent of northern elephant seals, northern fur seals, and Guadalupe fur seals that are hauled out at the NCI. The five percent adjustment in the take estimates for these species at the NCI is also considered conservative, as launch monitoring data shows that elephant seals and fur seals sometimes alert to sonic booms but have never been observed flushing to the water or

responding in a manner that would be classified as behavioral harassment even when sonic booms were measured at >1.0 psf (see Table 4 for a summary of launch monitoring data).

The take calculations presented in Table 6 are based on the best available information on marine mammal populations in the project location and responses among marine mammals to the stimuli associated with the planned activities.

TABLE 6—ESTIMATED NUMBERS OF MARINE MAMMALS, AND PERCENTAGE OF MARINE MAMMAL POPULATIONS, POTENTIALLY TAKEN AS A RESULT OF THE PLANNED ACTIVITIES

Species	Geographic location	Estimated number of level B harassment exposures per event, by location	Estimated combined number of level B harassment exposures per event	Total number of takes by level B harassment authorized [1]	Takes by level B harassment authorized as a percentage of population
Pacific Harbor Seal [2]	VAFB	366	1,384	16,608	4.4
	Pt. Conception	516			
	San Miguel Island	310			
	Santa Rosa Island	192			
	Santa Cruz Island	0			
California Sea Lion	VAFB	416	3,750	45,000	15.2
	Pt. Conception	N/A			
	San Miguel Island	2,134			
	Santa Rosa Island	1,200			
	Santa Cruz Island	0			
Northern Elephant Seal	VAFB	190	227	2,724	1.5
	Pt. Conception	11			
	San Miguel Island [3]	18			
	Santa Rosa Island [3]	8			
	Santa Cruz Island	0			
Steller Sea Lion	VAFB	16	20	240	0.3
	Pt. Conception	N/A			
	San Miguel Island	4			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			
Northern Fur Seal	VAFB	N/A	250	3,000	21.4
	Pt. Conception	N/A			
	San Miguel Island [3]	250			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			
Guadalupe Fur Seal	VAFB	N/A	1	12	0.1
	Pt. Conception	N/A			
	San Miguel Island [3]	1			
	Santa Rosa Island	N/A			
	Santa Cruz Island	N/A			

[1] Based on twelve boost-back and landing events. Total number of takes authorized represents incidences of harassment and not necessarily individuals.

[2] As the same individual harbor seals are likely to be taken repeatedly over the course of the specified activities, we use the estimate of 1,384 individual animals taken per Falcon 9 First Stage recovery activity for the purposes of estimating the percentage of stock abundance likely to be taken over the course of the entire activity.

[3] Number shown reflects five percent of total number of predicted potential exposures, *i.e.* five percent of animals exposed to sonic booms above 1.0 psf at these locations are assumed to experience Level B harassment.

Take estimates are believed to be conservative based on the assumption that all twelve Falcon 9 First Stage recovery activities would result in landings at SLC–4W, with no landings occurring at contingency landing locations. However, some or all actual landing events may ultimately occur at the contingency landing locations; as described above, landings at the contingency landing locations would be expected to result in no takes of marine mammals. However, the number of landings at each location is not known in advance, therefore, we assume all landings would occur at SLC–4W. In addition, as described above, it is conservatively assumed that 100 percent of any species of pinniped hauled out on the mainland (VAFB and Point Conception), and 100 percent of harbor seals, California sea lions and Steller sea lions hauled out at the NCI, would be harassed (Level B harassment only) by a Falcon 9 boost-back and landing event at SLC–4W that results in a sonic boom of >1.0 psf. However, it is possible that less than this percentage of hauled out pinnipeds will be behaviorally harassed by a Falcon 9 boost-back and landing at SLC–4W. While there may be some limited behavioral harassment of pinnipeds that occurs at psf levels <1.0, we account for that in the overall conservativeness of the total take number, as described above.

As described above, in the **Federal Register** notice of the proposed IHA (82 FR 49332; October 25, 2017) we estimated 811 takes of California sea lions would occur at Santa Cruz Island per boost-back and landing activity; however, since the notice of the proposed IHA was published, we have reviewed the sonic boom models presented in the IHA application and determined that a sonic boom of 1.0 psf or above is not expected to impact Santa Cruz Island, and therefore no takes of marine mammals on Santa Cruz Island are expected to occur as a result of the specified activities. Therefore, we do

not authorize any takes of California sea lions on Santa Cruz Island in this IHA. We authorize a total of 45,000 takes of California sea lions in this IHA (a total of 54,732 takes of California sea lions was proposed in the proposed IHA). We also note that in the **Federal Register** notice of the proposed IHA (82 FR 49332; October 25, 2017) we proposed to authorize a total of 1,384 takes of harbor seals. This was an error, as the number 1,384 represents the estimated number of takes of harbor seals per boost-back and landing activity. We intended to propose to authorize a total of 16,608 takes of harbor seals, which represents the number of estimated takes per boost-back and landing activity (1,384) times the number of activities (12). We therefore authorize a total of 16,608 takes of harbor seals in this IHA. These revisions in the take estimates have not changed any of our determinations.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. For instance, an individual animal may accrue a number of incidences of harassment over the duration of a project, as opposed to each incident of harassment accruing to a new individual. This is especially likely if individual animals display some degree of residency or site fidelity and the impetus to use the site is stronger than the deterrence presented by the harassing activity.

Take estimates shown in Table 6 are considered reasonable estimates of the number of instances of marine mammal exposures to sound resulting in Level B harassment that are likely to occur as a result of the planned activities, and not necessarily the number of individual animals exposed.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully balance two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat—which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, and; (2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below.

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Mitigation for Marine Mammals and Their Habitat

SpaceX's IHA application contains descriptions of the mitigation measures proposed to be implemented during the specified activities in order to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitats.

It should be noted that it would not be feasible to stop or divert an inbound Falcon 9 First Stage booster. Once the boost-back and landing sequence is underway, there would be no way for SpaceX to change the trajectory of the Falcon 9 First Stage to avoid potential impacts to marine mammals. The proposed mitigation measures include the following:

- Unless constrained by other factors including human safety or national security concerns, launches would be scheduled to avoid boost-backs and landings during the harbor seal pupping season of March through June, when practicable.

Based on our evaluation of SpaceX's proposed mitigation measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at

50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Monitoring

SpaceX submitted a monitoring plan as part of their IHA application. SpaceX's proposed marine mammal monitoring plan was created with input from NMFS and was based on similar plans that have been successfully implemented by other action proponents under previous authorizations for similar projects, specifically the USAF's monitoring of rocket launches from VAFB.

Marine Mammal Monitoring

SpaceX will determine a monitoring location for each boost-back and landing activity, taking into consideration predictions of the areas likely to receive the greatest sonic boom intensity as well as current haulout locations and the distribution of pinniped species and their behavior. The selection of the monitoring location will also be based on what species (if any) have pups at haulouts and which of those species would be expected to be the most reactive to sonic booms. SpaceX prioritizes the selection of rookery locations if they are expected to be impacted by a sonic boom and prioritizes the most reactive species if there are multiple species that are expected to be hauled out in the modeled sonic boom impact area. For instance, if harbor seals were pupping, SpaceX will prioritize selection of a harbor seal rookery for monitoring because they tend to be the most reactive species to sonic booms. There is also thought given to the geography and wind exposure of the specific beaches that are predicted to be impacted, to avoid inadvertently selecting a portion of a beach that tends to be abandoned by pinnipeds every afternoon as a result high winds. As VAFB is an active military base, the selection of appropriate monitoring locations must also take into account security restrictions and human safety as unexploded ordnance is present in some areas

Marine mammal monitoring protocols will vary based on modeled sonic boom intensity, the location and the season. As described above, sonic boom modeling will be performed prior to all boost-back and landing activities. Although the same rockets will be used, other parameters specific to each launch will be incorporated into each model. These include direction and trajectory, weight, length, engine thrust, engine plume drag, position versus time from initiating boost-back to additional engine burns, among other aspects. Various weather scenarios will be analyzed from NOAA weather records for the region, then run through the model. Among other factors, these will include the presence or absence of the jet stream, and if present, its direction, altitude and velocity. The type, altitude, and density of clouds will also be considered. From these data, the models will predict peak amplitudes and impact locations.

As described above, impacts to pinnipeds on the NCI, including pups, have been shown through more than two decades of monitoring reports to be minimal and temporary (MMCG and SAIC 2012). Therefore monitoring requirements at the NCI will be dependent on modeled sonic boom intensity and will be based on the harbor seal pupping season, such that monitoring requirements are greater when pups are expected to be present. When pups are present at haulouts, a lower threshold is reasonable in that a sonic boom could theoretically pose a greater risk of abandonment of pups in the event that mothers flush to the water (we note, however, that pup abandonment has never been documented as a result of sonic booms at the NCI). As pups grow older and are more maneuverable, the risk of pup abandonment diminishes. Thus, at the height of the pupping season (between March 1 and June 30) monitoring is required if sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact one of the NCI. Between July 1 and September 30 monitoring is required if sonic boom model results indicate a peak overpressure of 1.5 psf or greater is likely to impact one of the NCI. Between October 1 and February 28, monitoring is required if sonic boom model results indicate a peak overpressure of 2.0 psf or greater is likely to impact one of the NCI.

Marine mammal monitoring procedures will consist of the following:

- To conduct monitoring of Falcon 9 First Stage boost-back and landing activities, SpaceX will designate qualified (must be able to identify pinnipeds to species, age class, and sex when possible), on-site observers that will be approved in advance by NMFS;
- If sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact VAFB, then acoustic and biological monitoring at VAFB will be implemented;
- If sonic boom model results indicate a peak overpressure of 1.0 psf or greater is likely to impact one of the NCI between March 1 and June 30; a peak overpressure of greater than 1.5 psf is likely to impact one of the NCI between July 1 and September 30, or a peak overpressure of greater than 2.0 psf is likely to impact one of the NCI between October 1 and February 28, then monitoring of haulout sites on the NCI will be implemented. Monitoring will be conducted at the haulout site closest to the area predicted to experience the greatest sonic boom intensity, at both VAFB and the NCI. If multiple haulouts are located within the area expected to experience the greatest sonic boom intensity, selection of monitoring locations will be based on species (*i.e.,* species known to be more

reactive to sonic booms will be prioritized) and pup presence (*i.e.,* haulouts with pups will be prioritized);

• Monitoring will commence at least 72 hours prior to the boost-back and continue until at least 48 hours after the event;

• Monitors will conduct hourly counts for six hours per day centered around the scheduled launch time to the extent possible. Monitors will be at the monitoring location continuously for six hours per day and will record pinniped counts every hour during this period;

• If the activity occurs during daylight hours then the six hourly counts will be centered around the scheduled launch time (such that there are observations for 2–3 hours before and after the event). If the activity occurs during nighttime then hourly counts will commence at daybreak and proceed until six hours after daybreak (counts taken during nighttime are not accurate). Monitors would observe pinniped reactions with night vision binoculars for nighttime events;

• Monitoring will include multiple surveys each day that record the species; number of animals; general behavior; presence of pups; age class; gender; and reaction to noise associated with Falcon 9 First Stage recovery activities, sonic booms or other natural or human caused disturbances, in addition to recording environmental conditions such as tide, wind speed, air temperature, and swell;

• If the boost-back and landing is scheduled during daylight hours, time lapse photography or video recording will be used to document the behavior of marine mammals during Falcon 9 First Stage recovery activities;

• For Falcon 9 First Stage recovery activities scheduled during harbor seal pupping season (March through June), follow-up surveys will be conducted within two weeks of the boost-back and landing;

• Newly documented northern elephant seal pupping locations at VAFB will be prioritized for monitoring when landings occur at SLC–4W during northern elephant seal pupping season (January through February) when practicable.

Acoustic Monitoring

Acoustic measurements of the sonic boom created during boost-back at the monitoring location will be recorded to determine the overpressure level. Typically this will entail use of a digital audio tape (DAT) recorder and a high quality microphone to monitor the sound environment and measure the sonic boom. This system will be specially tailored for recording the low frequency sound associated with rocket launches and sonic booms. The DAT system will record the launch noise and sonic boom digitally to tape, which will allow for detailed post-analysis of the frequency content, and the calculation of other acoustic metrics, and will record the ambient noise and sonic boom. The DAT recorder will be placed near the marine mammal monitoring site when practicable.

Reporting

SpaceX will report data collected during marine mammal monitoring and acoustic monitoring as described above. The monitoring report will include a description of project related activities, counts of marine mammals by species, sex and age class, a summary of marine mammal species/count data, and a summary of observed marine mammal responses to project-related activities.

A launch monitoring report will be submitted by SpaceX to the NMFS Office of Protected Resources and the NMFS West Coast Region within 60 days after each Falcon 9 First Stage recovery action. This report will contain information on the date(s) and time(s) of the Falcon 9 First Stage recovery action, the design of the monitoring program; and results of the monitoring program, including, but not necessarily limited to the following:

• Numbers of pinnipeds present on the monitored haulout prior to the Falcon 9 First Stage recovery;

• Numbers of pinnipeds that may have been harassed (based on observations of pinniped responses and the pinniped disturbance scale as shown in Table 4);

• The length of time pinnipeds remained off the haulout or rookery for pinnipeds estimated to have entered the water as a result of Falcon 9 First Stage recovery noise;

• Any other observed behavioral modifications by pinnipeds that were likely the result of Falcon 9 First Stage recovery activities, including sonic boom; and

• Results of acoustic monitoring including comparisons of modeled sonic booms with actual acoustic recordings of sonic booms.

In addition, a final monitoring report will be submitted by SpaceX to the NMFS Office of Protected Resources. A draft of the report will be submitted within 90 days of the expiration of the IHA, or, within 45 days of the requested renewal of the IHA (if applicable). A final version of the report will be submitted within 30 days following resolution of comments on the draft report from NMFS. The report will summarize the information from the 60-day post-activity reports (as described above), including but not necessarily limited to the following:

• Date(s) and time(s) of the Falcon 9 First Stage recovery actions;

• Design of the monitoring program; and

• Results of the monitoring program, including the information components contained in the 60-day launch reports, as well as any documented cumulative impacts on marine mammals as a result of the activities, such as long term reductions in the number of pinnipeds at haulouts as a result of the activities.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not authorized by the IHA, such as a Level A harassment, or a take of a marine mammal species other than those authorized, SpaceX would immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources. The report would include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Description of the incident;

• Status of all Falcon 9 First Stage recovery activities in the 48 hours preceding the incident;

• Description of all marine mammal observations in the 48 hours preceding the incident;

• Species identification or description of the animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with SpaceX to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SpaceX would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead observer determines the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), SpaceX would immediately report the incident to mail to: The NMFS Office of Protected Resources and the NMFS West Coast Region Stranding Coordinator. The report would include the same information identified in the paragraph above. Authorized activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with SpaceX to determine whether

modifications in the activities are appropriate.

In the event that SpaceX discovers an injured or dead marine mammal, and the lead MMO determines the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SpaceX would report the incident to the NMFS Office of Protected Resources and NMFS West Coast Region Stranding Coordinator, within 24 hours of the discovery. SpaceX would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

This will be the second IHA issued to SpaceX for the specified activity. SpaceX did not perform any Falcon 9 boost-back and landing activities that resulted in return flights to VAFB nor that generated sonic booms that impacted the NCI during the period of validity for the prior IHA issued for the same activity. SpaceX did perform boost-back and landing activities at a contingency landing location located offshore during the period of validity for the prior IHA, however the contingency landing location was located so far offshore that there were no impacts predicted to marine mammals by sonic boom modeling, thus marine mammal monitoring was not required.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 1, given that the anticipated effects of this activity on these different marine mammal species are expected to be similar. Activities associated with Falcon 9 First Stage recovery, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from airborne sounds of sonic booms. Potential takes could occur if marine mammals are hauled out in areas where a sonic boom above 1.0 psf occurs, which is considered likely given the modeled sonic booms of the planned activities and the occurrence of pinnipeds in the project area. Based on the best available information, including monitoring reports from similar activities that have been authorized by NMFS, behavioral responses will likely be limited to reactions such as alerting to the noise, with some animals possibly moving toward or entering the water, depending on the species and the intensity of the sonic boom. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment would be reduced to the level of least practicable impact through use of mitigation measures described above.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Flushing of pinnipeds into the water has the potential to result in mother-pup separation, or could result in a stampede, either of which could potentially result in serious injury or mortality and thereby could potentially impact the stock or species. However, based on the best available information, including reports from over 20 years of launch monitoring at VAFB and the NCI, no serious injury or mortality of marine mammals is anticipated as a result of the planned activities.

Even in the instances of pinnipeds being behaviorally disturbed by sonic booms from rocket launches at VAFB, no evidence has been presented of abnormal behavior, injuries or mortalities, or pup abandonment as a result of sonic booms (SAIC 2013). These findings came as a result of more than two decades of surveys at VAFB and the NCI (MMCG and SAIC, 2012). Post-launch monitoring generally reveals a return to normal behavioral patterns within minutes up to an hour or two of each launch, regardless of species. For instance, a total of eight Delta II and Taurus space vehicle launches occurred from north VAFB, near the Spur Road and Purisima Point haulout sites, from February, 2009 through February, 2014. Of these eight launches, three occurred during the harbor seal pupping season. The continued use by harbor seals of the Spur Road and Purisima Point haulout sites indicates that it is unlikely that these rocket launches (and associated sonic booms) resulted in long-term disturbances of pinnipeds using the haulout sites. San Miguel Island represents the most important pinniped rookery in the lower 48 states, and as such extensive research has been conducted there for decades. From this research, as well as stock assessment reports, it is clear that VAFB operations (including associated sonic booms) have not had any significant impacts on San Miguel Island rookeries and haulouts (SAIC 2012).

In summary, this negligible impact analysis is founded on the following factors:

- No injury, serious injury, or mortality are anticipated or authorized;
- The anticipated incidences of Level B harassment are expected to consist of, at worst, temporary modifications in behavior (*i.e.,* short distance movements and occasional flushing into the water with return to haulouts within at most two days), which are not expected to adversely affect the fitness of any individuals;
- The activities are expected to result in no long-term changes in the use by

pinnipeds of rookeries and haulouts in the project area, based on over 20 years of monitoring data; and

• The presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact.

In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will be short-term on individual animals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The numbers of authorized takes would be considered small relative to the relevant stocks or populations (less than 22 percent for all species and stocks). It is important to note that the number of expected takes does not necessarily represent of the number of individual animals expected to be taken. Our small numbers analysis accounts for this fact. Multiple exposures to Level B harassment can accrue to the same individual animals over the course of an activity that occurs multiple times in the same area (such as SpaceX's planned activity). This is especially likely in the case of species that have limited ranges and that have site fidelity to a location within the project area, as is the case with harbor seals.

As described above, harbor seals are non-migratory, rarely traveling more than 50 km from their haulout sites. Thus, while the estimated abundance of the California stock of Pacific harbor seals is 30,968 (Carretta *et al.,* 2017), a substantially smaller number of individual harbor seals is expected to occur within the project area. We expect that, because of harbor seals' documented site fidelity to haulout locations at VAFB and the NCI, and because of their limited ranges, the same individuals are likely to be taken repeatedly over the course of the specified activities (maximum of twelve Falcon 9 First Stage recovery actions). Therefore, the number of instances of Level B harassment among harbor seals over the course of the authorization (*i.e.,* the total number of takes shown in Table 6) is expected to accrue to a much smaller number of individuals encompassing a small portion of the overall regional stock. The maximum number of individual of harbor seals expected to be taken by Level B harassment, per Falcon 9 First Stage recovery action, is 1,384. As we believe the same individuals are likely to be taken repeatedly over the course of the specified activities, we use the estimate of 1,384 individual animals taken per Falcon 9 First Stage recovery activity for the purposes of estimating the percentage of the stock abundance likely to be taken over the course of the entire activity.

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

There is one marine mammal species (Guadalupe fur seal) listed under the ESA with confirmed occurrence in the area expected to be impacted by the planned activities. The NMFS West Coast Region has determined that NMFS OPR's issuance of the IHA to SpaceX for the take of marine mammals incidental to Falcon 9 First Stage recovery activities is not likely to adversely affect the Guadalupe fur seal. Therefore, formal ESA section 7 consultation on this IHA is not required.

Authorization

NMFS has issued an IHA to SpaceX for the potential harassment of small numbers of six marine mammal species incidental to Falcon 9 First Stage recovery activities in California and at contingency landing locations offshore, provided the previously mentioned mitigation, monitoring and reporting requirements are incorporated.

Dated: December 20, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–27761 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF909

Marine Mammals; File No. 21386

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that North Slope Borough Department of Wildlife Management (Responsible Party: Taqulik Hepa), P.O. Box 69, Barrow, AK 99723, has applied in due form for a permit to collect, receive, import, and export marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before January 25, 2018.

ADDRESSES: The application and related documents are available for review by

selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21386 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 21386 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to collect, receive, import, and export biological samples from pinnipeds and cetaceans annually for scientific research. Pinniped samples may include up to 100 each of bearded (*Erignathus barbatus*), ringed (*Phoca hispida*), spotted (*P. larga*), and ribbon (*Histriophoca fasciata*) seals. Cetacean samples may include up to 100 beluga whales (*Delphinapterus leucas*), 70 bowhead whales (*Balaena mysticetus*), 10 each of minke (*Balaenoptera acutorostrata*) and gray (*Eschrichtius robustus*) whales, and 10 harbor porpoise (*Phocoena phocoena*). Receipt, import, and export is requested worldwide. The primary source of samples will be subsistence harvested marine mammals in Alaska, however additional sources of samples may include foreign subsistence harvests, marine mammal strandings in foreign countries, and other foreign and domestic authorized researchers. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 20, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–27738 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits and permit amendments.

SUMMARY: Notice is hereby given that permits or permit amendments have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer (File No. 21217 and 21397), Sara Young (File No. 17152–02), and Shasta McClenahan (File No. 20556).

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the research, go to *www.federalregister.gov* and search on the permit number provided in the table below.

File No.	RIN	Applicant	Previous **Federal Register** notice	Permit or amendment issuance date
17152-02	0648–XC136	Point Blue Conservation Science (Responsible Party: Russell Bradley), 3820 Cypress Drive, #11, Petaluma, California 94954.	77 FR 48130; August 13, 2012	November 9, 2017.
20556	0648–XF508	Georgia Department of Natural Resources (Responsible Party: Jonathan Ambrose) 2070 U.S. Highway 278 Southeast, Social Circle, GA 30025.	82 FR 32328; July 13, 2017	November 22, 2017.
21217	0648–XF696	Aaron Roberts, Ph.D., University of North Texas, Biological Sciences, 1155 Union Circle, #310559, Denton, TX 76203.	82 FR 43944; September 20, 2017	November 6, 2017.
21397	0648–XF696	Burke Museum, Mammalogy (Responsible Party: Julie Stein), University of Washington, Box 353010, Seattle, WA 98195.	82 FR 43944; September 20, 2017	November 6, 2017.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permits was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

Authority: The requested permits have been issued under the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: December 20, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–27737 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF916

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, January 9, 2018 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880; phone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review an updated coral management zone alternative including boundary changes and impacts analysis. They will then recommend final preferred deep-sea coral alternatives to the Council for action during its January 30–February 1 meeting, considering any recommendations from the Habitat Advisory Panel and Plan Development Team. Many aspects of the amendment have already been finalized. The remaining topic for consideration is a coral protection zone or zones along the continental slope, canyons, and seamounts south of Georges Bank. The Committee also plans to discuss next steps stemming from the anticipated January 4 NOAA Fisheries decision on Omnibus Essential Fish Habitat Amendment 2. This will include a discussion of alternatives development for the trailing action to consider clam dredge exemption areas on Georges Bank and Nantucket Shoals, as well as a discussion about how the decision on the amendment might influence 2018 management priorities. They will also discuss any updates related to offshore wind, oil and gas development, and recommend specific projects for the Council to comment on during early 2018. The Committee will hear a progress update on fishing impacts modeling efforts and receive updates on other habitat-related aspects of the Council's fishery management program, as needed, for example ongoing EFH consultation work. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 20, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–27720 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF913

Fishing Capacity Reduction Program for the Pacific Coast Groundfish Fishery

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

ACTION: Notice of fee rate adjustment.

SUMMARY: NMFS issues this notice to decrease the fee rate to 4.5 percent for the Pacific Coast Groundfish fee-share fishery to repay the $28,428,718.88 groundfish sub-loan of the $35,662,471 reduction loan that financed the Pacific Coast Groundfish fishing capacity reduction program.

DATES: The Pacific Coast Groundfish program fee rate decrease for groundfish fishery will begin on landings starting on January 1, 2018. The first due date for fee payments with the decreased rate will be February 14, 2018.

ADDRESSES: Send questions about this notice to Paul Marx, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Paul Marx, (301) 427–8871.

SUPPLEMENTARY INFORMATION:

I. Background

Background Sections 312(b) through (e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) generally authorizes fishing capacity reduction programs. In particular, section 312(d) authorizes industry fee systems for repaying reduction loans that finance reduction program. Subpart L of 50 CFR part 600 is the framework rule generally implementing section 312(b) through (e). Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) generally authorizes reduction loans.

Enacted on February 20, 2003, section 212 of Division B, Title II, of Public Law 108–7 (section 212) specifically authorizes a fishing capacity reduction

program for that portion of the limited entry trawl fishery under the Pacific Coast Groundfish Fishery Management Plan whose permits, excluding those registered to whiting catcher-processors, are endorsed for trawl gear operation (reduction fishery).

The reduction program's objective was to reduce the number of vessels and permits endorsed for the operation of groundfish trawl gear. The program also involved corollary fishing capacity reduction in the California, Oregon, and Washington fisheries for Dungeness crab and pink shrimp and the sub-loans for these state fisheries have all been repaid.

NMFS proposed the implementing notice on May 28, 2003 (68 FR 31653) and published the final notice on July 18, 2003 (68 FR 42613). NMFS allocated $28,428,719 reduction loan to the groundfish fishery. The allocation became a reduction loan repayable by fees from the groundfish fishery.

NMFS published in the **Federal Register** on July 13, 2005 (70 FR 40225), the final rule to implement the industry fee system for repaying the program's reduction loan. The regulations implementing the program are located at § 600.1012 of 50 CFR part 600, subpart M. On August 8, 2005, NMFS published in the **Federal Register** (70 FR 45695) a notice of the fee effective date and established September 8, 2005, as the effective date when fee collection and loan repayment began.

II. Purpose

The purpose of this notice is to adjust, in accordance with the framework rule's § 600.1013(b), the fee rate for the groundfish fishery. Section 600.1013(b) directs NMFS to recalculate the fee rate that will be reasonably necessary to ensure reduction loan repayment within the specified 30-year term. NMFS has determined that the current fee rate of 5.0 percent for the groundfish fishery is projected to collect more than the annual amortization amount needed for 2018. Therefore, NMFS is decreasing the fee rate to 4.5 percent for all landings beginning January 1, 2018. As of November 24, 2017, the outstanding balance on the groundfish fishery sub-loan was $22,628,122.29.

Fish buyers may continue to disburse collected fee deposits to NMFS by using *www.pay.gov* or mail payments to our lockbox. Our lockbox's address is: NOAA Fisheries Pacific Coast Groundfish Buyback, P.O. Box 979059, St. Louis, MO 63197–9000. Fish buyers must include the fee collection report with the fee payment. Fish buyers using *www.pay.gov* will find an electronic fee collection report form. Fish buyers not using *www.pay.gov* may also access the NMFS website for a copy of the fee collection report at: *http://www.nmfs.noaa.gov/mb/financial_services/docs/pacific_coast_groundfish_buyback_loan_fee_collection_report.pdf.*

III. Notice

The new 4.5 percent fee rate for the groundfish fishery will begin for all landings starting January 1, 2018. From and after this date, all groundfish program fish sellers paying fees fishery shall begin paying groundfish program fees at the revised rate. From and after this date, all fees received by NMFS for the groundfish fishery shall be subject to the new fee rates regardless of the applicable fee month. The first due date for fee payments with the decreased rate will be February 14, 2018.

Fee collection and submission shall follow previously established methods in § 600.1013 of the framework rule and in the final fee rule published in the **Federal Register** on July 13, 2005 (70 FR 40225).

Dated: December 19, 2017.

Samuel D. Rauch, III,

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

[FR Doc. 2017–27769 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF915

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a two and a half day meeting of its Standing, Reef Fish, Coral, and Socioeconomics Scientific and Statistical Committees (SSC).

DATES: The meeting will convene on Tuesday, January 9, 2018, from 9 a.m. to 5 p.m., Wednesday, January 10, 2018, from 8:30 a.m. to 5 p.m. and Wednesday, January 11, 2018, from 8:30 a.m. to 12 p.m. EDT, if needed.

ADDRESSES: The meeting will be held in the Gulf Council's Conference Room. *Council address:* Gulf of Mexico Fishery Management Council, 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; *steven.atran@gulfcouncil.org;* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Day 1—Tuesday, January 9, 2018; 9 a.m.–5 p.m.

I. Introductions and Adoption of Agenda
II. Approval of Minutes
  a. March 8, 2012 Coral SSC meeting summary
  b. October 31, 2017 Standing and Reef Fish SSC webinar summary
III. Selection of SSC representative at January 29–February 1, 2018 Council meeting in New Orleans, LA

Standing and Coral SSC Session

IV. Southeast Deep-sea Coral Initiative in the Gulf of Mexico
V. Review of the public hearing draft of Coral Amendment 9
VI. Review of Management Strategy Evaluation Developed for the Coral Reef Conservation Program Grant

Standing and Socioeconomic SSC Session

VII. Grouper and Tilefish 5-year IFQ Review
  a. Safety at sea
  b. IFQ participants, dealers, and crew surveys

Standing and Reef Fish SSC Session

VIII. Review of Draft Status Determination Criteria/Optimum Yield Options Paper

Day 2—Wednesday, January 10, 2018; 8:30 a.m.–5 p.m.

IX. SEDAR Activities
  a. SEDAR 62 Gray Triggerfish standard assessment
    i. Terms of reference
    ii. Project schedule
    iii. Assessment workshop appointments
X. Spawning Aggregations in the Gulf of Mexico
  a. RESTORE Act Science Program project on spawning aggregations in the Gulf of Mexico
  b. Prediction and Verification of Snapper-Grouper Spawning Aggregation Sites on the Offshore Banks of the Northwestern Gulf of Mexico
XI. Evaluating Robustness of Harvest Control Rules to Future Red Tide Events
XII. Further Development of a Stock Assessment Prioritization Spreadsheet

XIII. Analysis Related to Draft Generic Amendment—Carry-over Provision and Framework Modifications

a. Simulation of the Effect of Carrying Over Unused ACL

XIV. Analysis of Red Grouper Indices of Abundance

XV. Discussion of an ABC Control Rule for Data-Limited Stocks

XVI. Tentative 2018 SSC Meeting Dates

XVII. Other Business

— Meeting Adjourns—

You may register for the SSC Meeting: Standing, Reef Fish, Coral, and Socioeconomic on January 9–11, 2018 at: *https://attendee.gotowebinar.com/register/1902765732356970499.*

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's website and click on the FTP link in the lower left of the Council website (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''SSC meeting–2018–01''.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: December 20, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–27719 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; Admission To Practice

The United States Patent and Trademark Office (USTPO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office, Commerce.

Title: Admission to Practice.

OMB Control Number: 0651–0012.

Form Numbers:

- PTO–158
- PTO–158A
- PTO–158R
- PTO–158T
- PTO–107A
- PTO–107R
- PTO–107S
- PTO/275
- PTO–1209

Type of Request: Revision of a currently existing collection.

Number of Respondents: 19,864 responses per year.

Average Hours per Response: The USPTO estimates that it will take the public approximately 3 minutes (0.05 hours) to 7 hours to prepare the appropriate form or documents and submit to the USPTO, depending upon the instrument used.

Burden Hours: 21,187.83 hours annually.

Cost Burden: $1,473,587.72.

Needs and Uses: The information in this collection is used by the OED Director to determine whether the applicant for registration is of good moral character and repute; has the necessary legal, scientific, and technical qualifications; and is otherwise competent to advise and assist applicants in the presentation and prosecution of patent applications.

The information supplied by an applicant seeking to apply for the examination for registration and/or to request that they be included on the Register of Patent Attorneys and Agents is used by the USPTO to review applicants for the examination and to determine whether an applicant may be added to, or an existing practitioner may remain on, the Register of Patent Attorneys and Agents.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0012 copy request'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before January 25, 2018 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2017–27685 Filed 12–22–17; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Plenary Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting and a voting session.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, the Sunshine in the Government Act of 1976 and the Code of the Federal Regulations, the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: January 9–11, 2018.

Time(s) of Meeting:

0800–1700, January 9, 2018.
0800–1700, January 10, 2018.
0800–1700, January 11, 2018.

Place of Meeting: Fort Benning, Georgia, Building 70, Room 1020.

Purpose of Meeting: The purpose of the meeting is for ASB members to collect data and hold discussions as it relates to individual study topics listed

below, and to review, deliberate, and vote on the findings and recommendations presented for the study entitled: ''The Future of Telemetry.''

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis.

Because the meeting of the Subcommittee will be held in a Federal Government facility, security screening is required. A photo ID is required to enter the facility. To enter the facility, visitors must follow the procedures at *http://www.benning.army.mil/GateInfo/htrp.html.* Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. For additional information about public access procedures, contact Mr. Paul Woodward, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Interested persons may submit a written statement for consideration by the Army Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below, at any point; however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Army Science Board. The Designated Federal Official will review all timely submissions with the Army Science Board Chairperson, and ensure they are provided to members of the Army Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: For information please contact The Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; Ms. Heather Ierardi at *Heather.J.Ierardi.civ@mail.mil* or (703) 545–8652 or Mr. Paul Woodward at *Paul.J.Woodward2.civ@mail.mil* or (703) 695–8344.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. § 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3. 140 through 160.

Proposed Agenda: The Army Science Board will meet on January 9–11, 2018 at Fort Benning, Building 70, Room 1020. Purpose of the meeting on each day is to allow each study: (1) Man, Unmanned Teaming; (2) Independent Assessment of the Army's Science and Technology Portfolio Realignment; (3) Multi-Domain Battle 2.0; (4) The Internet of Things: Smart Installations; (5) Independent Assessment of the Army's Next Generation Ground Combat Vehicles Investment Strategy; and (6) Improving the Army's Software Development and Sustainability Strategy, to collect data and hold discussions as it relates to each individual study. The voting session on the study entitled: ''The Future of Telemetry'' will be conducted on Wednesday, January 10, 2017 at 1400–1500.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–27726 Filed 12–22–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Navy

Secretary of the Navy Advisory Panel (SNAP) and Subcommittee Naval Research Advisory Committee; Notice of Meeting

AGENCY: Department of the Navy, DoD.

ACTION: Notice of public meeting.

SUMMARY: The Secretary of the Navy Advisory Panel (SNAP) and subcommittee Naval Research Advisory Committee (NRAC) will meet to discuss materials in support of two studies: ''Use and Acquisition of Unmanned Systems in the Department of the Navy'' and ''Improving Governance in the Department of the Navy.'' These sessions will be open to the public, with exception to any specific deliberations which may include the review of classified material.

DATES: The meeting will be held on Monday, January 8, 2018, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the Pentagon, Conference Center, Room B5.

FOR FURTHER INFORMATION CONTACT: James Custer, Secretary of the Navy Advisory Panel, Office of the Deputy Secretary of the Navy for Policy, 1000 Navy Pentagon, Washington, DC 20350, *james.custer@navy.mil,* 703–693–3403.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Public access is limited due to Pentagon security requirements. Members of the public wishing to attend this event must enter through the Pentagon Visitors' Center adjacent to the Pentagon's Metro Station Entrance. All Pentagon visitors must present two forms of valid government-issued photo identification. All visitors and belongings are required to go through security screening. All belongings are required to pass through an x-ray machine. With the exception of Department of Defense Common Access Card (CAC) holders, Pentagon visitors are required to have a sponsor/escort for access into the Pentagon and must be escorted at all times. Members wishing to attend this meeting must have completed all security procedures no later than 09:15 p.m. to receive a visitor badge and depart the waiting area with their sponsor/escort. Guests requiring escort will be escorted directly to the meeting room and access will be limited to areas related to meeting activities. Members of the public shall remain with designated escorts at all times while on the Pentagon reservation. Upon completion of the period of meeting open to the public, guests will be escorted to the building exit. Members of the public with questions regarding visitor access to the Pentagon may call 703–693–3953.

To request a sponsor and escort for the open session of this meeting, at least 5 days in advance of the meeting, email *james.custer@navy.mil* and *Christopher.rodeman@navy.mil* or call 703–693–3403. In the subject line, please enter ''Request a sponsor and escort for the Jan 8 SNAP/NRAC open session'' and indicate in the body that you ''will be attending the open session of the Advisory Panel meeting on January 8, 2018.'' Include your name and mobile phone number. Individuals or groups may submit written statements for consideration by the Secretary of the Navy Advisory Panel at any time or in response to the agenda of a scheduled meeting. All correspondence must be submitted to the Designated Federal Officer (DFO) in care of the address below. If the written statement is in response to the agenda of this meeting, to be considered, must be received at least five days prior to the meeting in question. The DFO will review all timely submissions with the Chair of the Secretary of the Navy Panel. The DFO will ensure submissions are provided to Panel members prior to the meeting subject to this notice.

To contact the DFO, write to: Designated Federal Officer, Secretary of the Navy Advisory Panel, Office of the Deputy Secretary of the Navy for Policy, 1000 Navy Pentagon, Washington, DC 20350.

Dated: December 18, 2017.

E.K. Baldini,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–27760 Filed 12–22–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0161]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS 2019) Main Study Recruitment and Field Test

AGENCY: National Center for Education Statistics (NCES), 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 January 25, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0161. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela at 202–245–7377.

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: Trends in International Mathematics and Science Study (TIMSS 2019) Main Study Recruitment and Field Test.

OMB Control Number: 1850–0695.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 40,666.

Total Estimated Number of Annual Burden Hours: 10,974.

Abstract: The Trends in Mathematics and Science Study (TIMSS) is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years. The United States will participate in TIMSS 2019 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement. New in 2019, TIMSS will be a technology-based assessment conducted in an electronic format. TIMSS is designed by the International Association for the Evaluation of Educational Achievement (IEA), and is conducted in the U.S. by the National Center for Education Statistics (NCES). In preparation for the TIMSS 2019 main study, in April-May 2017, U.S. participated in a pilot study to assist in the development of eTIMSS and, in March through April 2018, U.S. will participate in a field test to evaluate new assessment items and background questions. The TIMSS 2019 Main Study data collection will take place from April through May 2019, with recruitment beginning in spring 2018. This request is to conduct the TIMSS 2019 field test and to begin recruitment of schools, teachers, and students for the main study. In November 2017, NCES will submit a request for the TIMSS 2019 Main Study data collection.

Dated: December 20, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–27747 Filed 12–22–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, January 17, 2018, 4:00 p.m.

ADDRESSES: Beatty Community Center, 100 A Avenue South, Beatty, Nevada 89003.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–2025 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Committee Update for Community Interests Analysis—Work Plan Item #7
2. Briefing and Recommendation Development for Path Forward for Closed Environmental Restoration Sites at the Tonopah Test Range—Work Plan Item #1

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the

public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY18.html.*

Issued at Washington, DC, on December 20, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–27754 Filed 12–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, January 11, 2018, 6:00 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Greg Simonton, Alternate Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3737, *Greg.Simonton@lex.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda
- Approval of November 2017 Minutes
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaison's Comments
- Presentation
- Administrative Issues
- Subcommittee Updates
- Public Comments
- Final Comments from the Board
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Greg Simonton at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Greg Simonton at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Greg Simonton at the address and phone number listed above. Minutes will also be available at the following website: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC, on December 20, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–27756 Filed 12–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, January 24, 2018, 1:00 p.m.–5:15 p.m.

ADDRESSES: Ohkay Conference Center, Highway 68, 1 Mile North of Española, Ohkay Owingeh, New Mexico 87566.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Call to Order
- Welcome and Introductions
- Approval of Agenda and Meeting Minutes of November 15, 2017
- Old Business
  - Report from Chair
  - Other Items
- New Business
- Updates from EM Los Alamos Field Office
- Los Alamos County Update on Chromium Plume
- Break
- EM Presentation
- Public Comment Period
- Updates from New Mexico Environment Department
- Update from Co-Deputy Designated Federal Officer and Executive Director
- Wrap-Up Comments from NNMCAB Members
- Adjourn

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special

accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the internet at: *https://energy.gov/em/nnmcab/meeting-materials.*

Issued at Washington, DC, on December 20, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–27755 Filed 12–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–2–000]

Commission Information Collection Activities (Ferc–725y), Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the information collection FERC–725Y, Mandatory Reliability Standards (Personnel Performance, Training, and Qualifications), to the Office of Management and Budget (OMB) for review of the information collection requirements.

DATES: Comments in consideration of the collection of information are due February 26, 2018.

ADDRESSES: You may submit comments identified by Docket No. IC18–2–000 by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725Y, Mandatory Reliability Standard (Personnel Performance, Training, and Qualifications).

OMB Control No.: 1902–0279.

Type of Request: Three-year extension of the FERC–725Y information collection requirements with no changes to the reporting requirements.

Abstract: The FERC–725Y information collection is intended to help ensure the safe and reliable operation of the interconnected grid through the retention of suitably trained and qualified personnel in positions that can impact the reliable operation of the Bulk-Power System. The Commission uses the FERC–725Y to implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. FERC–725Y will ensure that personnel performing or supporting real-time operations on the Bulk Electric System (BES) are trained using a systematic approach. The Reliability Standard requires entities to maintain records subject to review by the Commission and NERC to ensure compliance with the Reliability Standard.

The Reliability Standard requires entities to maintain records subject to review by the Commission and NERC to ensure compliance with the Reliability Standard. This Reliability Standard contains of six Requirements:

- R1 requires reliability coordinators, balancing authorities, and transmission operators to develop and implement a training program for system operators
- R2 requires transmission owners to develop and implement a training program for system operators
- R3 requires reliability coordinators, balancing authorities, transmission operators and transmission owners to verify the capabilities of their identified personnel
- R4 requires reliability coordinators, balancing authorities, transmission operators and transmission owners to provide those personnel with emergency operations training using simulation technology
- R5 requires reliability coordinators, balancing authorities, and transmission operators to develop and implement training for their operations support personnel
- R6 requires applicable generator operators to develop and implement training for certain of their dispatch personnel at a centrally located dispatch center.

Type of Respondents: Reliability coordinators, balancing authorities, transmission operators, transmission owners, and generator owners.

Estimate of Annual Burden:[1] Our estimate below regarding the number of respondents is based on the NERC compliance registry as of September 29, 2017. According to the NERC compliance registry, NERC has registered 176 transmission operators, 331 transmission owners and 890 generator operators.

The Commission estimates the additional annual reporting burden and cost as follows:

[1] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–725Y IN DOCKET NO. IC18–2–000

	Number and type of respondents [2] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response [3] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent (5) ÷ (1)
Annual Evaluation and Update of Training Program and Task List.	TO (331), GOP (890).	1	[4] 1,064	6 hrs., $408.72	6,384 hrs., $434,878	$68.12
Retention of Records	TO (331), GOP (890).	1	[4] 1,064	10 hrs., $408.90	10,640 hrs., $435,070	40.89
Verification and Retention of Evidence of capabilities of personnel [R3, M3, C1.2], and Creation and Retention of Records on Simulation Training.	TO (331)	1	331	10 hrs., $408.90	3,310 hrs., $135,346	40.89
Total					20,334 hrs.; $1,005,294	

[2] TO=Transmission Owner; RC=Reliability Coordinator; BA=Balancing Authority; TOP=Transmission Operator; GOP=Generator Operator.
[3] The estimates for cost per response are loaded hourly wage figure (includes benefits) is based on the average of three occupational categories for 2016 found on the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*): Electrical Engineer (Occupational Code: 17–2071): $68.12; Office and Administrative Support (Occupation Code: 43–0000): $40.89.
[4] Some transmission owners are also generator operators. To eliminate double counting some entities, this figure reflects the number of unique entities (1064) within the group of TOs and GOPs. That approach is used throughout the table.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27731 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revocation of Market-Based Rate Tariff

	Docket Nos.
Electric Quarterly Reports	ER02–2001–020
Niagara Generation, LLC	ER10–3154–000
C2K Energy, LLC	ER14–1751–001
Castlebridge Energy Group LLC	ER11–4629–000
Intercom Energy, Inc.	ER11–125–000
Chesapeake Renewable Energy LLC.	ER13–28–001

On November 20, 2017, the Commission issued an order announcing its intent to revoke the market-based rate authority of the public utilities listed in the caption of that order, which had failed to file their required Electric Quarterly Reports.[1] The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[2]

The time period for compliance with the November 20 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes the market-based rate authority and terminates the electric market-based rate tariff of each of the companies who are named in the caption of this order.

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27730 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

[1] *Electric Quarterly Reports,* 161 FERC ¶ 61,208 (2017) (November 20 Order).

[2] *Id.* at Ordering Paragraph A.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–25–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on December 8, 2017, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in Docket No. CP18–25–000 a prior notice request pursuant to sections 157.205 and 157.213(b) of the Commission's regulations under the Natural Gas Act (NGA), as amended, requesting authorization to construct and operate one new horizontal storage well (Donegal Storage Well 12618), approximately 703 feet of eight-inch-diameter of related pipeline, and appurtenances at its existing Donegal Storage Field in Washington County, Pennsylvania. Columbia proposes to construct Donegal Storage Well 12618 in lieu of multiple well recompletions and stimulations. Columbia states that Donegal Storage Well 12618 could provide 15 million cubic feet per day or more during a design flow day, dependent on certain parameters. Columbia estimates the cost of the project to be approximately $3,300,000. Columbia avers that there will be no change in the certificated physical parameters of the Donegal Storage Field, including maximum reservoir pressure, reservoir and buffer boundaries, and certificated storage capacity as a result of the proposal, all as more fully set

forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Robert D. Jackson, Manager, Certificates & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, by telephone at (832) 320–5487, by fax at (832) 320–6487, or by email at *robert_jackson@transcanada.com*.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: December 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27734 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD18–4–000]

Wallowa Resources Community Solutions Inc.; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On December 11, 2017, Wallowa Resources Community Solutions Inc. filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Triple Creek Ranch Hydro Station Project would have an installed capacity of 85 kilowatts (kW), and would be located along the 18-inch-diameter Triple Creek Ranch irrigation pipeline. The project would be located near the Town of Joseph in Wallowa County, Oregon.

Applicant Contact: Kyle Petrocine, Wallowa Resources Community Solutions Inc., 401 NE First Street, Enterprise, OR 97828; Phone No. (541) 426–8053.

FERC Contact: Robert Bell, Phone No. (202) 502–6062; Email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A new generating unit, having a generating capacity of 85 kW, housed in a new 13-foot by 17-foot powerhouse, connected to the existing 18-inch-diameter Triple Creek Ranch irrigation pipeline, and (2) appurtenant facilities. The proposed project would have an estimated annual generation of 153 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ..	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY—Continued

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed hydroelectric project will utilize an existing irrigation pipeline, the primary purpose of which is to irrigate Triple Creek Ranch's farm. The addition of the Triple Creek Ranch Hydro Station Project will not alter the conduit's primary purpose. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY or MOTION TO INTERVENE, as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*i.e.,* CD18–4) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27728 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2017).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17–15–000]

Commission Information Collection Activities (FERC–505 and FERC–512); Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of information collections, FERC–505 (Small Hydropower Projects and Conduit Facilities including License/Relicense, Exemption and Qualifying Conduit Facility Determination) and FERC–512 (Preliminary Permit) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission published a 60-day Notice in the **Federal Register** in Docket No. IC17–15–000, (82 FR 46231, 10/04/2017) requesting public comments. FERC received no comments in response to the Notice and is indicating that in its submittals to the OMB.

DATES: Comments on the collections of information are due January 25, 2018.

ADDRESSES: Comments filed with OMB, identified by OMB Control Nos. 1902–0115 and 1902–0073, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710. A copy of the comments should also be sent to the Commission, in Docket No. IC17–15–000 by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket

may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Type of Request: Three-year approval of the FERC–505 and FERC–512 information collection requirements with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Title: FERC–505, Small Hydropower Projects and Conduit Facilities including License/Relicense, Exemption, and Qualifying Conduit Facility Determination.

OMB Control No.: 1902–0115.

Abstract: The Hydropower Efficiency Act amended statutory provisions pertaining to preliminary permits and to projects that are exempt from certain licensing requirements under the Federal Power Act (FPA) in order to reduce cost and regulatory burden, and in turn, promote hydropower development. Specifically, the Hydropower Efficiency Act gave the Commission authority to extend a preliminary permit once for not more than two additional years without requiring the permittee to apply for a successive preliminary permit. The Hydropower Efficiency Act also expanded the number of projects that may qualify for exemptions from certain licensing requirements under the FPA (*i.e.,* small conduit hydroelectric facilities or small hydroelectric power projects), and allowed other projects to qualify to operate without Commission oversight (*i.e.,* qualifying conduit hydropower facilities). While the Commission-approved revised regulations formally implement the Hydropower Efficiency Act, the Commission has complied with the Act since its enactment.

Type of Respondents: Businesses or other for-profit and not-for-profit institutions.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–505 (SMALL HYDROPOWER PROJECTS AND CONDUIT FACILITIES INCLUDING LICENSE/RELICENSE, EXEMPTION, AND QUALIFYING CONDUIT FACILITY DETERMINATION)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response (4)	Total annual burden and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
FERC–505	16	1	16	273 hrs.; $20,884.50	4,368 hrs.; $334,152	20,884.50

Title: FERC–512, Preliminary Permit.

OMB Control No.: 1902–0073.

Abstract: The information collected under the requirements of FERC–512, is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA) 16 U.S.C. The purpose of obtaining a preliminary permit is to maintain priority of the application for a license for a hydropower facility while the applicant conducts surveys to prepare maps, plans, specifications and estimates; conducts engineering, economic and environmental feasibility studies; and made financial arrangements. The conditions under which the priority will be maintained are set forth in each permit.

Type of Respondent: Businesses or other for-profit and not-for-profit institutions.

Estimate of Annual Burden:[1] The Commission estimates the annual public reporting burden for the information collection as:

FERC–512 (PRELIMINARY PERMIT)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
FERC–512	50	1	50	24 hrs.; $1,836	1,200 hrs.; $91,800	1,836

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection;

[1] Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[2] Subject matter experts found that industry employment costs closely resemble FERC's wage average wage figure. FERC's 2017 average annual salary plus benefits per FTE (full-time equivalent) is $158,754 (or $76.50 per hour).

and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27736 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–3–000]

Commission Information Collection Activities (FERC–725F); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC 725F (Mandatory Reliability Standard for Nuclear Plant Interface Coordination).

DATES: Comments on the collection of information are due February 26, 2018.

ADDRESSES: You may submit comments (identified by Docket No. IC18–3–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC 725F, Mandatory Reliability Standard for Nuclear Plant Interface Coordination.

OMB Control No.: 1902–0249.

Type of Request: Three-year extension of the FERC–725F information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission requires the information collected by the FERC–725F to implement the statutory provisions of section 215 of the Federal Power Act (FPA) (16 U.S.C. 824o). On August 8, 2005, the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.[1] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[2]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[3] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO. The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On November 19, 2007, NERC filed its petition for Commission approval of the Nuclear Plant Interface Coordination Reliability Standard, designated NUC–001–1. In Order No. 716, issued October 16, 2008, the Commission approved the standard while also directing certain revisions.[4] Revised Reliability Standard, NUC–001–2, was filed with the Commission by NERC in August 2009 and subsequently approved by the Commission January 21, 2010.[5] On November 4, 2014, in Docket No. RD14–13, the Commission approved revised Reliability Standard NUC–001–3.[6]

The purpose of Reliability Standard NUC–001–3 is to require ''coordination between nuclear plant generator operators and transmission entities for the purpose of ensuring nuclear plant safe operation and shutdown.'' [7] The Nuclear Reliability Standard applies to nuclear plant generator operators (generally nuclear power plant owners and operators, including licensees) and ''transmission entities,'' defined in the Reliability Standard as including a nuclear plant's suppliers of off-site power and related transmission and distribution services. To account for the variations in nuclear plant design and grid interconnection characteristics, the Reliability Standard defines transmission entities as ''all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs),'' and lists eleven types of functional entities (heretofore described as ''transmission entities'') that could provide services related to NPIRs.[8]

FERC–725F information collection requirements include establishing and maintaining interface agreements, including record retention requirements. These agreements are not filed with FERC, but with the appropriate entities as established by the Reliability Standard.

Type of Respondent: Nuclear operators, nuclear plants, transmission entities.

Estimate of Annual Burden: [9] The Commission estimates the average annual burden and cost [10] for this information collection as follows.

[1] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o.

[2] 16 U.S.C. 824o(e)(3).

[3] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[4] *Mandatory Reliability Standard for Nuclear Plant Interface Coordination,* Order No. 716, 125 FERC ¶ 61,065, at P 189 & n.90 (2008), *order on reh'g,* Order No. 716–A, 126 FERC ¶ 61,122 (2009).

[5] *North American Electric Reliability Corporation,* 130 FERC ¶ 61,051 (2010). When the revised Reliability Standard was approved, the Commission did not go to OMB for approval. It is assumed that the changes made did not substantively affect the information collection and therefore a formal submission to OMB was not needed. The most recent OMB approval for FERC–725F was issued on 6/15/2015.

[6] The Letter Order is posted at *https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=13675845.*

[7] See Reliability Standard NUC–001–2 at *http://www.nerc.com/files/NUC-001-3.pdf.*

[8] The list of functional entities consists of transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators.

[9] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.

[10] The wage and benefit figures are based on the Bureau of Labor Statistics (BLS) data (at *https://www.bls.gov/oes/current/naics2_22.htm*) for May 2016 for Sector 22, Utilities. (The benefits figure is based on BLS data as of September 8, 2017, which

FERC–725F	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per response ($) (rounded) (4)	Total annual burden hours & total annual cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (rounded) *(5) ÷ (1)
New or Modifications to Existing Agreements (Reporting).	60 nuclear plants + 120 transmission entities [11].	2	360	66.67 hrs.; $5,616	24,001 hrs.; $2,021,621.	$11,231
New or Modifications to Existing Agreements (Record Keeping).	60 nuclear plants + 120 transmission entities.	2	360	6.67 hrs.; $218	2,401 hrs.; $78,615 ..	$437
Total	.....	.....	[12] 360	.....	26,402 hrs.; [13] $2,100,236.	.....

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27732 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–13–000]

Columbia Gas Transmission, LLC; Notice of Intent to Prepare an Environmental Assessment for the Proposed Line 8000 Replacement Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Line 8000 Replacement Project involving the abandonment, construction, and operation of facilities by Columbia Gas Transmission, LLC (Columbia) in Mineral County, West Virginia and Allegany County, Maryland. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before January 18, 2018.

If you sent comments on this project to the Commission before the opening of this docket on November 3, 2017, you will need to file those comments in Docket No. CP18–13–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Columbia provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff

indicates that wages are 69.6% and benefits are 30.4% of total salary (*http://www.bls.gov/news.release/ecec.nr0.htm*).)

The estimated hourly cost (for wages plus benefits) for reporting requirements is $84.23/hour, based on the average for an electrical engineer (occupation code 17–2071, $68.12/hour), legal (occupation code 23–0000, $143.68/hour), and office and administrative staff (occupation code 43–000, $40.89/hour).

The estimated hourly cost (wages plus benefits) for record keeping is $32.74/hour for a file clerk (occupation code 43–4071).

[11] This figure of 120 transmission entities is based on the assumption that each agreement will be between 1 nuclear plant and 2 transmission entities (60 × 2 = 120). However, there is some double counting in this figure because some transmission entities may be party to multiple agreements with multiple nuclear plants. The double counting does not affect the burden estimate, and the correct number of unique respondents will be reported to OMB.

[12] The 180 respondents affected by the reporting requirements are also affected by the recordkeeping requirements.

[13] The reporting requirements have not changed. The decrease in the number of respondents is due to: (a) Normal fluctuations in industry (*e.g.,* companies merging and splitting, and coming into and going out of business), and (b) no new agreements being issued due to the lack of new nuclear plants being developed.

available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18–13–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Columbia has developed a multi-year, comprehensive modernization program to address its aging infrastructure. As part of its modernization program, Columbia proposes to abandon and replace about 14 miles of pipeline along Line 8000 and four laterals [1] and abandon or modify associated minor aboveground facilities in Mineral County, West Virginia and Allegany County, Maryland. The Line 8000 Replacement Project would not increase capacity and would continue to serve the Maryland distribution markets. According to Columbia, by abandoning and replacing portions of the existing aging, bare steel pipeline, its project would increase system reliability, thereby greatly reducing the risk of interruptions to Columbia's customers.

The Line 8000 Replacement Project would consist of:

- Replacement of a total of approximately 13.25 miles of existing 12-inch-diameter bare steel pipeline, with approximately 13.54 miles of new, coated 12-inch-diameter natural gas transmission pipeline in five sections and four modification points along Line 8000 and Lateral Line 8006;
- replacement of a total of approximately 0.55 miles of existing 4-inch-diameter bare steel pipeline, with approximately 0.78 miles of new coated 4-inch-diameter natural gas transmission pipeline along three laterals (Lateral Lines 8225, 8244, and 18012);
- installation of two new pig [2] launcher and receiver sites and four new mainline valves associated with pipeline facilities;
- modifications/abandonment of four existing mainline valves and three existing side tap valve sites and modification of tie-ins at two regulator stations; and
- abandonment of 13 active residential taps and 109 inactive taps.

The general location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 288 acres of land for the pipelines and minor aboveground facilities. Following construction, Columbia would maintain about 71 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. Approximately 85 percent of the new Line 8000 pipeline would be co-located within the right-of-way of the existing Line 8000 pipeline (to be abandoned). Approximately 15 percent of the new Line 8000 pipeline would be located within a new right-of-way due to construction constraints that prevents co-location with the pipeline to be abandoned.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government

[1] A lateral is a segment of a pipeline that branches off the main or transmission line to transport the product to a termination point, such as a tank farm or a metering station.

[2] A pig is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's website. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP18–13). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27729 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

[6] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Petition for Declaratory Order

	Docket Nos.
Franklin Energy Storage One, LLC, Franklin Energy Storage Two, LLC, Franklin Energy Storage Three, LLC, Franklin Energy Storage Four, LLC.	EL18–50–000
Franklin Energy Storage One, LLC.	QF17–581–001
Franklin Energy Storage Two, LLC.	QF17–582–002
Franklin Energy Storage Three, LLC.	QF17–583–003
Franklin Energy Storage Four, LLC.	QF17–584–004

Take notice that on December 14, 2017, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Franklin Energy Storage One, LLC, Franklin Energy Storage Two, LLC, Franklin Energy Storage Three, LLC, and Franklin Energy Storage Four, LLC filed a petition for declaratory order finding that certain orders of the Idaho Public Utilities Commission are inconsistent with the Public Utilities Regulatory Policies act of 1978, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added

to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 16, 2018.

Dated: December 18, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27735 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 848–037–NV]

Wells Rural Electric Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Trout Creek Hydroelectric Project, located on Trout Creek in Elko County, near the Town of Wells, Nevada, and has prepared an Environmental Assessment (EA).

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–848–037.

For further information, contact Kelly Wolcott at (202) 502–6480 or *kelly.wolcott@ferc.gov.*

Dated: December 19, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27733 Filed 12–22–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9971–91–OCSPP]

Production of Confidential Business Information in Pending Litigation; Transfer of Information Claimed or Determined to Potentially Contain Confidential Business Information to the United States Department of Justice and Parties to Certain Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (''EPA'') is providing notice, of disclosure of potential confidential business information in litigation.

DATES: Access by U.S. Department of Justice (''DOJ'') and the parties to litigation to material, including CBI, discussed in this Notice, is ongoing and expected to continue during the litigation discussed in this Notice.

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

SUPPLEMENTARY INFORMATION: This notice is being provided, pursuant to 40 CFR 2.209(d), to inform affected businesses that the EPA, via the DOJ, has recently disclosed documents to the parties and the Court in the matter of *National Family Farm Coalition, et al.* v. *U.S. Environmental Protection Agency and Scott Pruitt,* Case No. 17–70196 (9th Cir.) (the ''Dicamba Litigation''), and in the consolidated matters of *National Family Farm Coalition, et al.* v. *U.S. Environmental Protection Agency and Scott Pruitt,* Case No. 17–70810 (9th Cir.) and *Natural Resources Defense Council* v. *Scott Pruitt and U.S. Environmental Protection Agency,* Case No. 17–70817 (9th Cir.) (the ''Enlist Duo Litigation''), that have been submitted to EPA by pesticide registrants or other data-submitters and that have been claimed to be, or have been determined to potentially contain, confidential business information (collectively ''CBI'').

In the ''Dicamba Litigation,'' Petitioners seek judicial review of EPA's order granting a conditional pesticide registration under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA'') for the new uses of the herbicide dicamba on genetically engineered cotton and soybean. In the ''Enlist Duo Litigation,'' Petitioners seek judicial review of EPA's order granting a conditional pesticide registration under FIFRA of the herbicide ''Enlist Duo,'' containing the active ingredients 2,4-dichlorophenoxyacetic acid choline salt (''2,4-D'') and glyphosate dimethylammonium salt (''glyphosate'').

The documents are being produced as part of the Administrative Records of the decisions at issue and include documents that registrants or other data-submitters may have submitted to EPA regarding the pesticides dicamba, 2,4-D, and/or glyphosate, and that may be subject to various release restrictions under federal law. The information includes documents submitted with pesticide registration applications and may include CBI as well as scientific studies subject to the disclosure restrictions of section 10(g) of FIFRA, 7 U.S.C. 136h(d).

All documents that may be subject to release restrictions under federal law are designated as ''Confidential or Restricted Information'' under Protective Orders that the Court entered on November 8, 2017 in both cases (Dkt. 61–2 in the Dicamba Litigation; Dkt. 55–2 in the Enlist Duo Litigation). The Protective Orders preclude public disclosure of any such documents by the parties in this action who have received the information from EPA, unless a party successfully obtains a de-designation as Confidential or Restricted Information of any portion of the Administrative Record via the procedure described in paragraph 6 of the Protective Orders, and limits the use of such documents to litigation

purposes only. Further, paragraph 6(h) of the Protective Orders states: ''At any time, the court may de-designate any portion of the administrative record without advanced notice to the parties.'' If filed with the Court, such documents would be filed under seal and would not be available for public review, unless the information contained in the document has been determined to not be subject to section 10(g) of FIFRA and all CBI has been redacted. At the conclusion of the litigation, the Protective Orders require that record material EPA designates as ''Confidential or Restricted Information'' be destroyed or returned to EPA.

Dated: December 7, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017–27814 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9970–72–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of New Mexico's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA approves of State of New Mexico's authorized program revisions/modifications as of December 26, 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 November 3, 2017, the New Mexico Environment Department (NMED) submitted an application titled ''Secure Extranet Portal'' for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed NMED's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications 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 New Mexico's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 50–52, 60, 61, 63–65, and 70 is being published in the **Federal Register:**

Part 52—Approval and Promulgation of Implementation Plans;

Part 60—Standards of Performance for New Stationary Sources;

Part 63—National Emission Standards for Hazardous Air Pollutants for Source Categories; and

Part 70—State Operating Permit Programs.

NMED was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Matthew Leopard,

Director, Office of Information Management.

[FR Doc. 2017–27770 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0466; FRL–9971–10]

Product Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1A, Table 1B and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows an October 3, 2017 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of these product registrations. The cancellations of products listed in Table 1B would terminate the last Spirodiclofen products registered for use in the United States. In the October 3, 2017 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received 5 comments on the notice but none merited its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are applicable December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0466, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a).

These registrations are listed in sequence by registration number in Tables 1A, 1B and 2 of this unit.

TABLE 1A—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredient
211–25	211	Pheno Cen Germicidal Detergent	Potassium 2-benzyl-4-chlorophenate; o-Phenylphenol, potassium salt; & p-tert-Amylphenol, potassium salt.
211–32	211	Pheno-Cen Spray Disinfectant/Deodorant.	Ethanol; & o-Phenylphenol (NO INERT USE).
211–36	211	Tri-Cen	Sodium 2-benzyl-4-chlorophenate; o-Phenylphenol, sodium salt; & p-tert-Amylphenol, sodium salt.
211–62	211	Low PH Phenolic 256	2-Benzyl-4-chlorophenol; & o-Phenylphenol (NO INERT USE).
769–989	769	AllPro Mosquito Barrier Spray	Permethrin.
875–183	875	Divosan MH	Iodine.
1677–22	1677	Mikroklene	Oxirane, methyl-, polymer with oxirane, monobutyl ether, compound with iodine; & Phosphoric acid.
1677–58	1677	Mikroklene DF	Oxirane, methyl-, polymer with oxirane, monobutyl ether, compound with iodine; & Phosphoric acid.
1677–89	1677	Bac-Flush	Iodine; & Phosphoric acid.
2217–617	2217	Garden Weeder	DCPA (or chlorthal-dimethyl?).
3862–18	3862	Germ-I-San	Nonylphenoxypolyethoxyethanol-iodine complex; & Phosphoric acid.
4787–40	4787	Chlorpyrifos Technical	Chlorpyrifos.
4787–41	4787	Nufos Technical	Chlorpyrifos.
4787–51	4787	Cheminova Abamectin Technical	Abamectin.
4787–62	4787	Chlorpyrifos Technical II	Chlorpyrifos.
5383–114	5383	Polyphase HS32	Propiconazole; & Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
5383–120	5383	Polyphase Micro HS30	Propiconazole; & Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
7616–81	7616	Kem Tek Spa Kem Floating Brominator.	Bromochloro-5-ethyl-5-methyl-2,4-imidazolidinedione.
9480–7	9480	Sani-Wipe	Isopropyl alcohol; & Alkyl * dimethyl benzyl ammonium chloride.* (67% C_{12}, 25% C_{14}, 7% C_{16}, 1% C_8, C_{10}, and C_{18}).
9688–127	9688	Chemsico Total Release Fogger K	MGK 264; Pyrethrins; & Piperonyl butoxide.
10088–23	10088	Spa Concentrated Swimming Pool Algaecide-Pool Side Surface Germicide.	Alkyl * dimethyl benzyl ammonium chloride. * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}); & Alkyl * dimethyl ethylbenzyl ammonium chloride * (68% C_{12}, 32% C_{14}).
10088–29	10088	CD Cleaner Disinfectant Deodorizer Fungicide.	Alkyl * dimethyl benzyl ammonium chloride. * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}); & Alkyl * dimethyl ethylbenzyl ammonium chloride * (68% C_{12}, 32% C_{14}).
10088–42	10088	10% Liquid Sanitizer Disinfectant	Alkyl * dimethyl benzyl ammonium chloride. * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}); & Alkyl * dimethyl ethylbenzyl ammonium chloride * (68% C_{12}, 32% C_{14}).
10088–52	10088	Lemon Scented Disinfectant Cleaner.	Alkyl * dimethyl benzyl ammonium chloride. * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}); & Alkyl * dimethyl ethylbenzyl ammonium chloride * (68% C_{12}, 32% C_{14}).
10088–103	10088	A-Plus Germicidal Spray & Wipe Cleaner.	Alkyl * dimethyl benzyl ammonium chloride. * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}); & Alkyl * dimethyl ethylbenzyl ammonium chloride * (68% C_{12}, 32% C_{14}).
10088–104	10088	Mis-Tery Household Disinfectant and Deodorizer Spray.	Ethanol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
10088–105	10088	C-Spray Disinfectant Deodorant	Ethanol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
10163–185	10163	Prokil Cryolite WDG	Cryolite.
10324–130	10324	Maquat MC1416–10% CTP	Alkyl * dimethyl benzyl ammonium chloride * (60% C_{14}, 30% C_{16}, 5% C_{18}, 5% C_{12}).
33955–474	33955	Acme Garden Weed Preventer Granules.	DCPA (or chlorthal-dimethyl?).
33955–509	33955	Acme Garden Weed Preventer Spray.	DCPA (or chlorthal-dimethyl?).

TABLE 1A—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredient
34810–8	34810	Wex-Cide Concentrated Germicidal Detergent.	2-Benzyl-4-chlorophenol; & o-Phenylphenol (NO INERT USE).
39039–15	39039	Y-Tex Co-Ral Livestock Dust	Coumaphos.
39444–9	39444	Micropur MP	Silver.
47000–91	47000	TR–1 Total Release Fogger	MGK 264; Pyrethrins; & Permethrin.
47000–95	47000	Fly Bomb 5–1–1	MGK 264; Pyrethrins; & Piperonyl butoxide.
47000–144	47000	Co-Ral Coumaphos 25% Dust Base	Coumaphos.
51147–5	51147	Benzyl Benzoate	Benylate.
53345–3	53345	Ercocide C	Sodium chlorate.
53345–4	53345	Ercocide S	Sodium chlorate.
59820–5	59820	Benzyl Benzoate Miticide Technical	Benylate.
70385–7	70385	Clean Carpet Sanitizer	2-Benzyl-4-chlorophenol; 4-tert-Amylphenol; & o-Phenylphenol (NO INERT USE).
CA–120002	100	Heritage Fungicide	Azoxystrobin.
NJ–980001	70506	Ziram 76DF Fungicide	Ziram.
WA–090014	71297	AFxRD–038	1-Methylcyclopropene.

TABLE 1B—SPIRODICLOFEN PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active Ingredient
264–830	264	Spirodiclofen Technical	Spirodiclofen.
264–831	264	Envidor 2 SC	Spirodiclofen.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
264–718	264	Spiromesifen Technical.	Spiromesifen	Succulent shelled, edible-podded & dry shelled beans; & bulb vegetables (crop group 3–07).
400–577	400	Belmont 2.7 FS	Metalaxyl	Seed Treatment Uses: Canola, mustard seed, rapeseed. Cucurbit Vegetables: Chayote (fruit), Chinese waxgourd, citron melon, gherkin, edible gourd (includes hyotan, cucuzza, Chinese okra, and hechima), momordica spp. (includes balsam apple, balsam pear, bitter melon, Chinese cucumber), muskmelon (includes true cantaloupe, cantaloupe, casaba, crenshaw melon, golden pershaw melon, honeydew melon, honey balls, mango melon, Persian melon, pineapple melon, Santa Claus melon, and snake melon), pumpkin, summer squash (includes crookneck squash, scallop squash, straightneck squash, vegetable marrow, zucchini), winter squash (includes butternut squash, calabaza, hubbard squash), cucumis mixtar, cucumis pepo (includes acorn squash, spaghetti squash), watermelon (includes hybrids and/or varieties of citrullus lanatus). Leafy Vegetables: Amaranth (leafy, Chinese spinach**, tampala), cardoon, celery (including Chinese), celtuce, chervil, chrysanthemum (edible-leaved and garland), corn salad, cress (garden and upland), dandelion, dock, endive, fennel (finochio), lettuce (head and leaf), orach, parsley, purslane (garden and winter), radicchio, rhubarb, and Swiss chard. Brassica (cole) Head, Stem and Leafy Vegetables: Broccoli (including Chinese and raab), Brussels sprouts, cabbage (including Chinese bok choy, Chinese napa and mustard), cauliflower, cavalo broccoli, collards, kale, kohlrabi, mizuna, mustard greens, mustard spinach, and rape greens. Fruiting Vegetables: Eggplant, groundcherry, pepino, pepper (including bell pepper, chili pepper, cooking pepper, pimento, sweet pepper), tomatillo, and tomato. Onions (dry bulb and green): Root and Tuber Vegetables: Arracacha, arrowroot, artichoke (Chinese and Jerusalem), burdock (edible), canna (edible), cassava (bitter and sweet), celery root, chayote, chervil, chicory, chufa, dasheen, ginger, ginseng, horseradish, leren, parsley (turnip-rooted), parsnip, radish (includes oriental dalkon), rutabaga, salsify (includes black and Spanish), skirret, sweet potato, tanier, turmeric, turnip, yam bean (jicama, manioc pea), yam.
5383–104	5383	Troy Mergal K14	5-Chloro-2-methyl-3(2H)-isothiazolone; & 2-Methyl-3(2H)-isothiazolone.	Metal working fluids.
10807–199	10807	Misty Dualcide P3 RTU.	Permethrin	Adult mosquito control section.
19713–156	19713	Drexel Captan 4L Fungicide.	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–235	19713	Drexel Captan 50W	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES—Continued

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
19713–258	19713	Drexel Captan Technical.	Captan	Turf (golf courses), sod farms, soil seedbeds and greenhouse bench treatments.
19713–268	19713	Drexel Kaptan 50W	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–362	19713	Drexel 80% Captan	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–385	19713	Drexel 80% Kaptan	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–405	19713	Drexel Captan 80 EDF.	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–500	19713	Drexel Captan Technical Two.	Captan	Seedbeds and greenhouse bench treatments.
19713–631	19713	Drexel Captan Technical 97%.	Captan	Turf (golf courses), sod farms, soil seedbeds and greenhouse bench treatments.
19713–644	19713	DCC Captan 4L (Alternate name: Captan 4L).	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–646	19713	Drexel Captan 50W Fungicide.	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
19713–652	19713	Drexel Captan 80 WDG.	Captan	Turf, sod farm, golf course, lawn seedbed, soil and greenhouse bench treatment.
33658–33	33658	Reality Termiticide/ Insecticide.	Permethrin	Agricultural crop use directions section.
34704–427	34704	Captan 50–W	Captan	Soil and greenhouse bench treatment.
34704–1075	34704	Captan 80 WDG	Captan	Grasses (ornamental in non-pastured areas)/turf (golf course), (lawn seedbeds)/turf (sod farms), soil and greenhouse bench treatment.
34704–1076	34704	Captan 4L	Captan	Grasses (ornamentals in non-pastured areas and lawn seedbeds), soil, and greenhouse bench treatment.
42750–145	42750	Imazethapyr TGAI	Imazethapyr	Clearfield rice.
42750–146	42750	Imazeth 2SC	Imazethapyr, ammonium salt	Clearfield rice.
64321–1	64321	Bio Kill Brand Insecticide.	Permethrin	Food crops.
66675–3	66675	CS 2005—(Magna-Bon. Bahama Klear)-Alternate.	Copper sulfate pentahydrate	Swimming pool, outdoor hot tub and spa usages, and post-harvest fruit and vegetable wash.
91232–3	91232	FD Tebuconazole 3.6F.	Tebuconazole	Seed treatment use on corn.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1A, Table 1B and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1A, Table 1B and Table 2 of this unit.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
211	Central Solutions, Inc., 401 Funston Road, Kansas City, KS 66115.
264	Bayer CropScience, LP, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
400	MacDermid Agricultural Solutions, Inc., C/O Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
769	Value Gardens Supply, LLC, D/B/A Value Garden Supply, Agent Name: JM Specialty Consulting, LLC, 44 Pine Lane Ranch Road, Laurel, MS 39443.
875	Diversey, Inc., 1410 Newman Road, Racine, WI 53406.
1677	Ecolab, Inc., 1 Ecolab Place, St. Paul, MN 55102.
2217	PBI/Gordon Corp., 1217 West 12th Street, P.O. Box 014090, Kansas City, MO 64101–0090.
3862	ABC Compounding Co., Inc., P.O. Box 80729, Conyers, GA 30013.
4787	Cheminova A/S, Agent Name: FMC Corporation, 1735 Market Street, Room 1971, Philadelphia, PA 19103.
5383	Troy Chemical Corporation, Agent Name: Troy Corporation, 8 Vreeland Road, Florham Park, NJ 07932.
7616	Kik Pool Additives, Inc., Agent Name: Delta Analytical Corporation, 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
9480	Professional Disposables International, Inc., Agent Name: Delta Analytical Corp., 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904.
9688	Chemsico, A Division of United Industries Corp., P.O. Box 142642, St. Louis, MO 63114–0642.
10088	Athea Laboratories, Inc., P.O. Box 240014, Milwaukee, WI 53224.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
10324	Mason Chemical Company, 723 W. Algonquin Rd., Suite B, Arlington Heights, IL 60005.
10807	Amrep, Inc., Agent Name: Zep, Inc. C/O Compliance Services, 1259 Seabord Industrial Blvd., NW, Atlanta, GA 30318.
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327.
33658	Gharda Chemicals Limited, Agent Name: IPM Resources, LLC, 4032 Crockers Lake Blvd., Ste. 818, Sarasota, FL 34238.
33955	PBI/Gordon Corp., 1217 West 12th Street, P.O. Box 014090, Kansas City, MO 64101–0090.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
34810	Wexford Labs, Inc., 325 Leffingwell Ave., Kirkwood, MI 63122.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
39039	Y-Tex Corporation, 1825 Big Horn Avenue, Cody, WY 82414.
39444	Katadyn Produkte, D/B/A Katadyn Products, Inc., Agent Name: Regwest Company, LLC, 8203 West 20th Street, Suite A, Greeley, CO 80634–4696.
42750	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604–2127.
47000	Chem-Tech, Ltd., 110 Hopkins Drive, Randolph, WI 53956.
51147	Vertellus, LLC, 201 N. Illinois Street, Suite 1800, Indianapolis, IN 46204.
53345	Erco Worldwide, Agent Name: Lewis & Harrison, LLC, 122 C Street NW, Suite 505, Washington, DC 20001.
59820	Allergopharma Joachim, Agent Name: Brazos Associates, Inc., 621 West 4th Street, Cordell, OK 73632.
64321	Jesmond Holding AG, Agent Name: Registrations by Design, Inc., P.O. Box 1019, Salem, VA 24153–3805.
66675	Magna-Bon II, LLC, 1531 NW 25th Drive, Okeechobee, FL 34972.
70385	ProRestore Products, Agent Name: Lewis & Harrison, LLC, 122 C Street NW, Suite 505, Washington, DC 20001.
70506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
71297	AgroFresh, Inc., 400 Arcola Road, P.O. Box 7000, Collegeville, PA 19426.
91232	Fengdeng USA, Inc., 123 Cornell Road, Bala Cynwyd, PA 19004.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided EPA received 5 general comments, 3 specifically concerning the chemical, Chlorpyrifos. The Agency does not believe that the comments submitted during the comment period merits further review or the denial of the requests for the voluntary cancellations of products listed in Table 1A and Table 1B of Unit II or the requests for the amendments to terminate uses in Table 2 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1A, 1B and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1A, 1B and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice is December 26, 2017. Any distribution, sale, or use of existing stocks of the products identified in Tables 1A, 1B and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of October 3, 2017 (82 FR 46052) (FRL–9966–85). The comment period closed on November 2, 2017.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

A. For Products 211–25, 211–32, 211–36, 211–62 and 34810–8

The registrant has requested to the Agency via letter to sell existing stocks for an 18-month period for products 211–25, 211–32, 211–36, 211–62 and 34810–8.

B. For the Products Listed in Table 1b, 264–830 and 264–831

As there are no risk concerns for these products, after December 31, 2020, the registrant will be prohibited from producing, selling, or distributing existing stocks of products containing Spirodiclofen.

C. For Products 47000–91, 47000–95 and 47000–144

The registrant has requested to the Agency via letter to manufacture and/or distribute existing stocks for a 24-month period starting the date of the request which was April 25, 2017 for products 47000–91 and 47000–95, and June 28, 2017 for product 47000–144.

For all other voluntary product cancellations identified in Table 1A of Unit II, the registrants may continue to sell and distribute existing stocks of the products listed in Table 1A until December 26, 2018, which is December 26, 2018 .

Thereafter, the registrants are prohibited from selling or distributing the products listed in Table 1A of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses for the products listed in Table 2 of Unit II, registrants are permitted to sell or distribute the products listed in Table 2 of Unit II, under the previously approved labeling until June 26, 2019, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 5, 2017.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–27811 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0663; FRL–9963–71]

Registration Review; Biopesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this document, EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before February 26, 2018.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address*: BPPDFRNotices@epa.gov.* Also include the docket ID number listed in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; email address: *costello.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136a(g)) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the Agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE 1—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.
Black Pepper (Case Number 6004)	EPA–HQ–OPP–2017–0262
2-Butanone, 4(4-(acetyloxy)phenyl)-,acetate (Cuelure) (Case Number 6201)	EPA–HQ–OPP–2017–0221
Diallyl Sulfides (DADs) (Case Number 6069)	EPA–HQ–OPP–2017–0325
German Cockroach Pheromone (Case Number 6023)	EPA–HQ–OPP–2017–0261
(3S,6S) & (3S,6R)-3-methyl-6- isopropenyl-9-decen-1-yl-acetate (Methyl Isopropenyl) (Case Number 6090)	EPA–HQ–OPP–2017–0253
Citronellol (Case Number 6086)	EPA–HQ–OPP–2017–0250
Yeast Extract Hydrolysate (Case Number 6081)	EPA–HQ–OPP–2017–0282
Quinoa Saponins (Case Number 6200)	EPA–HQ–OPP–2017–0274
Quillaja Extract (Quillaja Saponaria) (Case Number 6512)	EPA–HQ–OPP–2017–0230
Rhamnolipid Biosurfactant (Case Number 6085)	EPA–HQ–OPP–2017–0275
Sodium Percarbonate (Case Number 6059)	EPA–HQ–OPP–2017–0354
Fatty Acid Monoesters (Case Number 6016)	EPA–HQ–OPP–2017–0353
Potassium silicate (Case Number 6204)	EPA–HQ–OPP–2017–0329
Salicylic acid and Methyl Salicylate (Case Number 4080)	EPA–HQ–OPP–2017–0328
Anthraquinone (Case Number 6054)	EPA–HQ–OPP–2017–0326
Pantoea agglomerans (Case Numbers 6506 and 6507)	EPA–HQ–OPP–2016–0685
Pythium oligandrum DV74 (Case Number 6511)	EPA–HQ–OPP–2017–0393

This document also announces the Agency's intent not to open registration review dockets for Fish Oils (case #6078), *Muscodor albus* QST 20799 (case #6303), and Sodium Silver Thiosulfate (case #6037). These pesticides do not currently have any registered pesticide products and are not, therefore, scheduled for review under the registration review program.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.* Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review.*

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 6, 2017.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2017–27812 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0332; FRL–9972–13–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR)—NSPS for Small Industrial-Commercial-Institutional Steam Generating Units, EPA ICR Number 1564.10, OMB Control Number 2060–0202—to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is

currently approved through December 31, 2017. Public comments were previously requested via the **Federal Register** (82 FR 29552) on June 29, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 25, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0332, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subpart Dc. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form numbers: None.

Respondents/affected entities: Industrial-commercial-institutional steam generating units with maximum design heat input capacity of 29 megawatts (MW) or less, but greater than or equal to 2.9 MW.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart Dc).

Estimated number of respondents: 301 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 205,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $33,300,000 (per year), which includes $11,800,000 for both annualized capital and operation & maintenance costs.

Changes in the estimates: There is an adjustment increase in the respondent burden, labor costs, and capital/O&M cost from the most-recently approved ICR. This increase is not due to any program changes. The change in burden and costs is due to an increase in the number of new or modified sources. This ICR assumes an industry growth rate of 11 respondents per year, which results in an increase of 33 respondents since the last ICR renewal period. The industry growth also results in an increase in O&M costs.

Courtney Kerwin,

Director, Regulator Support Division.

[FR Doc. 2017–27771 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0326; FRL–9970–31–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Asphalt Processing and Roofing Manufacture (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Asphalt Processing and Roofing Manufacture (40 CFR part 60, subpart UU) (Renewal), EPA ICR Number 0661.12, OMB Control Number. 2060–0002, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. Public comments were previously requested via the **Federal Register** (82 FR 29552) on June 29, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor and a person is not required to respond to, any collection of information unless it displays a currently-valid OMB control number.

DATES: Additional comments may be submitted on or before January 25, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0326, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's

public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of facilities subject the NSPS for Asphalt Processing and Roofing Manufacture are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subpart UU. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with these standards.

Form Numbers: None.

Respondents/Affected Entities: Asphalt processing and roofing manufacture plants.

Respondent's Obligation To Respond: Mandatory (40 CFR part 60, subpart UU).

Estimated Number of Respondents: 144 (total).

Frequency of Response: Initially, occasionally, and semiannually.

Total Estimated Burden: 34,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total Estimated Cost: $8,820,000 (per year), which includes $5,240,000 for both annualized capital/startup and operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the respondent labor hours as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates occurred due to a change in assumption. In accordance with the Terms of Clearance, this ICR assumes all existing respondents will have to familiarize with the regulatory requirements each year.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–27706 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0007; FRL–9970–48]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before January 25, 2018.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as show in the body of this document, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.,* Michael Goodis, Registration Division (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Active Ingredients

1. *File Symbol:* 264–RROU, 264–RROE, 264–RROG, 432–RLOE, 432–RLOL, 432–RLOR, 432–RLOU, 279–GAEG, 279–GAEL, 279–GAEU. *Docket ID number:* EPA–HQ–OPP–2017–0233. *Applicant:* Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709; FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. *Product name:* Tetraniliprole Technical, Tetraniliprole ST 480FS, Tetraniliprole SC 200 Insecticide ML, Tetraniliprole 200 SC Insecticide B, Tetraniliprole 200 SC Insecticide A, Tetraniliprole 43 SC Insecticide B, Tetraniliprole 43 SC Insecticide A, F4260–1 Insecticide, F4260–7 Insecticide, F4260–3 Insecticide. *Active ingredient:* Tetraniliprole at 96.77%, 45.1%,

18.18%, 18.18%, 18.18%, 4.07%, 4.07%, 18.18%, 19.75%, 4.41%. *Proposed use:* Tuberous and corm vegetables, crop group 1C; leafy vegetables, crop group 4–16; brassica head and stem vegetables, crop group 5–16; fruiting vegetables, crop group 8–10 (including okra); citrus crop group 10–10; pome fruit, crop group 11–10; stone fruit, crop group 12–12; small fruit, vine climbing subgroup, except fuzzy kiwi, crop subgroup 13–07F; tobacco; tree nuts, crop group 14–12; corn, field, grain; corn, field, forage; corn, pop, grain; corn, sweet, forage; corn, seed treatment; cottonseed, crop group 20C; soybean seed; soybean hulls; soybean forage; turf, sod farms, golf courses. *Contact:* RD.

2. *File Symbol:* 92554–R. *Docket ID number:* EPA–HQ–OPP–2017–0527. *Applicant:* De Ceuster Meststoffen NV, Fortsesteenweg 30, 2860 Sint-Katelijne-Waver, Belgium (in care of Technology Sciences Group Inc., 1150 18th St. NW, Suite 1000, Washington DC 20036). *Product name:* PMV–01. *Active ingredient:* Microbial pesticide—Pepino mosaic virus, strain CH2, isolate 1906 at 0.0001%. *Proposed use:* Greenhouse tomatoes. *Contact:* BPPD.

3. *File Symbol:* 92918–E. *Docket ID number:* EPA–HQ–OPP–2017–0492. *Applicant:* Otsuka Pharmaceutical Co., Ltd., 2–9 Kanda-Tsukasamachi, Chiyoda-ku, Tokyo, 101–8535, Japan (in care of Technology Sciences Group Inc., 712 Fifth St., Suite A, Davis, CA 95618). *Product name:* OPC–721. *Active ingredient:* Bactericide—Bacteriophages active against Xylella fastidiosa at 0.00028%. *Proposed use:* For manufacturing use. *Contact:* BPPD.

4. *File Symbol:* 92918–R. *Docket ID number:* EPA–HQ–OPP–2017–0492. *Applicant:* Otsuka Pharmaceutical Co., Ltd., 2–9 Kanda-Tsukasamachi, Chiyoda-ku, Tokyo, 101–8535, Japan (in care of Technology Sciences Group Inc., 712 Fifth St., Suite A, Davis, CA 95618). *Product name:* OPC–821. *Active ingredient:* Bactericide—Bacteriophages active against Xylella fastidiosa at 0.00028%. *Proposed use:* For use on grapevines to control Pierce's Disease. *Contact:* BPPD.

5. *File Symbol:* 92983–E. *Docket ID number:* EPA–HQ–OPP–2017–0489. *Applicant:* Suntton International Inc., 901 H St., Suite 610, Sacramento, CA 95814. *Product name:* Sunergist EBR. *Active ingredient:* Plant regulator—24-epibrassinolide at 0.01%. *Proposed use:* For use on all agricultural commodities. *Contact:* BPPD.

6. *File Symbol:* 92983–R. *Docket ID number:* EPA–HQ–OPP–2017–0489. *Applicant:* Suntton International Inc., 901 H St., Suite 610, Sacramento, CA 95814. *Product name:* 24-Epibrassinolide TGAI. *Active ingredient:* Plant regulator—24-epibrassinolide at 92%. *Proposed use:* For manufacturing use. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 14, 2017.

Hamaad A. Syed,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2017–27810 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0351; FRL–9970–20–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Solvent Extraction for Vegetable Oil Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR)—NESHAP for Solvent Extraction for Vegetable Oil Production (40 CFR part 63, subpart GGGG) (Renewal), EPA ICR Number 1947.07, OMB Control Number 2060–0471—to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. Public comments were previously requested, via the **Federal Register** (82 FR 29552) on June 29, 2017, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, any collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 25, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0351, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at: *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP (40 CFR part 63, subpart A), and any changes, or additions to the Provisions are specified at 40 CFR part 63, subpart GGGG. Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility and records of solvent, HAP content, and oilseed inventory. Reports are required annually at a minimum.

Form numbers: None.

Respondents/affected entities: Owners or operators of vegetable oil production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart GGGG).

Estimated number of respondents: 90 (total).

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 33,400 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,510,000 (per year). There are no annualized capital or operation & maintenance costs.

Changes in the estimates: There is a decrease in the respondent labor hours and number of responses in this ICR compared to the previous ICR. This adjustment corrects the number of sources that submit a notification of compliance status. This is a one-time notification that only applies to the one reconstructed source, and is not an annual burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–27707 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0019; FRL—9972–12–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Electric Utility Steam Generating Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR)—NSPS for Electric Utility Steam Generating Units, EPA ICR No. 1053.12, OMB Control No. 2060–0023—to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2017. Public comments were requested previously via the **Federal Register** (82 FR 29552) on June 29, 2017, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before January 25, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0019, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Owners and operators of affected facilities are required to comply with reporting and record keeping requirements for the General Provisions (40 CFR part 60, subpart A), as well as the specific requirements at 40 CFR part 60, subpart Da. This includes submitting initial notifications, performance tests and periodic reports and results, and maintaining records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These reports are used by EPA to determine compliance with the standards.

Form numbers: None.

Respondents/affected entities: Electric utility steam generating facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart Da).

Estimated number of respondents: 743 (total).

Frequency of response: Initially, quarterly and semiannually.

Total estimated burden: 177,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $31,900,000 (per year), includes $13,300,000 for both annualized capital operation & maintenance costs.

Changes in the estimates: There is an adjustment increase in the respondent burden, labor costs, and capital/O&M cost from the most-recently approved ICR. This increase is not due to any program changes. The change in burden and costs is due to an increase in the number of sources. This ICR assumes an industry growth rate of 11 respondents per year, which results in an increase of 33 respondents since the last ICR renewal period. The industry growth also results in an increase in O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2017–27772 Filed 12–22–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change The Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before February 26, 2018.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of License: EDUCATIONAL MEDIA FOUNDATION; WUKV, Channel 202A, To NEW BOSTON, OH; From PORTSMOUTH, OH, File No. BPED–20171013AGU; Facility ID No. 65508; TEXAS PUBLIC RADIO; KTPR, Channel 210C1, To STANTON, TX; From SNYDER, TX, File No. BPED–20171115AAW; Facility ID No. 172898; GOLDEN ISLES BROADCASTING, LLC; WSSI, Channel 224C3; To DARIEN, GA; From ST. SIMONS ISLAND, GA; File No. BPH–20171004ABF; Fac ID. No. 36929; UNIVERSITY OF UTAH; KUQU, Channel 230C; To ENOCH, UT; From PAROWAN, UT; File No. BPH–20171127AAV; Fac ID. No. 170181; COLT COMM PARTNERSHIP; KKCA, Channel 239A; To ARVIN, CA; From LAKE ISABELLA, CA; File No. BMPH–20171012ADO; Fac ID. No. 198792; EDUCATIONAL MEDIA FOUNDATION; WPAY–FM, Channel 281C0; To PORTSMOUTH, OH; From

NEW BOSTON, OH; File No. BPED–20171013AGT; Fac ID. No. 54813; BETTER PUBLIC BROADCASTING ASSOCIATION; KLXM, Channel 285C3; To BURNS FLAT, OK; From WEATHERFORD, OK; File No. BPED–20171002AAH; Fac ID No. 184961; R & B COMMUNICATIONS, INC; WWTM, 1400 kHz; To MOORESVILLE, AL; From DECATUR, AL; File No. BP–20170711AAQ; Fac ID. No. 54328; SUN VALLEY MEDIA GROUP, LLC; KPTO, 1440 kHz; To HAILEY, ID; From POCATELLO, ID; File No. BP–20170531ABF; Fac ID. No. 12963; and MOBILE RADIO PARTNERS, INC.; WBTL, 1540 kHz; To SANDSTON, VA; From RICHMOND, VA, File No. BP–2071106AAQ; Fac ID. No. 21434.

The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW, Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2017–27739 Filed 12–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Petition No. P4–16]

Petition of the Coalition for Fair Port Practices for Rulemaking; Notice of Public Hearing Schedule

The Commission has determined to hold public hearings on January 16 and 17, 2018, to receive oral testimony concerning the Petition of the Coalition for Fair Port Practices for Rulemaking. The Commission has established the following order of presentation. Each panelist may make a five minute presentation, which will be followed by questions from the Commissioners. This schedule is subject to change prior to the hearing date.

The hearings will be held in the Commission's Main Hearing Room, 800 North Capitol Street NW, Washington, DC 20573 and are open to the public.

The Commission also welcomes written comments and statements for the record relative to the issues being addressed at the hearing from persons who are unable to testify in person. Written comment should be submitted to *secretary@fmc.gov* as a PDF file by January 26, 2018. Copies of all written submissions will be posted to the Commission's website, *https://www.fmc.gov/p4-16/,* and will be available in the Commission's Office of the Secretary.

Day 1: Tuesday, January 16, 2018

Panel 1: Coalition Panel—10:00 a.m.

- Karyn Booth, Esq., Partner, Thompson Hine, LLP
- Nick DiMichael, Esq., Senior Counsel, Thompson Hine, LLP
- Ms. Laura Crowe, Senior Director, Global Logistics, Walmart Stores
- Mr. Don Pisano, President, American Coffee Corporation
- Mr. Fred Johring, President, Golden State Express
- Mr. Robert Leef, Senior Vice President, East Region, ContainerPort Group, Inc., representing the Association of Bi-State Motor Carriers

Panel 2: Shipper Panel—11:15 a.m.

- Peter Friedmann, Esq., Executive Director, AgTC Agriculture Transportation
- Steven Hughes, President/CEO of HCS International, representing the Auto Care Association
- Mr. Sam J. Sorbello, President, Atlantic Coast Freezers, representing the Meat Import Council of America
- Mr. Tim Avanzato, Lanca Sales, Inc.
- Mr. Frans A. de Jong, President, R1 International (Americas) Inc.

Panel 3: Intermediary Panel—2:00 p.m.

- Mr. Richard J. Roche, Vice President of International Transportation, Mohawk Global Logistics, and NVOCC Sub-Committee Chairman at NCBFAA
- Mr. Charles Riley, Chairman, Board of Governors, New York New Jersey Foreign Freight Forwarders and Brokers Association, Inc. (NYNJFFF&BA), and Vice President, Steer Company
- Ms. Jeanette Gioia, Vice President Exports, New York New Jersey Foreign Freight Forwarders and Brokers Association, Inc. (NYNJFFF&BA), and President, Serra International, Inc.
- Cameron W. Roberts, Esq., representing Roberts & Kehagiaras LLP and the Foreign Trade Association
- Mr. Joseph T. Quinn, President, Sefco Export Management Company, Inc.

Day 2: Wednesday, January 17, 2018

Panel 1: Drayage Panel—10:00 a.m.

- Mr. Thomas J. Adamski, representing the New Jersey Motor Truck Association.
- Mr. Alex Cherin, Executive Director, Englander, Knabe & Allen, representing the California Trucking Association Intermodal Conference
- Mr. William J. Shea, CEO, Direct ChassisLink, Inc.

Panel 2: Ocean Carrier Panel—11:15 a.m.

- Mr. Richard J. Craig, President and CEO, Mitsui O.S.K. Lines (America), Inc.
- Mr. Paolo Magnani, Executive Vice President for Quality Control and Marketing, Mediterranean Shipping Company USA
- Mr. Howard Finkel, Executive Vice President, COSCO Shipping Lines (North America), Inc.
- John Butler, Esq., President and CEO, World Shipping Council

Panel 3: Ports and Terminals Panel—2:00 p.m.

- Mr. Edward DeNike, President, SSA Containers
- Mr. John E. Crowley, Jr., Executive Director, National Association of Waterfront Employers
- Mr. John Atkins, President, GCT Bayone LP, representing the Port of New York/New Jersey Sustainable Terminal Services Agreement (PONYNJSSA)

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–27763 Filed 12–22–17; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0013; Docket 2017–0053; Sequence 7]

Submission for OMB Review; Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data. A notice was published in the

Federal Register at 82 FR 43022, on September 13, 2017. One comment was received.

DATES: Submit comments on or before January 25, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0013. Select the link that corresponds with ''Information Collection 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data'', on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

Instructions: Please submit comments only and cite Information Collection 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Federal Acquisition Policy Division, GSA 202–208–4949, or *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Truth in Negotiations Act requires the Government to obtain certified cost or pricing data under certain circumstances. Contractors may request an exemption from this requirement under certain conditions and provide other information instead.

B. Public Comment

A 60 day notice was published in the **Federal Register** at 82 FR 43022, on September 13, 2017. One comment was received; however, it was not substantive, and did not change the estimate of the burden.

C. Annual Reporting Burden

Fiscal year 2016 data was obtained from the Federal Procurement Data System to estimate burdens for the provisions and clauses addressed in this information collection notice. This update does not include the requirements at FAR 42.7, Indirect Cost Rates, as this requirement is covered under OMB Control Number 9000–0069. The data for 52.215–20 is for new contract awards in FY 2016. The data for modifications and orders executed in FY 2016 applies to new contract awards as well as to prior multiple year contracts that continue to be active. The following is a summary of the FY 2016 data:

1. Subcontractor C&P Data-Mods (FAR 52.214–28)

Respondents: 8.
Responses per Respondent: 1.
Total Responses: 8.
Hours per Response: 160.
Total Burden Hours: 1,280.

2. Subcontractor C&P Data (FAR 52.215–12)

Respondents: 3,832.
Responses per Respondent: 1.
Total Responses: 3,832.
Hours per Response: 160.
Total Burden Hours: 613,120.

3. Subcontractor C&P Data-Mods (FAR 52.214–13)

Respondents: 1,292.
Responses per Respondent: 1.
Total Responses: 1,292.
Hours per Response: 160.
Total Burden Hours: 206,720.

4. Requirement for C&P Data and Data Other Than C&P Data (FAR 52.215–20)

Respondents: 25,853.
Responses per Respondent: 1.69.
Total Responses: 117,225.
Hours per Response: 143.
Total Burden Hours: 6,506,140.

5. Requirement for C&P Data and Data Other Than C&P Data-Mods (FAR 52.215–21)

Respondents: 8,440.
Responses per Respondent: 3.
Total Responses: 27,623.
Hours per Response: 106.
Total Burden Hours: 2,432,560.

6. Total

Respondents: 39,425.
Responses per Respondent: 3.80.
Total Responses: 149,980.
Hours per Response: 65.
Total Burden Hours: 9,759,820.

Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in all correspondence.

Dated: December 19, 2017.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2017–27672 Filed 12–22–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: Each Special Emphasis Panel (SEP) meeting will commence in open session before closing to the public for the duration of the meeting ''*AHRQ RFA–HS17–011, National Research Service Award (NRSA) Institutional Research Training Grant (T32) .*''

DATES: January 11–12, 2018 (*Open on January 11 from 8:00 a.m. to 8:30 a.m. and closed for the remainder of the meeting*).

ADDRESSES: Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items for this meeting are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Special Emphasis Panel (SEP) meeting on AHRQ National Research Service Award (NRSA) Institutional Research Training Grant

(T32) '' *AHRQ RFA–HS17–011, National Research Service Award (NRSA) Institutional Research Training Grant (T32).*''

A SEP is a group of experts in fields related to health care research who are invited by AHRQ, and agree to be available on an as needed basis, to conduct scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for the AHRQ RFA–HS17–011, ''*National Research Service Award (NRSA) Institutional Research Training Grant (T32),*'' are to be reviewed and discussed at this meeting. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: December 19, 2017.

Gopal Khanna,

Director.

[FR Doc. 2017–27664 Filed 12–22–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of an Upcoming Challenge Competition

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to conduct a Challenge Competition in Fall 2018 to develop user-friendly technical tools to collect and integrate patient-reported outcome data in electronic health records or other health information technology products.

FOR FURTHER INFORMATION CONTACT: Janey Hsiao, Health Scientist Administrator, Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, 5600 Fishers Lane, Mail Stop 06E73A, Rockville, Maryland, 20857, Email: *Janey.hsiao@ahrq.hhs.gov,* Phone: (301) 427–1335.

SUPPLEMENTARY INFORMATION:

Background

The patient's perspective is central to healthcare decisions affecting prevention, diagnosis, treatment, and long-term care. Patient-reported outcomes (PROs) critically inform patient-centered outcomes research (PCOR) and can inform clinical management of individuals, shared decision making, patient self-management support, care planning, goal setting and goal attainment. PROs offer a complementary perspective to that of clinician assessments, and may provide greater insights into health status, function, symptom burden, adherence, health behaviors, and quality of life. However, standardized tools that collect PRO data in a way that is meaningful and useful to both patients and clinicians in primary care and ambulatory settings are not widely available.

The limited inclusion of PRO data in electronic health records (EHRs) and other health information technology (IT) solutions reduces the understanding and use of the patient's perspective in research and clinical care. Further, while some EHRs are currently able to capture some structured PRO data, including many of the NIH-funded Patient Reported Outcomes Measurement Information System® (PROMIS®) instruments, this information is not commonly collected in routine care. Thus, these data are often not available for both clinical care and research. Moreover, standards do not exist for collecting and integrating PRO data into health IT systems, thereby limiting the ability to easily share these data across health systems for research or other purposes including quality improvement.

Proposed Project

To fill these gaps, AHRQ intends to support the development of user-friendly, PRO-collection tools that utilize health IT standards, including application programming interfaces (APIs) to collect physical function data in ambulatory care settings (including primary care). Data element and data capture standards would allow for PRO assessments to be conducted and easily shared regardless of what EHR or health IT solution is being used. It would also allow for consistency in interpretation, and clarify the meaning of results for patient-provider communication and shared decision-making.

The development of user-friendly, PRO-collection tools will be conducted though a multi-phase Challenge Competition in Fall 2018. The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010. Only the winners from each phase can move on to the next phase so the participant pool becomes more limited throughout the competition. Developers will be asked to create tools based on implementation specifications provided by AHRQ. The tools should enable patients to share their physical function data with clinicians and researchers. AHRQ will convene a panel to judge the Challenge Competition. The judges of the Challenge Competition will evaluate the resulting submissions for adhering to the implementation specifications set forth in the Challenge Competition.

AHRQ will manage the Challenge Competition including developing the concept, designing prizes, drafting the **Federal Register** Notice, setting up the Challenge website, answering questions from developers, and giving prizes to winners. The Challenge Competition will be conducted by AHRQ in furtherance of the Secretary's authority to develop interoperable data networks that can link data from multiple sources, including electronic health records. 42 U.S.C. 299b–37(f).

Dated: December 19, 2017.

Gopal Khanna,

Director.

[FR Doc. 2017–27663 Filed 12–22–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0822]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled *The National Intimate Partner and Sexual Violence Survey (NISVS)* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and

Recommendations'' notice on September 20, 2017 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The National Intimate Partner and Sexual Violence Survey (NISVS) (OMB Control Number 0920–0822, expiration date 7/30/2018)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This is a revision request for the currently approved National Intimate Partner and Sexual Violence Survey data collection project. Approval is requested for three years.

In 2010, NISVS reported that approximately 6.9 million women and 5.6 million men experienced rape, physical violence and/or stalking by an intimate partner within the last year. The health care costs of intimate partner violence (IPV) exceed $5.8 billion each year, nearly $3.9 billion of which is for direct medical and mental health care services.

In order to address this important public health problem, CDC implemented, beginning in 2010, the National Intimate Partner and Sexual Violence Surveillance System that produces national and state level estimates of IPV, Sexual Violence (SV) and stalking on an annual basis.

Data collection in the 2018–2019 cycle is slated to begin in mid-March 2018. Data will be collected in two periods. The first collection will be March 2018 through mid-September 2018 and the second collection will be mid-September 2018 through mid-March 2019.

The current request for revision is to conduct the 2018–2019 data collection. This data collection will use the version of the survey used for the 2016–2017 data collection period revised to reduce redundancy, and remove questions for active duty women and men in the military and wives of active duty men, as they will not be a part of the next wave of data collection. The request will allow the continuation of data collection among non-institutionalized adult men and women aged 18 years or older in the United States assessing lifetime and past 12 month experiences of IPV, SV and stalking. The current request also includes modifying data collection protocols to improve response rate and reduce non-response bias in response to recommendations provided by a methodology workgroup convened at the request of the Office of Management and Budget (OMB).

To comply with OMB's terms of clearance for 2014 and 2016, CDC collaborated with Bureau of Justice Statistics in convening a workgroup to obtain expert feedback and input on how to enhance the NISVS survey methodology. Workgroup participants provided guidance on how to improve the system's survey design (*e.g.,* methods, sampling frame, recruitment, mode of administration, etc.) with the goals of increasing response rates, reducing non-response bias, and maximizing the collaborative opportunities across Federal surveys for covering populations of interest. Four meetings of the workgroup, which included a representative from OMB and a representative from CDC's Board of Scientific Counselors, began in February of 2017 and were completed in July of 2017. Recommendations from the workgroup, provided to CDC in a written report, have been used to inform both the 2018–2019 efforts as well as plans for a substantial re-design of the survey design and administration after 2019. Additionally, the primary recommendations provided by the workgroup along with CDC's proposed activities to address the recommendations were presented to the National Center for Injury Prevention and Control's Board of Scientific Counselors (BSC) in September 2017. The BSC provided additional ideas for opportunities to learn about other Federal agencies' advances and experiments related to survey methods, as well as ideas for collaboration across Federal agencies, which CDC staff are currently pursuing.

NCIPC has also worked to improve the performance of the NISVS data collection tool (without altering its core content on IPV, SV, and stalking prevalence), decrease the level of burden on respondents, and reduce the time required to complete data processing, validation, and packaging for public release. In addition, the inclusion of questions in the NISVS data collection tool, about child exposure to physical or psychological IPV; normative beliefs about IPV, SV, and bystander intervention; and barriers to bystander intervention, further aligns NISVS surveillance approaches with stakeholder needs and demonstrates responsiveness to their expressed recommendations for surveillance improvement. The survey will be conducted among English or Spanish speaking male and female adults (18 years and older) living in the United States. The estimated annual burden hours requested are 22,700. There is a reduction of 4,406 hours from the previously approved hours of 27,106. There are no extra costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Non-Participating Household (Screened)	NISVS Survey Instrument. First section non-participating.	204,000	1	3/60
Eligible Household (Completes Survey)	NISVS Survey Instrument. Section for participating.	30,000	1	25/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–27687 Filed 12–22–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2017–0068; Docket Number NIOSH–299]

Final National Occupational Research Agenda for Cancer, Reproductive, Cardiovascular and Other Chronic Disease Prevention (CRC)

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of the final National Occupational Research Agenda for Cancer, Reproductive, Cardiovascular and Other Chronic Disease Prevention (CRC).

DATES: The final document was published on December 1, 2017.

ADDRESSES: The document may be obtained at the following link: *https://www.cdc.gov/niosh/nora/crosssectors/crc/researchagenda.html.*

FOR FURTHER INFORMATION CONTACT: Emily Novicki, (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: On August 9, 2017, NIOSH published a request for public review in the **Federal Register** (82 FR 37228) of the draft version of the National Occupational Research Agenda for CRC. All comments received were reviewed and addressed where appropriate.

Frank Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–27762 Filed 12–22–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-18–0314; Docket No. CDC–2017–0099]

Proposed Data Collections Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled The National Survey of Family Growth (NSFG), designed to provide nationally representative, scientifically credible data on factors related to birth and pregnancy rates, family formation and dissolution patterns, and reproductive health.

DATES: CDC must receive written comments on or before February 26, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0099 by any of the following methods:

Federal eRulemaking Portal: Regulations.gov. Follow the instructions for submitting comments.

• *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all Comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

The National Survey of Family Growth (NSFG)—(OMB Control Number 0920–0314, Expires 05/31/2018)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''family formation, growth, and dissolution,'' as well as ''determinants of health'' and ''utilization of health care'' in the United States. This clearance request includes the data collection in 2018–2019 for the continuous NSFG.

The National Survey of Family Growth (NSFG) was conducted periodically between 1973 and 2002, continuously in 2006–2010, and continuously starting in September 2011, by the National Center for Health Statistics, CDC. Each year, about 15,000 households are screened, with about 5,000 participants interviewed annually. Participation in the NSFG is voluntary and confidential. Interviews average 60 minutes for males and 80 minutes for females. The response rate since 2011 has ranged from 69 percent to 77 percent, and the cumulative response rate for the entire fieldwork period so far (September 2011 through the most current quarter which ended in May 2017) is 69 percent.

The NSFG program produces descriptive statistics, which document factors associated with birth and pregnancy rates. Also, including contraception, infertility, marriage, divorce, and sexual activity, in the US household population 15–49 years (15–44 years in survey periods before 2015); and behaviors that affect the risk of sexually transmitted diseases (STD), including HIV, and the medical care associated with contraception, infertility, and pregnancy and childbirth.

The following DHHS programs fund NSFG data users: CDC/NCHS and eleven others;(The Eunice Kennedy Shriver National Institute for Child Health and Human Development (NIH/NICHD); the Office of Population Affairs (DHHS/OPA); the Children's Bureau (DHHS/ACF/CB); the ACF's Office of Planning, Research, and Evaluation; the CDC's Division of HIV/AIDS Prevention (CDC/DHAP); the CDC's Division of STD Prevention (CDC/DSTD); the CDC's Division of Adolescent and School Health (CDC/DASH) the CDC's Division of Reproductive Health (CDC/DRH); the CDC's Division of Cancer Prevention and Control (CDC/DCPC); the CDC's Division of Nutrition, Physical Activity, and Obesity (CDC/DNPAO); and the CDC's Division of Birth Defects and Developmental Disabilities (CDC/DBDDD). The NSFG is also used by state and local governments (primarily for benchmarking to national data); private research and action organizations focused on men's and women's health, child well-being, and marriage and the family; academic researchers in the social and public health sciences; journalists, and many others.

This submission requests approval to continue NSFG fieldwork for three years. While there is no questionnaire revisions requested, the two methodological studies are proposed. The total estimated annualized time burden to respondents is 6,759 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Household Member	Screener Interview	15,000	1	3/60	750
Household Female 15–49 years of age.	Female Interview	2,750	1	80/60	3,667
Household Male 15–49 years of age	Male Interview	2,250	1	1.0	2,250
Household Member	Screener Verification	1,500	1	2/60	50
Household individual 15–49 years of age.	Main Verification	500	1	5/60	42
Total					6,759

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–27743 Filed 12–22–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–1071]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled *Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on January 5, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (0920–1071, 06/30/2018)—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC/NCEZID seeks a three-year extension of the information collection plan titled ''*Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery*'' (OMB Control Number 0920–1071). Approval of this plan will allow CDC to continue collection of routine customer feedback on agency service delivery efforts.

Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the CDC (hereafter the ''Agency'') seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Since getting approval in June 2015, NCEZID has utilized this information collection plan (OMB Control Number 0920–1071) nine separate times (16,800 responses and 2,029 burden hours).

There is no cost to respondents other than the time to participate.

Authorizing legislation comes from Section 301 of the Public Health Service Act (42 U.S.C. 241).

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General public	Online surveys	1,500	1	30/60
	Focus groups	800	1	2
	In-person surveys	1,000	1	30/60
	Usability testing	1,500	1	30/60
	Customer comment cards	1,000	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–27688 Filed 12–22–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–1696 and CMS–10536]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

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 February 26, 2018.

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' website 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–1696 Appointment of Representative

CMS–10536 Medicaid Eligibility and Enrollment (EE) Implementation Advanced Planning Document (IAPD) Template

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:* Appointment of Representative; *Use:* The Appointment of Representative form is completed by beneficiaries, providers and suppliers, and any party seeking to appoint a representative to assist them with their initial determinations and filing appeals. *Form Number:* CMS–1696 (OMB control number: 0938–0950); *Frequency:* Once; *Affected Public:* Individuals and Households, and the Private sector (Business or other for-profits); *Number of Respondents:* 3,472,840; *Total Annual Responses:* 347,284; *Total Annual Hours:* 86,821. (For policy questions regarding this collection contact Katherine Hosna at 410–786–4993.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Eligibility and Enrollment (EE) Implementation Advanced Planning Document (IAPD) Template; *Use:* To assess the appropriateness of states' requests for enhanced federal financial participation for expenditures related to Medicaid eligibility determination systems, we will review the submitted information and documentation to make an approval determination for the advanced planning document. *Form Number:* CMS–10536 (OMB control number: 0938–1268); *Frequency:* Yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 168; *Total Annual Hours:* 2,688. (For policy questions regarding this collection contact Martin Rice at 410–786–2417.)

Dated: December 20, 2017.

William N. Parham, III

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–27787 Filed 12–22–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2294]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Evaluation of the Food and Drug Administration's 'Fresh Empire' Multicultural Youth Tobacco Prevention Campaign

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on an extension of the time period for the outcome evaluation of FDA's multicultural youth tobacco public education campaign, the addition of two rounds of data collection with the original youth surveyed for the outcome evaluation, and recruitment of new youth to participate in those two additional surveys.

DATES: Submit either electronic or written comments on the collection of information by February 26, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–2294 for ''Evaluation of the Food and Drug Administration's 'Fresh Empire' Multicultural Youth Tobacco Prevention Campaign'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Evaluation of the Food and Drug Administration's 'Fresh Empire' Multicultural Youth Tobacco Prevention Campaign (OMB Control Number 0910–0788—Extension)

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to grant FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health and to reduce tobacco use by minors. Section 1003(d)(2)(D) of the FD&C Act (21 U.S.C. 393(d)(2)(D)) supports the development and implementation of FDA public education campaigns related to tobacco use. Accordingly, FDA is currently developing and implementing a youth-targeted public education campaign ('Fresh Empire') to help prevent tobacco use among multicultural youth and thereby reduce the public health burden of tobacco. The campaign features events, advertisements on television and radio and in print, digital communications including social media, and other forms of media.

Evaluation is an essential organizational practice in public health and a systematic way to account for and improve public health actions. Comprehensive evaluation of FDA's multicultural public education campaign will be used to document whether the intended audience is aware of and understands campaign messages, and whether campaign exposure influences specific cognitive outcomes related to tobacco use that are targeted by the campaign.

FDA is in the process of evaluating the effectiveness of its multicultural youth tobacco prevention campaign through an outcome evaluation study that follows the multiple, discrete waves of media advertising planned for the campaign. All information collected is integral to that evaluation.

FDA's *Fresh Empire* youth tobacco public education campaign aims to reduce tobacco use among youth who affiliate with a hip-hop peer crowd, predominantly among African American, Hispanic, and Asian/Pacific Islander youth. The outcome evaluation of the campaign consists of a pre-test survey of youth aged 12 to 17 before campaign launch followed by a series of post-test surveys beginning approximately 6 months after the campaign launch. The post-test surveys are conducted among youth who participated in one or more surveys (the embedded longitudinal cohort) and new participants who are recruited to make up for attrition. Eligible youth were initially 12- to 17-year-old youth who are influenced by the hip-hop peer crowd. Youth in the embedded longitudinal cohort may reach the age of 18 over the course of the evaluation.

To date, the pre-test and two post-test surveys have been conducted. A third post-test survey is currently underway. Information has been collected about youth awareness of and exposure to campaign events and advertisements and about tobacco-related knowledge, attitudes, beliefs, intentions, and use. Information has also been collected on demographic variables including age, sex, race/ethnicity, grade level, and primary language.

All information is being collected through in-person and web-based questionnaires. Youth respondents were recruited from two sources: (1) A sample drawn from 30 U.S. media markets gathered using an address-based postal mail sampling of U.S. households for the outcome evaluation, and (2) targeted social media (*e.g.,* Facebook).

This study is being conducted in support of the provisions of the Tobacco Control Act that require FDA to protect the public health and to educate the population about the risks and potential risks of tobacco use. The information being collected is necessary to inform FDA's efforts towards these goals and to measure the effectiveness and public health impact of the campaign. Data from the outcome evaluation are being used to estimate awareness of and exposure to the campaign among youth in target markets where the campaign is active. Data are also being used to examine statistical associations between exposure to the campaign and subsequent changes in specific outcomes of interest, which include knowledge, attitudes, and beliefs related to tobacco use.

FDA requests OMB approval to extend OMB approval of the evaluation of FDA's multicultural youth tobacco public education campaign and to add two additional waves of data collection with existing youth in the study. To accommodate these two additional surveys, FDA requests approval to increase the number of burden hours under the existing control number. The fourth post-test survey will begin in July 2018. The fifth post-test survey will begin in February 2019. As was done in earlier post-test surveys, new youth will be recruited to participate to make up for attrition.

A total of 2,100 youth will complete questionnaires for the fourth post-test survey, and the same number will complete questionnaires for the fifth post-test survey. These respondents will include existing youth who have participated in one or more surveys previously (''Longitudinal Cohort'') and new youth recruited via a mail-based screener or social media ads (''Cross-Sectional Refresher Sample''). Based on earlier response rates and longitudinal respondents aging out of the eligibility criteria (over the age of 18), we expect to need to recruit a larger number of cross-sectional respondents than in previous waves. We estimate that approximately 600 longitudinal youth and 1,500 cross-sectional youth will participate in each of the fourth and fifth post-test surveys. With an estimated burden of 45 minutes per respondent, this adds 450 hours for longitudinal respondents and 1,125 hours for cross-sectional respondents for each of the fourth and fifth post-test evaluation surveys.

A mail-based screener was one of the methods used to identify eligible youth for the pre-test survey. This method will be used during the fourth post-test survey to recruit new youth to ensure that the sample composition is similar across rounds of data collection. As was done during the pre-test survey, parents or guardians will be asked to provide consent and their contact information on this form. For the fourth post-test survey, the 5-minute youth screener and the 1-minute parental consent will be completed by 9,869 households for a total of 822 burden hours for youth and an additional 164 hours for the parents or guardians. This method will not be used during the fifth post-test survey, for which new participants will be recruited only via social media.

We will continue to recruit new youth through social media (*e.g.,* Facebook, Instagram) as a secondary strategy to recruit youth 13 to 17. An online version of the screener described above will continue to be used to identify eligible youth. The screener will take 5 minutes and will be completed by an additional 4,000 youth during each of the fourth and fifth post-test surveys, for a total of 8,000 additional youth respondents and 666 total additional burden hours. The new total number of participants for the youth online post-test screener will be 32,000 and the total burden will be 2,666 hours. This includes the originally-approved 24,000 participants and 2,000 burden hours.

As was done previously, eligible youth aged 13 to 14 who complete the online screener will be asked to provide their parents' or guardians' contact information to provide parental consent for the main survey. The process of parents and guardians providing consent for eligible youth will take approximately 1 minute. For the fourth and fifth post-test surveys, we estimate that an additional 700 adults will be contacted to provide consent for eligible youth for a total of 11 additional burden hours. Added to the original 6,000 parents and 100 burden hours, the total number of parental online screener and consents will be 6,700 and the total burden will be 111 hours.

With these additions, the estimated number of respondents/responses for all waves of data collection for the study is 107,743, and the total burden is estimated at 15,135 hours—an increase of 4,813 hours from the last approval.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Youth aged 12 to 17 in the United States.	Mail Screener and Consent Process—Pre-test outcome survey.	13,816	1	13,816	0.0833	1,151
	Mail Screener and Consent Process—Post-test outcome survey.	9,869	1	9,869	0.0833	822
Adults 18 and older in the United States.	Mail Screener and Consent Process—Pre-test outcome survey.	13,816	1	13,816	0.0166	229
	Online Screener and Consent Process—Pre-test outcome survey.	520	1	520	0.0166	9
	Mail Screener and Consent Process—Post-test outcome survey.	9,869	1	9,869	0.0166	164
	Online Screener and Consent Process—Post-test outcome survey.	6,700	1	6,700	0.0166	111
Multicultural Youth aged 12 to 17 in select media markets.	Pre-test outcome evaluation survey.	2,194	1	2,194	0.5	1,097
Longitudinal Cohort, age 13 to 18 years.	First post-test evaluation survey.	1,722	1	1,722	0.75	1,292
	Second post-test evaluation survey.	1,752	1	1,752	0.75	1,314
	Third post-test evaluation survey.	1,365	1	1,365	0.75	1,024
	Fourth post-test evaluation survey.	600	1	600	0.75	450
	Fifth post-test evaluation survey.	600	1	600	0.75	450
Cross-Sectional Refresher Sample, age 13 to 17 years.	First post-test evaluation survey.	682	1	682	0.75	512
	Second post-test evaluation survey.	503	1	503	0.75	377
	Third post-test evaluation survey.	735	1	735	0.75	551
	Fourth post-test evaluation survey.	1,500	1	1,500	0.75	1,125
	Fifth post-test evaluation survey.	1,500	1	1,500	0.75	1,125
Multicultural youth aged 13 to 17 in the select media markets recruiting through social media and online panels.	Pre-test online screener	8,000	1	8,000	0.0833	666
	Post-test online screener	32,000	1	32,000	0.0833	2,666
Total		107,743				15,135

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 19, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27712 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–E–2582]

Determination of Regulatory Review Period for Purposes of Patent Extension; STRIVERDI RESPIMAT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for STRIVERDI RESPIMAT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 26, 2018.

See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 25, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–E–2582 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; STRIVERDI RESPIMAT.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product STRIVERDI RESPIMAT (olodaterol hydrochloride). STRIVERDI RESPIMAT is indicated for the long-term, once-daily maintenance bronchodilator treatment of airflow obstruction in patients with chronic obstructive pulmonary disease, including chronic bronchitis and/or emphysema. Subsequent to this approval, the USPTO received a patent term restoration application for STRIVERDI RESPIMAT (U.S. Patent No. 7,727,984) from Boehringer Ingelheim Pharma GmbH & Co. KG, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 15, 2015, FDA advised the USPTO that this human drug product

had undergone a regulatory review period and that the approval of STRIVERDI RESPIMAT represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for STRIVERDI RESPIMAT is 2,712 days. Of this time, 1,903 days occurred during the testing phase of the regulatory review period, while 809 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* February 28, 2007. FDA has verified the Boehringer Ingelheim Pharma GmbH & Co. KG claim that February 28, 2007, is the date the investigational new drug application (IND) became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* May 14, 2012. FDA has verified the applicant's claim that the new drug application (NDA) for STRIVERDI RESPIMAT (NDA 203108) was initially submitted on May 14, 2012.

3. *The date the application was approved:* July 31, 2014. FDA has verified the applicant's claim that NDA 203108 was approved on July 31, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,166 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 19, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27710 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–E–2597]

Determination of Regulatory Review Period for Purposes of Patent Extension; SIVEXTRO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for SIVEXTRO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 26, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 25, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–E–2597 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; SIVEXTRO.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential

Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product SIVEXTRO (tedizolid phosphate). SIVEXTRO is indicated in adults for the treatment of acute bacterial skin and skin structure infections caused by designated susceptible bacteria. Subsequent to this approval, the USPTO received a patent term restoration application for SIVEXTRO (U.S. Patent No. 7,816,379) from Trius Therapeutics, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 15, 2015, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of SIVEXTRO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for SIVEXTRO is 2,366 days. Of this time, 2,123 days occurred during the testing phase of the regulatory review period, while 243 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* December 30, 2007. The applicant claims December 27, 2007, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 30, 2007, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* October 21, 2013. FDA has verified the applicant's claim that the new drug application (NDA) for SIVEXTRO (NDA 205435) was initially submitted on October 21, 2013.

3. *The date the application was approved:* June 20, 2014. FDA has verified the applicant's claim that NDA 205435 was approved on June 20, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 118 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: Must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 19, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27684 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2015–E–2655 and FDA–2015–E–2656]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZYKADIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ZYKADIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by February 26, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 25, 2018. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2015–E–2655 and FDA–2015–E–2656 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ZYKADIA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product ZYKADIA (ceritinib). ZYKADIA is indicated for the treatment of patients with anaplastic lymphoma kinase-positive metastatic non-small cell lung cancer who have progressed on or are intolerant to crizotinib. This indication is approved under accelerated approval based on tumor response rate and duration of response. An improvement in survival or disease-related symptoms has not been established. Continued approval for this indication may be contingent upon verification and description of clinical benefit in confirmatory trials. Subsequent to this approval, the USPTO received patent term restoration applications for ZYKADIA (U.S. Patent Nos. 7,964,592 from Novartis AG and and 8,377,921 from IRM LLC), and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated October 15, 2015, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of ZYKADIA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ZYKADIA is 1,271 days. Of this time, 1,144 days occurred during the testing phase of the regulatory review period, while 127 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* November 7, 2010. FDA has verified the applicants' claims that November 7, 2010, is the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* December 24, 2013. FDA has verified the applicants' claims that the new drug application (NDA) for ZYKADIA (NDA 205755) was initially submitted on December 24, 2013.

3. *The date the application was approved:* April 29, 2014. FDA has verified the applicants' claims that NDA 205755 was approved on April 29, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In their applications for patent extension, these applicants seek 472 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24 ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27745 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1245]

Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System.'' This guidance finalizes recommendations for sponsors of investigational new drug applications (INDs), and applicants who submit new drug applications (NDAs), abbreviated new drug applications (ANDAs), and supplements to these applications for immediate-release (IR) solid oral dosage forms, and who wish to request a waiver of an in vivo bioavailability (BA) and/or bioequivalence (BE) study requirement.

DATES: The announcement of the guidance is published in the **Federal Register** on December 26, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or

anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–1245 for ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Mehul Mehta, Center for Drug Evaluation and Research (HFD–860), Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–1573.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System.'' This guidance provides recommendations for sponsors of INDs, and applicants who submit NDAs, ANDAs, and supplements to these applications for IR solid oral dosage forms, and who wish to request a waiver of an in vivo BA and/or BE study requirement. These recommendations are intended to apply to waivers requested during the IND period and the NDA stage or for ANDAs, *i.e.:* (1) Subsequent in vivo BA or BE studies of formulations after the initial establishment of the in vivo BA of IR solid oral dosage forms during the IND period, and (2) in vivo BE studies of IR solid oral dosage forms in NDAs, ANDAs, and supplements to these applications.

This guidance finalizes the guidance for industry on Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System, published on May 6, 2015 (80 FR 26058), and explains when biowaivers can be requested for IR solid oral dosage forms based on an approach termed the Biopharmaceutics Classification System (BCS). While many positive comments were received on the published draft guidance, several requests were made for additional clarification regarding the biowaivers for BCS class 3 drug substances, and specific issues pertaining to dissolution and permeability categories. In response, this guidance includes biowaiver extension to BCS class 3 drug products, and additional modifications, such as criteria for high permeability and high solubility.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Based on a Biopharmaceutics Classification System. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 314 (21 CFR part 314), including §§ 314.50 and 314.94, have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the document at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: December 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27786 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1069]

Agency Information Collection Activities; Proposed Collection; Comment Request; Blood Establishment Registration and Product Listing, Form FDA 2830

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the blood establishment registration and product listing requirements in the Agency's regulations and Form FDA 2830.

DATES: Submit electronic or written comments on the collection of information by February 26, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 26, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1069 for ''Blood Establishment Registration and Product Listing, Form FDA 2830.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance

of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Blood Establishment Registration and Product Listing, Form FDA 2830—21 CFR part 607 (OMB Control Number 0910–0052—Extension)

Under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), any person owning or operating an establishment that manufactures, prepares, propagates, compounds, or processes a drug or device must register with the Secretary of Health and Human Services, on or before December 31 of each year, his or her name, places of business, and all such establishments, among other information, and must submit a list of all drug and all device products manufactured, prepared, propagated, compounded, or processed by him or her for commercial distribution, among other information. In 21 CFR part 607, FDA has issued regulations implementing these requirements for manufacturers of human blood and blood products.

Section 607.20(a), requires, in part, that owners or operators of certain establishments that engage in the manufacture of blood products register and submit a list of every blood product in commercial distribution.

Section 607.21 requires the owner or operator of an establishments entering into the manufacturing of blood products to register the establishment within 5 days after beginning such operation and to submit a list of every blood product in commercial distribution at the time. If the owner or operator of the establishment has not previously entered into such operation for which a license is required, registration must follow within 5 days after the submission of a biologics license application. In addition, owners or operators of all establishments so engaged must register annually between October 1 and December 31 and update their blood product listing every June and December.

Section 607.22(a) requires, in part, that initial and subsequent registrations and product listings be submitted electronically through the Blood Establishment Registration and Product Listing system or any future superseding electronic system.

Section 607.22(b) requires, in part, that requests for a waiver of the requirements of § 607.22 be submitted in writing and include the specific reasons why electronic submission is not reasonable for the registrant.

Section 607.22(c) provides that if FDA grants the waiver request, FDA may limit its duration and will specify the terms of the waiver and provide information on how to submit establishment registration, drug listings, other information, and updates, as applicable (*e.g.,* Form FDA 2830).

Section 607.25 sets forth the information required for establishment registration and blood product listing.

Section 607.26 requires, in part, that certain changes, such as ownership or location changes, be submitted to FDA electronically as an amendment to establishment registration within 5 calendar days of such changes using the FDA Blood Establishment Registration and Product Listing system, or any future superseding electronic system.

Section 607.30(a), in part, sets forth the information required from owners or operators of establishments when they update their blood product listing information in June and December of each year (at a minimum).

Section 607.31 requires that certain additional blood product listing information be provided upon request by FDA.

Section 607.40 requires, in part, that certain foreign blood product establishments comply with the establishment registration and blood product listing information requirements in part 607, subpart B (§§ 607.20 through 607.39, 607.40(a) and (b)), and provide the name and address of the establishment and the name of the individual responsible for submitting establishment registration and blood product listing information (§ 607.40(c)) as well as the name, address, and phone number of its U.S. agent (§ 607.40(d)).

This information assists FDA in its inspections of facilities, among other uses, and its collection is essential to the overall regulatory scheme designed to ensure the safety of the Nation's blood supply.

Respondents to this collection of information are human blood and plasma donor centers, blood banks, certain transfusion services, other blood product manufacturers, and independent laboratories that engage in quality control and testing for registered blood product establishments.

FDA estimates the burden of this collection of information based upon information obtained from the database of FDA's Center for Biologics Evaluation and Research and FDA experience with the blood establishment registration and product listing requirements.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Activity/Form FDA 2830	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
607.20(a), 607.21, 607.22, 607.25, and 607.40.	Initial Registration	115	1	115	1	115
607.21, 607.22, 607.25, 607.26, 607.31, and 607.40.	Annual Registration	2,612	1	2,612	0.5 (30 minutes)	1,306
607.21, 607.25, 607.30(a), 607.31, and 607.40.	Product Listing Update.	200	1	200	0.25 (15 minutes)	50
607.22(b)	Waiver Requests	25		25	1	25
Total						1,496

[1] There are no capital costs of operating and maintenance costs associated with this collection of information.

The burden for this information collection has changed since the last OMB approval. Because of a slight increase in the number of initial registrations and product listing updates FDA has received during the past 3 years, we have increased our reporting burden estimate.

Dated: December 20, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27757 Filed 12–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From the Ames Laboratory in Ames, Iowa, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice of a decision to evaluate a petition to designate a class of employees from the Ames Laboratory in Ames, Iowa, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: 42 CFR 83.9–83.12.

Pursuant to 42 CFR 83.12, the initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Ames Laboratory.

Location: Ames, Iowa.

Job Titles and/or Job Duties: ''All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any area at the Ames Laboratory in Ames, Iowa, during the period from January 1, 1971 through December 31, 1989, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.''

Period of Employment: January 1, 1971 through December 31, 1989.

Frank Hearl

Chief of Staff, National Institute for Occupational Safety and Health.

[FR Doc. 2017–27724 Filed 12–22–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Developmental Programming and Aging.

Date: January 17, 2018.

Time: 11:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Ave., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Greg Bissonette, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 18, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27643 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for PubMed Central National Advisory Committee (PubMed) was renewed for an additional two-year period on December 8, 2017.

It is determined that the PubMed is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Code 4875), Telephone (301) 496–2123, or *harriscl@mail.nih.gov.*

Dated: December 20, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27792 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: January 12, 2018.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Room 3049, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Ste. 4076, MSC 9306, Bethesda, MD 20892–9306, 301–402–0838, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: December 20, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27791 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Integrative Health.

Date: February 9, 2018.

Closed: 8:30 a.m. to 9:45 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Open: 10:00 a.m. to 3:00 p.m.

Agenda: A report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Partap Singh Khalsa, Ph.D., DC, Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, NIH, National Institutes of Health, 6707 Democracy Blvd., Ste. 401, Bethesda, MD 20892–5475, (301) 594–3462, *khalsap@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://nccih.nih.gov/about/naccih/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: December 20, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27790 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; NIDCR Secondary Data Analysis.

Date: January 18, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Guo He Zhang, MPH, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard Suite 672, Bethesda, MD 20892 *zhanggu@mail.nih.gov.*

Name of Committee: NIDCR Special Grants Review Committee; DSR NIDCR Special Grants Review.

Date: February 15–16, 2018.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Latarsha J. Carithers, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard Suite 672, Bethesda, MD 20892, *Latarsha.carithers@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27644 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Clinical Aging Review Committee.

Date: February 1–2, 2018.
Time: 3:30 p.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd, Rockville, MD 20852.
Contact Person: Alicja L. Markowska, Ph.D., DSC, National Institute on Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 18, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27646 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Zika Virus-Induced Retinopathy.
Date: January 8, 2018.
Time: 1:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, *gordiyenkon@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Psychosocial Risk and Disease Prevention.
Date: January 23, 2018.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.
Contact Person: Weijia Ni, Ph.D., BA, MA, Chief, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences and Technologies: AREA Review.
Date: January 23, 2018.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 19, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27645 Filed 12–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–1000]

Merchant Mariner Medical Advisory Committee; Vacancy

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard seeks applicants for membership on the Merchant Mariner Medical Advisory Committee. The Committee provides advice and recommendations to the Secretary on matters related to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; medical standards and guidelines for the physical qualifications of operators of commercial vessels; medical examiner education; and medical research.

DATES: Completed applications should be submitted to the U.S. Coast Guard on or before February 26, 2018.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the Merchant Mariner Medical Advisory Committee that also identifies which membership category the applicant is applying under, along with a resume detailing the applicant's experience via one of the following methods:

- *By Email: davis.j.breyer@uscg.mil;* Subject Line: The Merchant Mariner Medical Advisory Committee;
- *By Fax:* 202–372–8382 ATTN: Mr. Davis J. Breyer, Alternate Designated Federal Officer; or
- *By Mail:* Mr. Davis J. Breyer, Alternate Designated Federal Officer of the Merchant Mariner Medical Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: Mr. Davis J. Breyer, Alternate Designated Federal Officer of the Merchant Mariner Medical Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1445, fax 202–372–8382 or *davis.j.breyer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Merchant Mariner Medical Advisory Committee is a federal advisory committee which operates under the provisions of the Federal Advisory Committee Act (Title 5 U.S.C. Appendix).

The Committee meets not less than twice each year. Its subcommittees and working groups may also meet intercessionally to consider specific tasks as required.

Each Merchant Mariner Medical Advisory Committee member serves a term of office of up to five years. Members may serve a maximum of two consecutive terms. All members serve without compensation from the Federal Government; however, upon request, they may receive travel reimbursement and per diem.

We will consider applications for one professional mariner membership position. To be eligible, you must have experience as a merchant mariner and have significant knowledge and experience in the duties of the various positions aboard ship and the nature of the environment in which these duties are performed.

If you are selected as a member you will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18, U.S.C. Applicants for appointment as a Special Government Employee are required to

complete a Confidential Financial Disclosure Report (OGE Form 450). The U.S. Coast Guard may not release the reports or the information in them to the public except under an order issued by a federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Only the Designated U.S. Coast Guard Ethics Official or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the website of the Office of Government Ethics (*www.oge.gov*) or by contacting the individual listed above in **FOR FURTHER INFORMATION CONTACT**. Applications that are not accompanied by a completed OGE Form 450 will not be considered.

Registered lobbyists are not eligible to serve on federal advisory committees in an individual capacity. See ''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). Registered lobbyists are lobbyists as defined in Title 2 U.S.C. 1602 who are required by Title 2 U.S.C. 1603 to register with the Secretary of the Senate and the Clerk of the House Representatives.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Davis J. Breyer, Alternate Federal Officer of the Merchant Mariner Medical Advisory Committee via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. All email submittals will receive email receipt confirmation.

Dated: December 14, 2017.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2017–27711 Filed 12–22–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0063]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection; National Interest Waivers; Supplemental Evidence to I–140 and I–485

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 January 25, 2018. 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 1615–0063 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 website 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 September 15, 2017, at 82 FR 43397, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

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–2008–0003 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:* National Interest Waivers; Supplemental Evidence to I–140 and I–485.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The supplemental documentation will be used by the U.S. Citizenship and Immigration Services to determine eligibility for national

interest waiver requests and to finalize the request for adjustment to lawful permanent resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated number of respondents for the information collection is 8,000 and the estimated hour burden per response is 1 hour.

(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 16,000 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 $0. Costs for this collection of information are included in those reported for USCIS Form I–485 (OMB Control Number 1615–0023) and USCIS Form I–140 (OMB Control Number 1615–0015).

Dated: December 19, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–27660 Filed 12–22–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5932–N–07]

Agenda and Notice of Public Meeting of the Moving to Work Research Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of a federal advisory committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Moving to Work (MTW) Research Advisory Committee (Committee). The Committee meeting will be held via conference call on Thursday, January 25, 2018. The meeting is open to the public and is accessible to individuals with disabilities.

DATES: The teleconference meeting will be held on January 25, 2018 from 1:00 p.m. to 3:30 p.m. Eastern Standard Time (EST).

FOR FURTHER INFORMATION CONTACT: Eva Fontheim, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4130, Washington, DC 20410, telephone (202) 402–3461 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339 or can email: *MTWAdvisoryCommittee@hud.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2). The Committee was established on May 2, 2016, to advise HUD on specific policy proposals and methods of research and evaluation related to the expansion of the MTW demonstration to an additional 100 Public Housing Authorities (PHAs). See 81 FR 24630. On July 26 and 28, 2016, HUD convened two conference call meetings of the Committee, a two-day in-person meeting on September 1 and 2, 2016, followed up by conference call meeting on December 13, 2016. The minutes of these meetings are available on the HUD website at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion.*

HUD is now convening a 2.5-hour conference call to explore the possibility of adding an additional cohort policy study. HUD will convene the meeting on Thursday, January 25, 2018 via teleconference from 1:00 p.m. to 3:30 p.m. (EST). The agenda for the meeting is as follows:

Thursday, January 25, 2018, From 1–3:30 p.m. EST

I. Welcome and Introductions
II. Summary of July, September, December Meetings
  a. Revisit Guiding Principles
  b. Confirm Committee Recommendations
III. Goal for this Meeting
  a. Discuss and provide recommendations on whether HUD should study through the MTW expansion, the appropriate amount of Federal subsidy in the tenant-based program that balances both the impact on assisted families/housing quality, and the cost to Federal taxpayers
  b. Revisit Rent Reform Cohort Recommendation
IV. Policy Framework and Research Methodology—MTW Statutory Objective #1: Reduce Cost and Achieve Greater Cost-Effectiveness in Federal Expenditures
  a. Appropriate Federal subsidy in the tenant-based program
V. BREAK
VI. Revisit Rent Reform Cohort Recommendation
VII. Update on the MTW Expansion
VIII. Public Input
IX. Summary of Discussion
X. Discuss Next Steps and Adjourn

The public is invited to call-in to the meeting by using the following Conference Toll-Free Number in the United States: 1–800–230–1059 or the following International number for those outside the United States: (612) 234–9960. Please be advised that the operator will ask callers to provide their names and their organizational affiliations (if any) prior to placing callers into the conference line. Callers can expect to incur charges for calls they initiate over wireless lines and for international calls, and HUD will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number. Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–877–8339 and providing the FRS operator with the Conference Call Toll-Free Number: 1–800–230–1059.

Members of the public will have an opportunity to provide feedback during the call. The total amount of time for such feedback will be limited to ensure pertinent Committee business is completed. Further, the amount of time allotted to each individual commenter will be limited and will be allocated on a first-come first-served basis by HUD. If the number of commenters exceeds the available time, HUD may ask for the submission of comments via email.

Records and documents discussed during the meeting, as well as other information about the work of this Committee, will be available for public viewing as they become available at: *http://www.facadatabase.gov/committee/committee.aspx?t=c&cid=2570&aid=77* by clicking on the ''Committee Meetings'' link. These materials will also be available on the MTW Demonstration's expansion web page at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion.* Records generated from this meeting may also be inspected and reproduced at the Department of Housing and Urban Development Headquarters in Washington, DC, as they become available, both before and after the meeting.

Outside of the work of this Committee, information about HUD's broader implementation of the MTW expansion, as well as additional opportunities for public input, can be

found on the MTW Demonstration's expansion web page at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion.*

Dated: December 14, 2017.

Dominique Blom,

General Deputy Assistant, Secretary for Public and Indian Housing.

Todd Richardson,

Acting General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2017–27766 Filed 12–22–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6009–N–06]

Privacy Act of 1974; System of Records: Understanding Rapid Re-Housing Study

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of a new system of records.

SUMMARY: For the Understanding Rapid Re-housing Study, the Department of Housing and Urban Development's (HUD) Office of Policy Development and Research (PD&R) is partnering with an external research team to collect new data to analyze the current status of the rapid re-housing (RRH) programs and the experiences of RRH participants. The project will provide HUD with a deeper understanding of how RRH programs operate and the experiences of households that use them. The *Understanding Rapid Re-housing Study* will synthesize existing research on RRH programs, extend the analysis of data from the Family Options Study (2016), provide a detailed examination of all rapid re-housing programs nationwide, and conduct qualitative research with a small sample of families and individuals who receive RRH. The study will collect contact information from Continuums of Care (CoCs) for RRH programs, as well as personal information from participating RRH households.

In accordance with the Privacy Act of 1974, HUD/PD&R proposes to establish a new system of records titled, ''HUD/Understanding Rapid Re-housing.'' This system of records allows HUD/PD&R to collect and maintain records on rapid re-housing program participants who volunteer to participate in the study as well as Continuums of Care and rapid re-housing program staff. This newly established system will be included in HUD's inventory of systems.

DATES: January 25, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410. Comments may be filed electronically by accessing: *www.regulations.gov. Regulations.gov* provides clear instructions on how to submit a public comment on a rule. Communications should refer to the above docket number and title. Faxed comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: The Privacy Office, 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number 202–708–3054. Individuals who are hearing- and speech-impaired may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, HUD/PD&R proposes to establish a new HUD system of records titled ''HUD/Understanding Rapid Re-housing.''

The new system—the Understanding Rapid Re-housing study—is not required by a new rulemaking being published.

The Understanding Rapid Re-housing (RRH) Study is being conducted by Abt Associates, an independent research firm, under the authority of the Secretary of HUD, through the Office of Policy Development and Research. The study is meant to undertake programs of research, studies, testing, and demonstration related to HUD's mission and programs (12 U.S.C. 1701z–1 *et seq.*).

This study provides an opportunity to address unanswered questions about RRH assistance and to gain an understanding of the status of RRH programs nationwide, as well as the experiences of RRH participants. At the program level, the new data collection and analysis will assess the current scale of RRH, document the predominant models in place for RRH programs, determine the extent to which programs use progressive engagement service approaches, and examine the way RRH programs function in rental markets with varying costs and vacancy rates.

Researchers will collect program-level data from Continuums of Care (CoCs) and RRH programs via a web-based survey and will subsequently collect further data through in-depth telephone interviews with several RRH programs. This data will be analyzed by Abt Associates and reported to HUD in a final report. Abt study staff will conduct in-person interviews and meetings with 16 RRH program participants. Data from these meetings will be collected via electronic recordings and paper protocols, and analyzed and reported by the researchers in the final report to HUD. All data will be de-identified for reporting purposes, so no person or program will be able to be identified in the final published study.

This study has undergone Institutional Review Board (IRB) and Information Security reviews to identify privacy risks, compliance, and legal risks to HUD.

Consistent with HUD's information-sharing mission, information stored in the HUD/Understanding Rapid Re-housing system may be shared with other HUD components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

SYSTEM NAME AND NUMBER:

HUD/Understanding Rapid Re-housing—

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Abt Associates, 4550 Montgomery Avenue, Suite 800 North, Bethesda, MD. A list of additional contractor sites where records under this system are maintained is available upon request to the system manager.

SYSTEM MANAGER(S):

Mindy Ault, Social Science Analyst, Program Evaluation Division, U.S. Department of Housing and Urban Development, 451 7th St. SW, Room 8120, Washington, DC 20410.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for the collection of the data and the maintenance of this system can be found at Sec. 501, 502, Housing and Urban Development Act of 1970 (Pub. L. 91–609), 12 U.S.C. 1701z–1, 1701z–2. One part of HUD's established mission and responsibilities is to

monitor family housing conditions and options. To evaluate the effectiveness of the programs that affect the conditions and options, HUD needs to collect participant data over time which includes the necessary contact and tracking information.

PURPOSE(S) OF THE SYSTEM:

This system is meant to provide HUD with a more in-depth understanding of the efficacy of RRH programs nationwide at both the program and participant levels.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are voluntary participants in HUD-funded rapid re-housing programs and Continuums of Care and rapid re-housing program staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

The specific types of records collected from study participants and maintained will include: Names, birth dates, home addresses, telephone numbers, personal email addresses, demographic information, income information, housing history, mental and physical health, and family status information.

RECORD SOURCE CATEGORIES:

This project includes five instruments for data collection: (1) Web Census for CoCs and Rapid Re-Housing Programs, (2) Interview Guide for Rapid Re-Housing Programs, (3) Rapid Re-housing Participant Interview Guide, (4) Rapid Re-housing Participant Follow-up Interview Guide, and (5) Quarterly Household Tracking Guide for Ethnographic Panel. Of these, the first two are program-level data collections and as such will include minimal personally identifiable information (PII), including only the name and contact information for the CoC Collaborative Applicant and RRH program staff person completing the survey. The Rapid Re-Housing Participant Interview Guide, Rapid Re-housing Participant Follow-up Interview Guide, and Quarterly Household Tracking Guide will collect information from participants via interview questions asked in person and recorded for this study. This information will be collected after obtaining written consent regarding participation and will be de-identified in the report. All of the data collection records containing PII will be destroyed at the end of the study period.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. Section 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside HUD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To appropriate agencies, entities, and persons for disclosures compatible with the purpose for which the records in this system were collected, as set forth by Appendix I—HUD's Routine Use Inventory Notice, 80 FR 81837 (December 31, 2015).

1. To the National Archives and Records Administration or to the General Services Administration for records having enough historical or other value to warrant continued preservation by the United States Government, or for inspection under Title 44 U.S.C. 2904 and 2906.

2. To a congressional office from the record of an individual, in response to an inquiry from that congressional office made at the request of that individual.

3. To contractors performing or working under a contract with HUD, when necessary to accomplish an agency function related to this system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function. Individuals provided information under these routine use conditions are subject to Privacy Act requirements and disclosure limitations imposed on the Department.

4. To the Department of Justice (DOJ) when seeking legal advice for a HUD initiative or in response to DOJ's request for the information, after either HUD or DOJ determine that such information relates to DOJ's representation of the United States or any other components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that disclosure of the records to DOJ is a use of the information in the records that is compatible with the purpose for which HUD collected the records. HUD on its own may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which HUD collected the records.

5. To contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities including but not limited to state and local governments, with whom HUD has a contract, service agreement, grant, or cooperative agreement for statistical analysis to advance the goals of the nation's federal strategic plan to prevent and end homelessness. The records may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals, or providers of services with respect to a homeless individual's efforts.

6. To appropriate agencies, entities, and persons when: (a) HUD suspects or has confirmed that the security or confidentiality of information in a system of records has been compromised; (b) HUD 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 systems or programs (whether maintained by HUD 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 HUD's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm for purposes of facilitating responses and remediation efforts in the event of a data breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Abt has implemented full disk encryption (FIPS 140–2 compliant) software in our environment to protect the storage of data, as well as a file transfer application (also FIPS 140–2 compliant), Huddle, for the secure, encrypted transmission of sensitive data such as PII and PHI to and from our clients and subcontractors. Huddle offers secure content collaboration to share data and is FedRAMP certified. Huddle encrypts data in-transit using TLS (128-bit or 256-bit encryption) and at rest with 256-bit AES.

Abt has also implemented anti-malware software in its environment and updates definitions daily on each workstation. For boundary protection, Abt has implemented Cisco ASA Firewalls.

Hard copy notes and other materials that are collected as part of the ethnographic work in Task 8 will be securely stored in locked file cabinets when not in use.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

During the course of the study, program-level records may be retrieved by program name or assigned unique identifier; participant-level records may be retrieved by assigned unique identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Abt Associates will retain all data collected over the life of the study and any analysis files generated with those data under conditions specified in the study protocol. At the end of the contract, Abt will destroy all PII per the contract terms. The retention and disposal procedures are in keeping with HUD's records management policies as described in 44 U.S.C. 3101 and 44 U.S.C. 3303. Abt Associates will submit all de-identified data to HUD at the end of the contract. The retention and disposal procedures are in keeping with HUD's records management policies as described in 44 U.S.C. 3101 and 44 U.S.C. 3303. Study participant PII to be retained for the length of the study (and then destroyed at the end of the contract period, in October 2019) includes the following:

- Name
- Birth date
- Home address
- Telephone number
- Personal email address

The retention and disposal procedures are in keeping with HUD's records management policies as described in section below: 2225.6 REV–1, Appendix 67, Records Disposition Schedule 67 PD&R, Item No. 5.

Disposition: Project case files reflecting a complete history of each project from initiation through research, development, design, testing, and demonstration will be retired to a Federal Records Center three years after satisfactory close of the project. Files will be destroyed six years after satisfactory close of the project (NARA Job NCl-207–78–6, Item 5). *https://portal.hud.gov/hudportal/documents/huddoc?id=22256x67ADMH.pdf.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The contractor, Abt Associates, has a dedicated Analytic Computing Environment (ACE3) for storing ONLY sensitive information such as PII and PHI. Only authorized personnel can access this environment through a Virtual Private Network (VPN). Authentication to the system is done via Active Directory and DUO multi-factor authentication. Users connect to the system via remote desktop sessions (RDS). ACE3 is FISMA and FIPS 140–2 compliant.

To ensure data privacy and security, the Abt Confirmit Horizons web survey platform that will be used for the CoC and RRH program web survey allows for tight control over sampling, respondent recruitment, and data acquisition while addressing both data security and confidentiality concerns. Confirmit invests considerable time updating the software to ensure it has the latest technologies to boost security, performance, and reliability. Respondents will access the RRH web survey through Abt's website, where they are protected by Abt's strict data security system. HTTPS is enforced for transmission of all Confirmit Horizons credentials by Abt at the user level. All user accounts are named users linked to individual email addresses except for a translation account with extremely limited rights that is provided by the software vendor. Strong password policies are enforced, including minimum length, mixed case, special characters, and a password expiry after a set number of days. A password history is also kept to prevent passwords from being continuously reused. Accounts are locked by the system after 5 consecutive failed login attempts. Upon entering the 7-digit PIN assigned by the software, the respondent moves to a non-public directory inaccessible through the internet.

As data are entered, they are stored on a second non-public directory accessible only to the Abt system administrator. Partial responses are saved in this way. Once respondents finish the census and press the ''Submit'' button on the screen, the ID number used to access the survey becomes invalid and the instrument cannot be accessed again with that number. The SQL server databases that store respondent/response data are behind the firewall and data can only be accessed through the Horizons application by our named users. No application users can access the database directly, the servers are only accessible by our database administrators. Confirmit surveys are stateless and session-less. No user identifiable information is required when transmitting information between page submissions. A combination of hidden form fields and system generated identifiers can identify a respondent and the correct state when moving from page to page. Pages use metadata code to prevent them from being cached, and no information is stored on a respondent's computer when the browser is closed.

Abt takes every precaution to ensure that data collected on the internet remain both secure and confidential. All Abt data collection servers are housed in an AT&T Network Operations Center (NOC) with redundant power, expandable bandwidth, and a high level of physical security. All study staff are required to sign a confidentiality pledge stating that no data will be released to unauthorized personnel. In addition, all electronic data for the study are stored on the ACE3 system (described above).

Abt complies with the Privacy Act of 1974, Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the E-Government Act of 2002, including Title III: Federal Information Security Management Act (FISMA), which covers site security, security control documentation, access control, change management, incident response, and risk management. Abt has implemented full disk encryption (FIPS 140–2 compliant) software in its environment to protect the storage of data, as well as a file transfer application (also FIPS 140–2 compliant), Huddle, for the secure, encrypted transmission of sensitive data such as PII and PHI to and from our clients and subcontractors. Huddle offers secure content collaboration to share data and is FedRAMP certified. Huddle encrypts data in-transit using TLS (128-bit or 256-bit encryption) and at rest with 256-bit AES.

Abt has also implemented anti-malware software in its environment and update definitions daily on each workstation. For boundary protection, Abt has implemented Cisco ASA Firewalls.

Hard copy notes and other materials that are collected as part of the ethnographic work in Task 8 will be securely stored in locked file cabinets when not in use.

RECORD ACCESS PROCEDURES:

For information, assistance, or inquiry about records, contact Marcus Smallwood, Acting, Chief Privacy Officer 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number (202) 708–3054. When seeking records about yourself from this system of records or any other Housing and Urban Development (HUD) system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity, meaning that you must provide your full name, address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In addition, your request should:

a. Explain why you believe HUD would have information on you.

b. Identify which Office of HUD you believe has the records about you.

c. Specify when you believe the records would have been created.

d. Provide any other information that will help the Freedom of Information Act (FOIA), staff determine which HUD office may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with regulations.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR part 16, Implementation of the Privacy Act of 1974. Additional assistance may be obtained by contacting Helen Goff Foster, Chief Privacy Officer, 451 Seventh Street SW, Room number 10139, Washington, DC 20410. Individuals desiring to contest records may also refer to the HUD Privacy Act Handbook available on the website: *https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/admh/1325.1*.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them may do so by contacting HUD's Privacy Office or Freedom of Information Act Office at the addresses above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None

HISTORY:

Not applicable. This is a new SORN.

Dated: December 11, 2017.

Helen Goff Foster

Senior Agency Official for Privacy.

[FR Doc. 2017–27767 Filed 12–22–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/A0A501010.999900253G]

Final Determination Against Federal Acknowledgment of the Georgia Tribe of Eastern Cherokee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior (Department) gives notice that the Principal Deputy Assistant Secretary—Indian Affairs, exercising the authority of the Assistant Secretary—Indian Affairs has determined that the Georgia Tribe of Eastern Cherokee (GTEC) is not an Indian Tribe within the meaning of Federal law. This notice is based on a determination that affirms the reasoning, analysis, and conclusions in the Proposed Finding (PF) that the petitioner does not satisfy the seven mandatory criteria for acknowledgment set forth in the applicable regulations. Therefore, it does not meet the requirements for a government-to-government relationship with the United States. Based on the limited nature and extent of comments, and consistent with prior practices, the Government is not producing a separate detailed report or other summary under the criteria to accompany this Final Determination (FD), because neither the petitioner nor interested parties have submitted significant new evidence or analysis that changes the conclusions in the PF. The PF, as supplemented by this notice, is affirmed. This notice constitutes the FD.

DATES: This FD is final and will become effective on March 26, 2018, unless the petitioner or an interested party files a request for reconsideration pursuant to 25 CFR 83.11.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Acting Director, Office of Federal Acknowledgment (OFA), (202) 513–7650.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 83.10(h), the Department publishes this notice in the exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs (PDAS–IA) by 209 DM 8. The Department issued a PF not to acknowledge the Georgia Tribe of Eastern Cherokee (GTEC), Petitioner #41, on May 6, 2016, and published notice of the PF in the **Federal Register** on May 13, 2016. This FD affirms the PF that the Georgia Tribe of Eastern Cherokee, P.O. Box 1411, Dahlonega, GA 30533, c/o Mr. Coleman J. Seabolt, does not meet the seven mandatory criteria for acknowledgment as an Indian Tribe. The petitioner seeks Federal acknowledgment as an Indian Tribe under 25 CFR part 83, ''Procedures for Federal Acknowledgment of Indian tribes,'' dated July 1, 2015. The petitioner was under active consideration when the revised rule was published. It chose by letter of October 24, 2015, signed by its governing body, to have its petition evaluation completed under the superseded Federal acknowledgment regulations as published in 25 CFR part 83, revised as of April 1, 1994, as permitted in 83.7(b) of the 2015 Federal acknowledgment regulations. This FD is issued in accord with that request.

Publication of notice of the PF in the **Federal Register** initiated the 180-day comment period provided in the regulations at § 83.10(i). Neither GTEC nor other parties asked the AS–IA to hold an on-the-record technical assistance meeting under § 83.10(j)(2). After two 180-day extensions and one 90-day extension requested by the petitioner, the comment period closed and GTEC submitted its comments on August 7, 2017. Principal Chief Bill John Baker of the Cherokee Nation, P.O. Box 948, Tahlequah, Oklahoma 74465, submitted a two-page letter dated November 12, 2016, to OFA and provided a copy to GTEC, as required by the regulations per § 83.10(i). Chief Baker's letter supported the Department's PF not to acknowledge GTEC, but it did not contain new evidence or analysis.

The acknowledgment regulations at § 83.10(k) provide a petitioner 60 days to respond to comments on the PF from interested or informed parties. The petitioner's attorney submitted a response to Chief Baker's comments in the form of a letter postmarked October 2, 2017, within the regulatory deadline ending October 6, 2017. In a letter dated October 11, 2017, OFA informed the petitioner that it would move forward with the FD per § 83.10(1) on Wednesday, October 18, 2017, and issue a FD on or before Monday, December 18, 2017. The publication of this FD in the form of a **Federal Register** notice complies with that letter.

The petitioner submitted one three-ring binder containing its comments on the PF. It included narratives, chronologies arranged under the seven mandatory criteria, photocopies of Georgia laws, one oral history transcript, and a photograph of unnamed school children. These materials made reference to ''supplement folders . . . included in the original petition,'' received in OFA February 14, 2002, and already evaluated in the PF. The binder also included a single page of eleven names of spouses either of current members or of ancestors. It claimed these spouses had Cherokee ancestry from ''Cherokee bloodlines'' that were different from the Cherokee lines of descent analyzed in the PF. GTEC did not submit vital records, charts, or other genealogical evidence and analysis tracing these eleven spouses generation by generation to Indian ancestors in the Cherokee Nation before the final Removal in 1838, nor did the petitioner

include any of the living spouses on its membership list.

This FD reviews and evaluates the petitioner's comments together with the record for the PF and third party comments to determine if they change the Department's reasoning, analysis, and conclusions under §§ 83.8 and 83.7. The PF found that the petitioner did not have unambiguous previous Federal acknowledgment and did not meet criteria 83.7(a), (b), and (c). The petitioner met criteria (d), (e), (f) and (g). The petitioner's comments contain the same, similar, or related documents already in the PF record. Because the PF is posted on OFA's website and already addressed in detail most of these documents, readers should read this FD in conjunction with the PF.

The petitioner's comments raise the issue of pre-removal laws of the State of Georgia prohibiting the pre-removal Cherokee Nation from meeting in council, governing, or applying its laws within State boundaries, which Georgia considered included all of the territory simultaneously claimed by the Cherokee Nation. The Department's researchers evaluated Georgia laws pertaining to Indians, including the 1828 Act of the Georgia Assembly, which OFA sent to the petitioner during the comment period. The petitioner's leaders had told the Department's researchers during a field visit before issuing the PF and then in its September 29, 2017, comments that the Department should consider these laws, which the State repealed in 1970, as a ''mitigating factor'' when evaluating their petition. The regulations at § 83.6(e) direct the Government to take into account ''historical situations and time periods for which evidence is demonstrably limited or not available'' and the ''limitations inherent in demonstrating the historical existence of community and political influence or authority.'' Some evidence—war, illiteracy, discrimination, and, as in this case, hostile actions by States and localities—may hinder interactions and limit documentation, causing fluctuations in activity or documentation. Gasoline costs during the Great Depression and rationing during WWII, for example, limited some petitioners from meeting, but after the war, interactions became common again, and petitioners affected by such events have been acknowledged (*see* Cowlitz Indian Tribe). For purposes of evaluating the available evidence for purposes of continuous existence, there is a difference, however, between fluctuations in available evidence and activity over time, and both the absence of evidence for extended periods or the cessation of activity over time—in this case for more than 170 years. Here, the Department does not find a fluctuation because the period of inactivity was so long and the petitioner fundamentally represents a newly created descendant organization. Even after the law's repeal in 1970, GTEC did not provide sufficient evidence to meet all seven criteria.

After considering the petitioner's comments, the Department concludes that the materials submitted for the FD are essentially the same as those the petitioner provided previously and do not alter the overall conclusions of the PF. Even considering limitations in providing historical evidence, and taking into account the State laws, the Department concludes that at no time from 1838 to the present does the evidence demonstrate that GTEC formed a community distinct from non-Indians, established an autonomous governing entity, or had contemporary external identifications as an Indian entity. Thus, the petitioner does not meet the requirements for acknowledgment as an Indian Tribe under the regulations. This FD affirms the PF.

Unambiguous Previous Federal Acknowledgment: Previous Federal acknowledgment means ''action by the Federal Government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States'' (§ 83.1). Such unambiguous Federal acknowledgment must be demonstrated through substantial evidence. (§ 83.8(a)). This FD finds that evidence in the record does not show that the Federal Government took action clearly indicative of recognition of a political relationship between the United States and the petitioner as an Indian Tribe at any time.

The PF found that the petitioner's ancestors ''separated'' individually from the Cherokee ''Nation when they did not remove with it.'' It also found that the petitioner is not ''the same tribe that treated with the United States and was removed in 1838 and is still a federally recognized tribe.'' In its response, GTEC did not submit new evidence that GTEC's ancestors—largely a single extended family known as the ''Davises''—with other Cherokee Indians, who did not remove, evolved from the Cherokee Nation since 1838 to become GTEC. The PF advised the petitioner to demonstrate that ''it has evolved as a group out of the Cherokee Nation after 1838'' in order to be evaluated under § 83.8. The petitioner did not submit such evidence. It submitted a new list of eleven spouses either of members or of ancestors, whom the petitioner claims were Cherokee in its response to the PF. However, it did not demonstrate that they were descendants of Cherokee Indians who formed a distinct Cherokee entity in Georgia with the petitioner's ancestors from 1838 to the present. Thus, the petitioner has not demonstrated that it is either a continuation of the recognized Cherokee Nation or a portion of the Cherokee Nation that has evolved and existed continuously since the Cherokee Removal, as required by § 83.8 of the 1994 regulations. Moreover, there is no evidence that the United States has ever unambiguously acknowledged the petitioner, any of its individual ancestors, or the Davis family, as a distinct tribal entity at any time. The reasoning, analysis, and conclusions pertaining to previous acknowledgment under § 83.8 in the PF are affirmed. Because this FD finds that the Petitioner did not provide substantial evidence that demonstrates unambiguous previous Federal acknowledgment as an Indian Tribe, the provisions of § 83.8(d) do not modify the requirements of the mandatory acknowledgment criteria 83.7(a) through (c).

Historical Indian Tribe: The PF maintains that the historical Indian Tribe for this finding is the Cherokee Nation as it existed before 1838. The Department's analysis finds that the petitioner does not represent an entity existing within the Cherokee Nation that evolved over time to form a distinct Cherokee community in Georgia. There is also a lack of evidence showing the existence of a separate Cherokee entity in northern Georgia, or an Indian entity composed of the petitioner's ancestors. Therefore, the historical Indian Tribe remains the Cherokee Nation as it existed before 1838.

The petitioner's Indian ancestors and more than 90 percent of its members represent a multi-generation extended family founded in 1808 at the marriage of Cherokee ancestor Rachel Martin to non-Indian Daniel Davis. Their descendants, who self-identified as ''the Davises'' or ''the Family,'' resided in a part of the historical territory of the Cherokee Nation, now Lumpkin County, Georgia, before 1838. Rachel Martin and her ten children were citizens of the Cherokee Nation in Georgia, and Daniel Davis held a special status as her spouse. The PF found that GTEC's ancestors interacted before 1838 with politically influential Cherokee families, who formed a political network that advanced their interests within the Cherokee Nation. After the Removal, 22 Cherokee families stayed in Lumpkin County and nearby areas but did not form a Cherokee community with the

Davises nor establish a political organization comprising Cherokee still in Georgia. Instead, GTEC's Davis ancestors lived in a rural neighborhood with non-Indians, with whom they interacted and often married. These Davises viewed their non-Indian in-laws, in-laws' families, and neighbors as part of their community. All attended the same churches and schools, and were buried in the same cemeteries. GTEC names the same Davis family heads as GTEC leaders from 1838 to the present as it had identified for the PF and describes their political activities—as sheriff, running for political office, voting in a district block, and dealing with moonshiners—in the wider community. The Davises were not distinct socially or politically from non-Indian neighbors or in-laws. A much smaller portion of the membership—about 8 percent—trace their Cherokee ancestry only from Pinkney Howell, who resided in the Cherokee Nation before the Removal, but did not remove. Evidence shows that these descendants of Howell participated in neighborhood activities, which included the Davises and non-Indians, and are enrolled in the petitioner.

Criterion 83.7(a) requires that external observers have identified the petitioner as an American Indian entity on a substantially continuous basis since 1900. The petitioner does not present new material in its response to the PF; it simply revisits the materials already in the record. The petitioner argues that these documents ''prove that the tribe has been identified in a continuous manner'' since 1900. GTEC also contends that since Georgia law prevented its ancestors from forming an Indian community or political organization from 1838 to 1970, it could not have been identified. The petitioner believes that this legal limitation should be treated as a ''mitigating factor'' in weighing its evidence under the regulations. This argument is not persuasive, however, since shortly after Removal, ''on December 29, 1838, the Georgia legislature granted citizenship to 22 families'' of Cherokees in the State. The petitioner's ancestors, the Davises, were one of the 22 families named in this law, which allowed them and their descendants in Georgia to ''enjoy all the rights and privileges that appertain and belong to the free citizens of this State.'' Thus, the prior state laws that hindered, disabled, and harassed the Cherokee government and people, would not apply to those 22 named families that remained in the State. These Cherokees, including the petitioner's ancestors, could now enjoy all the rights of other free citizens of Georgia and no longer had to suffer ''all disabilities heretofore imposed upon said persons of the Cherokee tribe of Indians.'' In addition, as free citizens, the State's Black codes applied previously to Indians, beginning in the early 1800s, no longer applied to these named families. Evidence is insufficient to show that any of those remaining 22 families, formed a group, even informally, following the Removal of the Nation in 1838, which external sources could have identified.

This FD finds insufficient evidence in the record of substantially continuous identifications of GTEC from 1900 to the present. Therefore, the petitioner does not meet the requirements of criterion § 83.7(a). Many of the documents submitted relate to portions of the historical Cherokee Nation's history leading up to and through the Removal era and identify Cherokee individuals on various historical lists. There are few original, contemporary documents relating to the period after 1900 as required by this criterion. Some such records identify individuals as Indian, but few contain contemporary identifications of an Indian entity in Lumpkin County, where most of the petitioner's ancestors lived, from 1900 to the present. Identifications in the record are from 1977 to 1981, and again from 1996 to 2001, but it is insufficient to satisfy criterion § 83.7(a), which requires identifications ''on a substantially continuous basis since 1900,'' and which has been interpreted as requiring an identification every ten-year period. Further, there is a lack of available evidence identifying the group even after the date it incorporated in 1977. There are many claims of lawsuits and court actions, but very little evidence was actually submitted for the record. Many of the records that may have been intended to address criterion § 83.7(a) appear to be self-identifications generated by present members of the petitioner, ''at present'' (and not since 1900 to the present), or retrospective accounts, or identifications of individual Indian descendants, and not of a group. None of these identifications are acceptable evidence under this criterion. The petitioner does not meet criterion § 83.7(a) based on evidence and analysis in the PF and this supplemental analysis addressing the evidence in the summary and response. This FD affirms the PF under criterion § 83.7(a).

The PF found that GTEC failed to meet both criteria 83.7(b) and (c). Criterion 83.7(b) requires that GTEC has been a distinct community from historical times to the present, and criterion 83.7(c) requires that it has maintained autonomous political influence since historical times within that community. The petitioner's comments on the PF contains no new evidence or other analysis—other than its arguments concerning the effects of State laws on their social and political organization—that, when evaluated with evidence for the PF, would change the PF's conclusions on criteria 83.7(b) and (c). GTEC does not have the kinds of evidence listed in § 83.7(b), such as significant rates of in-group or patterned out-marriage rates, significant rates of informal social interaction within a distinct Indian group comprising its members, persistent group identity, or exclusive settlements, nor did it offer any suitable alternative forms of evidence that it was a distinct community. Furthermore, it does not have evidence to satisfy criterion 83.7(c), such as the group being politically autonomous and able to mobilize significant numbers of members or resources for group purposes, or a membership that considers issues acted upon or actions taken by leaders of governing bodies to be of particular importance to the membership. There is no evidence of leaders or councils allocating group resources, settling disputes, making decisions, or influencing behavior within an Indian group beyond their families.

GTEC contends that Georgia law prohibited its ancestors from forming an Indian community or political organization from the final Removal in 1838 to 1970, which should be treated as a ''mitigating factor'' in weighing its evidence under the regulations. The PF discusses in detail Georgia's hostility to the Cherokee Nation and the post-removal laws that made GTEC's Indian ancestors free and citizens of the State on a par with White citizens and removed legal barriers to participation in non-Indian society. In sum, as discussed above, these laws did not apply to the petitioner's ancestors who became citizens in 1838, and in any event were repealed in 1970. GTEC lacks evidence that its ancestors attempted to socialize or interact with the 21 other known Indian families in Georgia. There is no evidence that they formed an informal social group, church, historical society or institution that would have served as a base for a political organization of some kind. Even after 1970, when some GTEC members and others claiming Indian descent attempted to establish a formal organization, they were initially unable to identify an existing group of

Cherokee to organize. Because the record lacks evidence that its members and ancestors continuously maintained a distinct Indian community and autonomous political organization for more than 170 years including at present, it cannot meet criteria (b) or (c), even considering § 83.6.

GTEC also claims in its comments that eleven particular spouses of the Davises or Howells are also Cherokee descendants through ''families with Indian heritage'' other than Davis or Howell, but it submitted no documents showing that these individuals descend from other Indians in the Cherokee Nation before Removal. No additional Indian ancestry was found for any of these spouses. Eight of these spouses descend from the Davises or Howells, and no Indian ancestry was found for the remaining three spouses, as far as the Department could determine based on the evidence in the record. Most of these spouses, including those whom the petitioner claimed had other Indian ''blood lines,'' had ancestors who resided in the small rural community where the Davis descendants lived after 1838. If any of these spouses are living, they are not on GTEC's membership list.

GTEC describes herbal medicine, Indian-style crafts, and traditional cooking, but these activities are not based in a distinct community and often are not different from non-Indians in Georgia. GTEC also claims members maintained a named, collective Indian identity, but evidence after 1838, including oral histories and news articles, quote GTEC's ancestors and members identifying as Cherokee descendants, not as members of an existing Indian entity. GTEC submitted no evidence to show its current activities involve most of its members. The petition describes the annual picnic as a family reunion, which underscores the petitioner as an extended family, not a community. GTEC failed to show it has maintained a distinct community comprising its members and their Indian ancestors at any time after 1838 and thus does not meet criterion (b).

The PF found that the petitioner did not meet Criterion 83.7(c) from 1838 to the present. As described in more detail above in the summary of the PF, criterion (c) requires petitioners to be an autonomous political entity in which members and leaders have continuously maintained a political relationship with each other. The Indian descendants from their rural neighborhood did not form an autonomous political entity, characterized by meaningful political relationships between leaders and followers to make decisions, resolve conflicts, manage resources, cooperate on projects, or function politically in any way. GTEC's comments did not include new documents dating between 1838 and 1925 about the churches, cemeteries, and schools in their neighborhood that would show these institutions were run by a GTEC entity. They did not submit new evidence that demonstrates autonomous political activity within any other institution or Cherokee entity.

The petitioner's comments also do not reverse the PF that found there was insufficient evidence that the petitioner's membership supports GTEC leaders or informs their actions since 1838, nor after 1970, when the State statutes the petitioner claims blocked any political activity by Indians were repealed. In 1976, the Georgia Assembly created a ''Georgia Tribe of Eastern Cherokee,'' but it was an entirely new entity that had never before existed, comprising persons claiming Cherokee descent—often without evidence proving their claims—from throughout Georgia. The legislation did not require applicants to be part of an already existing Indian entity. This State-created group was not the petitioner, although some of its original leaders would later form the petitioner, also named GTEC. As discussed in the PF, leadership in the original group in the 1970s does not show leadership in GTEC. Furthermore, the PF found that since 1980, the petitioner's named leaders have quarreled and only focused intermittently (including a more than ten-year period of inactivity) on gaining Federal acknowledgment and on combating other groups or individuals claiming to be the State-recognized entity. The evidence available on these activities was insufficient to demonstrate political influence or authority within GTEC. The petitioner did not submit new evidence that would cure deficiencies detailed in the PF. It did not submit evidence that demonstrates the petitioner maintained political influence or authority over its members, which meets criterion (c) at any time after 1838. This FD affirms the conclusions of the PF that the petitioner does not meet the requirements of criterion 83.7(c) for political authority.

Criterion 83.7(d) requires a copy of the group's present governing document, including its membership criteria. The petitioner provided evidence that satisfied the requirements of criterion 83.7(d) for the PF. This FD affirms the conclusions of the PF that the petitioner meets the requirements of Criterion 83.7(d).

Criterion (e) requires that the petitioner's membership consists of individuals who descend from a historical Indian Tribe or from historical Indian Tribes, which combined and functioned as a single autonomous political entity. The PF found that GTEC met this criterion. The PF found that about 90 percent (413 of 458) of those persons listed on its current membership list, dated August 10, 2013, descend from the historical Indian Tribe, the Cherokee Nation as it existed before the Cherokee Removal. These members descend through Rachel Martin, a citizen of the historical Cherokee Nation before 1838, and her non-Indian husband Daniel Davis, and a small percentage descend as well or solely from Pinkney Howell, a Cherokee descendant who resided in Lumpkin County after the Removal. However, the petitioner's response did not supplement the record with evidence for the 10 percent of the current members who did not provide the necessary evidence to demonstrate their own lines of descent as the PF suggested, so the PF calculation that 90 percent (413 of 458) of those persons listed on its membership list, dated August 10, 2013, descend from the historical Cherokee Nation as it existed before the final Removal in 1838 remains unchanged.

The petitioner submitted as part of its response a list of eleven names of spouses of current members or of ancestors. None of these spouses alive in 2013 when the membership list was certified by the governing body appear on it. The petitioner claims that these spouses had possible alternate Cherokee ancestry not connected to the Davises or Howells, but the petitioner did not provide evidence demonstrating generation-by-generation descent to the Cherokee Nation before 1838. The OFA was unable to locate evidence from publically available records to demonstrate under the reasonable likelihood standard that it is more likely than not that there are any new lines of Cherokee descent in the membership based on the ancestry of these eleven individuals. This FD affirms the conclusions of the PF that the petitioner meets the requirements of criterion 83.7(e).

Criterion (f) requires that the membership of the petitioner be composed principally of persons who are not members of any federally acknowledged Indian Tribe. The PF found that 13 GTEC members were enrolled in the Cherokee Nation, a federally recognized Tribe in Oklahoma, and no members were enrolled in the Eastern Band of Cherokee Indians, a federally recognized Indian Tribe in North Carolina. Ninety-seven percent (445 of 458) of the GTEC members are

not members of any federally acknowledged Indian Tribe. Because the GTEC petitioner is composed principally of persons who are not members of other federally-recognized Indian Tribes, it therefore meets this criterion.

Criterion (g) requires that neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. The PF stated that the petitioner met criterion (g), and neither the petitioner nor other party submitted new evidence to change that conclusion. Therefore, the petitioner meets the requirements of criterion 83.7(g).

This **Federal Register** notice under 25 CFR part 83 is the FD to deny Federal acknowledgment to the Georgia Tribe of Eastern Cherokee petitioner. The petitioner does not satisfy all seven of the mandatory criteria in § 83.7, and therefore, the AS–IA declines to acknowledge that the petitioner is an Indian Tribe under § 83.10(m). As provided in § 83.10(h) of the regulations, this FD summarizes the evidence, reasoning, and analyses that form the bases for this decision. In addition to its publication in the **Federal Register**, this notice will be posted on the Department's Indian Affairs website at *www.bia.gov.*

This FD on GTEC will become a final and effective agency action 90 days after the publication of this notice in the **Federal Register**, unless the petitioner or interested party files a request for reconsideration under the procedures in § 83.11, with the Interior Board of Indian Appeals (IBIA). The IBIA must receive this request no later than 90 days of the publication of this **Federal Register** notice. The final determination will become effective as provided in the regulations 90 days from the **Federal Register** publication unless a request for reconsideration is filed within that time period.

Dated: December 14, 2017.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2017–27764 Filed 12–22–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18X.LLAZ956000.L14400000.BJ0000.LXSSA225000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands were officially filed in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona, on the dates indicated. Surveys announced in this notice are necessary for the management of lands administered by the agencies indicated.

ADDRESSES: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. Protests of the survey should be sent to the Arizona State Director at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Davis, Chief Cadastral Surveyor of Arizona; (602) 417–9558; *gtdavis@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat, in one sheet, representing the dependent resurvey of a portion of the east boundary of the Fort McDowell Indian Reservation, Homestead Entry Survey No. 413, and a portion of the subdivisional lines, and the subdivision of section 27, and a metes-and-bounds survey of lot 13, section 27, Township 4 North, Range 7 East, accepted November 29, 2017, and officially filed December 1, 2017, for Group 1172, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat, in one sheet, representing the dependent resurvey of a portion of the Fourth Guide Meridian East (west boundary), the south and north boundaries, and the subdivisional lines, and the subdivision of certain sections, Township 23 North, Range 17 East, accepted September 13, 2017, and officially filed September 14, 2017, for Group 1164, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in one sheet, representing the dependent resurvey of a portion of the Fifth Standard Parallel North (south boundary), the independent resurvey of a portion of the Fifth Guide Meridian East (west boundary), the east boundary, and the subdivisional lines, and the subdivision of certain sections, Township 21 North, Range 21 East, accepted August 16, 2017, and officially filed August 17, 2017, for Group 1158, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of the Tohono O'odham Nation Reservation (a portion of the south boundary), partially surveyed Township 7 South, Range 3 East, accepted November 29, 2017, and officially filed December 1, 2017, for Group 1165, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of the Tohono O'odham Nation Reservation (south township boundary), Township 7 South, Range 4 East, accepted November 29, 2017, and officially filed December 1, 2017, for Group 1165, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of the Tohono O'odham Nation Reservation [portions of the First Guide Meridian East (west boundary), the east boundary and the subdivisional lines], Township 7 South, Range 5 East, accepted November 29, 2017, and officially filed December 1, 2017, for Group 1165, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of the Tohono O'odham Nation Reservation (a portion of the south boundary), Township 7 South, Range 6 East, accepted November 29, 2017, and officially filed December 1, 2017, for Group 1165, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

The plat, in two sheets, representing the the dependent resurvey of a portion of the east boundary of Township 5 South, Range 22 West, and portions of metes-and-bounds surveys, Township 5 South, Range 21 and 22 West, accepted October 13, 2017, and officially filed

October 16, 2017, for Group 1175, Arizona.

This plat was prepared at the request of the Marine Corps Air Station Yuma.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Gerald T. Davis,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2017–27775 Filed 12–22–17; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–062]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 5, 2018 at 10:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–576 and 577 (Final) (Cold-Drawn Mechanical Tubing from China and India). The Commission is currently scheduled to complete and file its determinations and views of the Commission by January 24, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: December 20, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–27851 Filed 12–21–17; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 20, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Pennsylvania in the lawsuit entitled *PennEnvironment, Inc., et al.* v. *ArcelorMittal Monessen LLC, et al.,* Civil Action No. 2:15-cv-01314–CRE.

The lawsuit seeks injunctive relief and civil penalties for violations of the Clean Air Act, Pennsylvania's federally-approved State Implementation Plan (''Pennsylvania SIP''), and a Title V operating permit (''Title V permit'') at Defendant ArcelorMittal Monessen LLC's (''AMM'') coke production facility in Monessen, Pennsylvania (''Monessen Plant''). The principal violations relate to alleged failures to meet opacity limits applicable to the coke oven battery combustion stacks and pushing operations, resulting in emissions of particulate matter and other pollutants to the atmosphere.

The proposed decree requires AMM to perform injunctive relief and pay a $1.5 million civil penalty. Entering into and fully complying with the proposed consent decree will release AMM from past civil liability at the Monessen Plant for various types of violations of the Pennsylvania SIP and the Title V permit, including the opacity violations alleged in the complaint.

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 *PennEnvironment, Inc., et al.* v. *ArcelorMittal Monessen LLC,* D.J. Ref. No. 90–5–2–1–11563. 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, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *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 $27.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–27741 Filed 12–22–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

[OMB Number 1121–0197]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of Currently Approved Collection

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Bureau of Justice Assistance, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until January 25, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michelle Martin, Senior Management Analyst, Bureau of Justice Assistance, 810 Seventh Street NW, Washington, DC 20531 (phone: 202 514–9354). Written comments and/or suggestions can also

be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of currently approved collection

2. *The Title of the Form/Collection: State Criminal Alien Assistance Program*

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: States and local units of general government including the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities. Other: None.

Abstract: In response to the Violent Crime Control and Law Enforcement Act of 1994 Section 130002(b) as amended in 1996, BJA administers the State Criminal Alien Assistance Program (SCAAP) with the Bureau of Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS). SCAAP provides federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the designated reporting period and for the following correctional purposes;

Salaries for corrections officers
Overtime costs
Performance based bonuses
Corrections work force recruitment and retention
Construction of corrections facilities
Training/education for offenders
Training for corrections officers related to offender population management
Consultants involved with offender population
Medical and mental health services
Vehicle rental/purchase for transport of offenders
Prison Industries
Pre-release/reentry programs
Technology involving offender management/inter agency information sharing
Disaster preparedness continuity of operations for corrections facilities

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that no more than 800 respondents will apply. Each application takes approximately 120 minutes to complete and is submitted once per year (annually).

6. *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the applications is 1,600 hours.

800×120 minutes = 96,000/60 minutes per hour = 1,600 burden hours

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: December 20, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–27713 Filed 12–22–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Experience Rating Report; Extension Without Change

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration, is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Experience Rating Report.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 26, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Edward M. Dullaghan by telephone at (202)–693–2927, TTY 1–877–889–5627 (these are not toll-free numbers) or by email at *dullaghan.edward@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW, Francis Perkins Building, Room S–4524, Washington, DC 20210; or by Fax (202) 696–3975.

FOR FURTHER INFORMATION CONTACT: Robert Pavosevich by telephone at (202) 693–2935 (this is not a toll-free number) or by email at *pavosevich.robert@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

The data submitted annually on the ETA 204 report enables the Employment and Training Administration to project revenues for the Unemployment Insurance (UI) program on a state-by-state basis and to measure the variations in assigned contribution rates which result from different experience rating systems. Used in conjunction with other data, the ETA 204 assists in determining the effects of certain factors (*e.g.,* stabilization, expansion, or contraction in employment, etc.) on the unemployment experience of various groups of employers. The data also provide an early signal for potential solvency problems and are useful in analyzing factors which give rise to these potential problems and permit an evaluation of the effectiveness of the various approaches available to correct the detected problems. The report collects annual information about the taxation efforts in states relative to both taxable and total wages and allows comparison between states. Further, the data are key components to the Significant Tax Measures Report. The Significant Tax Measures Report provides the information necessary to evaluate and compare state UI tax systems. 44 U.S.C. 3506(c)(2)(A) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0164.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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 submission of responses.

Agency: DOL–ETA.

Type of Review: Extension without change.

Title of Collection: Experience Rating Report.

Form: ETA–204.

OMB Control Number: 1205–0164.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Annual.

Total Estimated Annual Responses: 53.

Estimated Average Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 27 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Rosemary Lahasky,

Deputy Assistant Secretary.

[FR Doc. 2017–27758 Filed 12–22–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy

AGENCY: Bureau of International Labor Affairs, Office of the United States Trade Representative, U.S. Department of Labor.

ACTION: Meeting notice.

SUMMARY: Notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy.

DATES: January 18, 2018, 1:00 p.m. to 2:30 p.m.; U.S. Department of Labor, Secretary's Conference Room, 200 Constitution Ave. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Anne M. Zollner, Chief, Trade Policy and Negotiations Division; Phone: (202) 693–4890.

SUPPLEMENTARY INFORMATION: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f)(2)(A), it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Therefore, the meeting is exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents). 5 U.S.C. app. Accordingly, the meeting will be closed to the public.

Signed at Washington, DC, the 19th day of December 2017.

Martha E. Newton,

Deputy Undersecretary, Bureau of International Labor Affairs.

[FR Doc. 2017–27742 Filed 12–22–17; 8:45 am]

BILLING CODE 4510–28–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 a currently approved collection ''National Longitudinal Survey of Youth 1979.'' A copy of the proposed information collection request can be obtained by contacting the individual listed 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 February 26, 2018.

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, 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Longitudinal Survey of Youth 1979 (NLSY79) is a representative national sample of persons who were born in the years 1957 to 1964 and lived in the U.S. in 1978. These respondents were ages 14 to 22 when the first round of interviews began in 1979; they will be ages 53 to 60 as of December 31, 2017. The NLSY79 was conducted annually from 1979 to 1994 and has been conducted biennially since 1994. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income, and program participation.

In addition to the main NLSY79, the biological children of female NLSY79 respondents have been surveyed since 1986. A battery of child cognitive, socio-emotional, and physiological assessments has been administered biennially since 1986 to NLSY79 mothers and their children. Starting in 1994, children who had reached age 15 by December 31 of the survey year (the Young Adults) were interviewed about their work experiences, training, schooling, health, fertility, self-esteem, and other topics. Funding for the NLSY79 Child and Young Adult surveys is provided by the Eunice Kennedy Shriver National Institute of Child Health and Human Development through an interagency agreement with the BLS and through a grant awarded to researchers at the Ohio State University Center for Human Resource Research (CHRR). The interagency agreement funds data collection for children and young adults up to age 24. The grant funds data collection for young adults age 25 and older.

One of the goals of the Department of Labor (DOL) is to produce and disseminate timely, accurate, and relevant information about the U.S. labor force. The BLS contributes to this goal by gathering information about the labor force and labor market and disseminating it to policymakers and the public so that participants in those markets can make more informed, and thus more efficient, choices. Research based on the NLSY79 contributes to the formation of national policy in the areas of education, training, employment programs, and school-to-work transitions. In addition to the reports that the BLS produces based on data from the NLSY79, members of the academic community publish articles and reports based on NLSY79 data for the DOL and other funding agencies. To date, more than 2,793 articles examining NLSY79 data have been published in scholarly journals. The survey design provides data gathered from the same respondents over time to form the only data set that contains this type of information for this important population group. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policymakers, thus adversely affecting the DOL's ability to perform its policy- and report-making activities.

II. Current Action

The BLS seeks approval to conduct round 28 of the NLSY79 and the associated surveys of biological children of female NLSY79 respondents.

The Young Adult Survey will be administered to young adults age 12 and older who are the biological children of female NLSY79 respondents. These young adults will be contacted regardless of whether they reside with their mothers.

Members of the Young Adult grant sample are contacted for interviews every other round once they reach age 31. The NLSY79 Young Adult Survey involves interviews with approximately 6,326 young adults ages 12 and older.

During the field period, about 10 main NLSY79 interviews will be validated to ascertain whether the interview took place as the interviewer reported and whether the interview was done in a polite and professional manner.

BLS has undertaken a continuing redesign effort to examine the current content of the NLSY79 and provide direction for changes that may be appropriate as the respondents age. The 2018 instrument reflects a number of changes recommended by experts in various fields of social science and by our own internal review of the survey's content. Additions to the questionnaire are accompanied by deletions of previous questions so that the overall time required to complete the survey should remain about the same as compared to 2016.

The round 28 questionnaire includes new questions on job characteristics, spouse's health, cognition, pain and use of pain killers, and retirement financing. In addition, a new module that assesses the respondents' health as they turn age 60 will be included for the first time.

Questions on job characteristics will be added to the employment section for Round 28. All respondents (male and female) who have held a job since their last interview will be asked these questions about each job held since the date of their last interview. The questions ask about job stress, job flexibility, and workplace accommodations. Two new questions that ask about spouse's health will be added to the section on spouse labor supply. They ask the respondent to rank spouse's physical health and emotional health as excellent, very good, good, fair, or poor.

In the health section, two types of questions that assess cognition will be added to Round 28. All respondents will be asked questions that assess cognition. The first type ask the respondent to self-rate memory and change in memory. Respondents have been asked these questions previously. The second type is the ''Animal Naming Test.'' The respondent is asked to name as many animals as s/he can in one minute. In addition, in the health section round 28, two questions on pain and three questions on use of painkillers will be asked of all respondents. The reference period for both pain and use of pain medication is the last 30 days. The questions ask whether the respondents suffer from chronic pain and how frequently, whether they have taken pain medication, whether the medicine taken can be purchased over-the-counter, and whether the medicine was taken in a way not directed by a doctor.

Round 28 introduces a module of health questions asked of respondents who have reached age 60. Most of the questions that make up the Age-60 Health module have been asked in previous rounds at ages 40 and 50; topics include depression, health of the respondent's biological parents, physical functioning, pain, health limits on daily activities, chronic conditions,

functional limitations, sleep, and an open-ended question asking whether the respondent wants to report anything additional about his or her health.

Round 28 bolsters the retirement expectations section to collect new information on how the respondents plan to fund their retirement and on their knowledge about Social Security. We will add questions on whether, at what age, and how much per month the respondent expects to collect Social Security retirement benefits. We will ask similar questions for employer-based pensions and Individual Retirement Accounts. In all three instances, parallel questions will be asked about the spouse/partner's expected sources of income. We will also ask the estimated value of other assets the respondent might live off of during retirement and whether she expects support from family members. The questions on knowledge of Social Security benefits will ask about the timing of starting retirement benefits and several true/false questions that ask about what entitles one to Social Security retirement benefits and how the timing of claiming affects the benefits.

Most of the changes made to the Young Adult questionnaire for 2018 have been made to streamline questions and sections in order to cut down on the amount of time it takes for a respondent to complete an interview. The Young Adult sample will includes 663 respondents ages 12–22 and 5,663 respondents age 23 and older in Round 28.

The questions added to the Young Adult questionnaire expand our understanding of both physical and mental/emotional health and well-being such as gender identity and sexual orientation, resiliency, loneliness and social isolation, self-worth, and social cognition.

III. Desired Focus of Comments

The BLS 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: National Longitudinal Survey of Youth 1979.

OMB Number: 1220–0109.

Type of Review: Revision, with change, of a previously approved collection.

Affected Public: Individuals or households.

ESTIMATED TOTAL BURDEN HOURS

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
NLSY79 Round 27 Main Survey	6,900	Biennially	6,900	75	8,625
Round 27 Validation Interviews	10	Biennially	10	6	1
Young Adult Survey (Ages 12 to 13)	20	Biennially	20	50	17
Young Adult Survey (Ages 14 to 18)	294	Biennially	294	66	323
Young Adult Survey (Ages 19 to 24)	962	Biennially	962	63	1,010
Young Adult Survey, Grant component (Age 25 to 28), interview.	1,210	Biennially	1,210	60	1,210
Young Adult Survey, Grant component (Age 29 and older), interview.	2,574	Biennially	2,574	70	3,003
Totals [1]	11,960		11,970		14,189

[1] The total number of 11,960 respondents across all the survey instruments is a mutually exclusive count that does not include the 10 reinterview respondents, who were previously counted among the main and young adult survey respondents.

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 19th day of December 2017.

Kimberley D. Hill,

Chief, Division of Management Systems.

[FR Doc. 2017–27662 Filed 12–22–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before January 25, 2018.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and

comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–024–C.

Petitioner: ICG Illinois, LLC, 5945 Lester Road, Williamsville, Illinois 62693.

Mine: Viper Mine, MSHA I.D. No. 11–02664, located in Sangamon County, Illinois.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing or diagnostic equipment inby the last open crosscut. The petitioner states that:

(1) The use of nonpermissible electronic testing and diagnostic equipment will be limited to: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, resistance, and power measurement devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All nonpermissible electronic testing and diagnostic equipment used in or inby the last open crosscut will be examined by a qualified person, as defined in 30 CFR 75.153, prior to use to ensure the equipment is being maintained in a safe operating condition. The examinations results will be recorded weekly in the examination book and will be made available to MSHA and the miners at the mine.

(3) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in or inby the last open crosscut.

(4) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane concentration is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment will be withdrawn outby the last open crosscut.

(5) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(6) Except for time necessary to troubleshoot under actual mining conditions, coal production in the Mechanized Mining Unit will cease. However, coal may remain in or on the equipment to test and diagnose the equipment under ''load.''

(7) All electronic testing and diagnostic equipment will be used in accordance with the manufacturer's recommendations.

(8) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of such equipment.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–025–C.

Petitioner: ICG Illinois, LLC, 5945 Lester Road, Williamsville, Illinois 62693.

Mine: Viper Mine, MSHA I.D. No. 11–02664, located in Sangamon County, Illinois.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electronic testing or diagnostic equipment in return air outby the last open crosscut. The petitioner states that:

(1) The use of nonpermissible electronic testing and diagnostic equipment will be limited to: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, resistance, and power measurement devices; ultrasonic thickness gauges; electronic component testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by the MSHA District Manager.

(2) All nonpermissible electronic testing and diagnostic equipment used in return air outby the last open crosscut will be examined by a qualified person, as defined in 30 CFR 75.153, prior to use to ensure the equipment is being maintained in a safe operating condition. The examinations results will be recorded weekly in the examination book and will be made available to MSHA and the miners at the mine.

(3) A qualified person, as defined in 30 CFR 75.151, will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment in return air outby the last open crosscut.

(4) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When one percent or more methane concentration is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment will be withdrawn from the return air outby the last open crosscut.

(5) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(6) Except for time necessary to troubleshoot under actual mining conditions, coal production in the Mechanized Mining Unit will cease.

However, coal may remain in or on the equipment to test and diagnose the equipment under ''load.''

(7) All electronic testing and diagnostic equipment will be used in accordance with the manufacturer's recommendations.

(8) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of such equipment.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2017–026–C.

Petitioner: Rosebud Mining Company, 301 Market Street, Kittanning, Pennsylvania 16201.

Mine: Cresson Mine, MSHA I.D. No. 36–09308, located in Cambria County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 18.35(a)(5)(i) (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of 480-volt extended trailing cables on Mobile Bridge Conveyors, Dual Boom Roof Bolters, Truss Bolters, Single Boom Roof Bolters, and Shuttle Cars and 995-volt extended trailing cables on continuous mining machines. The petitioner states that:

(1) Table 9 in Appendix 1 specifies the maximum length of trailing cables as: 600 feet using No. 4 American Wire Gauge (AWG) cables, 700 feet using No. 2 AWG cable, 850 feet using No. 2/0 AWG cable, and 1,000 feet using No. 4/0 AWG cable.

(2) Trailing cables that supply 995-volt 3-phase Alternating Current (AC) to continuous miners will not be smaller than No. 2/0 AWG shielded cable and will not exceed a length of:

a. 1,000 feet when using No. 2/0 AWG shielded cable; or

b. 1,250 feet when using No. 4/0 AWG shielded cable.

(3) Trailing cables that supply 480-volt 3-phase AC to mobile bridge conveyors will not be smaller than No. 2/0 AWG cable and will not exceed a length of:

a. 1,000 feet when using 2/0 AWG cable; or

b. 1,250 feet when using No. 4/0 AWG cable.

(4) Trailing cables that supply 480-volt 3-phase AC to the Fletcher Dual Boom Roof Bolter and Fletcher Tilt Head Truss Bolter will not exceed 1,200 feet in length when using No. 2 AWG cable.

(5) Trailing cables that supply 480-volt 3-phase AC to the Long Airdox Single Head Roof Bolter will not exceed 900 feet in length when using No. 4 AWG cable.

(6) Trailing cables that supply 480-volt 3-phase AC to shuttle cars will not exceed 900 feet in length when using No. 4 AWG cable.

(7) All circuit breakers used to protect No. 4 AWG trailing cable exceeding 600 feet in length will have instantaneous trip units calibrated and sealed to trip at 500 amperes with +/− 10 percent trip tolerance. The circuit breakers will have permanent, legible labels attached. The label will identify the circuit breaker as being suitable for protecting No. 4 AWG cables.

(8) Replacement circuit breakers and/or instantaneous trip units used to protect No. 4 AWG cables will be calibrated and sealed to trip at 500 amperes with +/−10 percent trip tolerance.

(9) All circuit breakers used to protect No. 2 AWG cables exceeding 700 feet in length will have instantaneous trip units calibrated and sealed to trip at 500 amperes with +/−10 percent trip tolerance. The circuit breakers will have permanent, legible labels. The label will identify the circuit breaker as being suitable for protecting No. 2 AWG cables.

(10) Replacement circuit breakers and/or instantaneous trip units used to protect No. 2 AWG cables will be calibrated and sealed to trip at 500 amperes with +/−10 percent trip tolerance.

(11) All circuit breakers used to protect No. 2/0 AWG cables or No. 4/0 AWG cables exceeding 850 feet in length will have instantaneous units calibrated and sealed to trip at 1,500 amperes with +/−10 percent trip tolerance.

(12) These circuit breakers will have permanent, legible labels. The label will identify the circuit breaker as being suitable for protecting No. 2/0 AWG or No. 4/0 AWG cables.

(13) Replacement circuit breakers and/or instantaneous trip units used to protect No. 2/0 AWG or No. 4 AWG cables will be calibrated and sealed to trip at 1,500 amperes with +/−10 percent trip tolerance.

(14) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(15) During production, persons designated by the operator will visually examine the trailing cables daily to ensure the cables are in safe operating condition and that the instantaneous settings of the specially calibrated breakers do not have seals removed or have been tampered with and they do not exceed the stipulated settings.

(16) Trailing cables not in safe operating condition will be removed from service immediately and repaired or replaced.

(17) Splices or repairs in the trailing cables will be made in a workmanlike manner, in accordance with the instruction of the manufacturer of the splice or repair materials. The splice or repair will comply with the requirements in 30 CFR 75.603 and 75.604.

(18) Permanent warning labels will be installed and maintained on the cover or covers of the power center identifying the location of each sealed short circuit protective device. These labels will warn miners not to change or alter these sealed short circuit settings.

(19) Excess cable will be stored behind the anchor(s) on equipment that use cable reels to prevent the cables from overheating.

(20) Petitioner will not implement this change until the petition for modification is approved and not until all miners who will be responsible for examination of the cables and associated electrical components have been trained on the contents and precautions included in the petition.

(21) Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions for the approved 30 CFR part 48 training plan to the District Manager. These proposed revisions will specify task training for miners designated to examine the trailing cables for safe operating condition, and verify the settings of the circuit breakers that protect the trailing cables do not exceed the specified settings in Items 7, 8, 9, 10, 11, 12, and 13. The training will include the following elements:

a. The hazards of setting the circuit breakers too high to adequately protect the trailing cables.

b. How to verify that the circuit breakers protecting the trailing cables are properly set and maintained.

c. Mining methods and operating procedures that will protect the trailing cables against damage.

d. The proper procedure for visually examining trailing cables to ensure the cables are in safe operating condition by inspecting the entire cable for nicks and abrasions and observing the insulation and integrity of any splices or repairs.

The procedure as specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–27666 Filed 12–22–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0189]

Servicing Multi-Piece and Single Piece Rim Wheels; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels. The paperwork provisions of the Standard includes a requirement that the manufacturer or a Registered Professional Engineer certify that repaired restraining devices and barriers meet the strength requirements specified in the Standard and a requirement that defective wheels and wheel components be marked or tagged.

DATES: Comments must be submitted (postmarked, sent, or received) by February 26, 2018.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0189, 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 services) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2011–0189) 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 website. 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 Charles McCormick, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; 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) (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 that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Certification of repair (§ 1910.177(d)(3)(iv)). This paragraph requires that when restraining devices and barriers are removed from service because they are defective, they shall not be returned to service until they are repaired and reinspected. If the repair is structural, the manufacturer or a Registered Professional Engineer must certify that the strength requirements specified in § 1910.177(d)(3)(i) of the Standard have been met.

The certification records are used to assure that equipment has been properly repaired. The certification records also provide the most efficient means for OSHA compliance officers to determine that an employer is complying with the Standard.

Marking or tagging of wheel components (1910.177(e)(2)). This paragraph requires that defective wheels and wheel components ''be marked or tagged unserviceable and removed from the service area.'' Under this requirement, OSHA is providing employers with sufficient information from which they can derive the wording to use in marking the object or constructing a tag. Therefore, this provision imposes no paperwork burden because it falls within the portion of 5 CFR 1320(c)(2) that states, ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition [of 'collection of information']''.

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 Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177). OSHA is proposing to retain its current burden hour estimate of one (1) hour. 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: Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177).

OMB Control Number: 1218–0219.

Affected Public: Business or other for-profits.

Number of Respondents: 85.

Frequency of Responses: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 1.

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://regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0189). 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 comments about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publically available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, 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 December 12, 2017.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–27665 Filed 12–22–17; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 18–04]

Fiscal Year 2018 Report on the Selection of Eligible Countries for Fiscal Year 2018

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: This report is provided in accordance with section 608(d)(1) of the Millennium Challenge Act of 2003, Public Law 108–199, Division D, (the ''Act''), 22 U.S.C. 7708(d)(1).

Dated: December 20, 2017.

Jeanne M. Hauch,

VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

Report on the Selection of Eligible Countries for Fiscal Year 2018

Summary

This report is provided in accordance with section 608(d)(1) of the Millennium Challenge Act of 2003, as amended, Public Law 108–199, Division D, (the ''Act'') (22 U.S.C. 7707(d)(1)).

The Act authorizes the provision of assistance under section 605 of the Act (22 U.S.C. 7704) to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries in achieving lasting economic growth and poverty reduction, and are in furtherance of the Act. The Act requires the Millennium Challenge Corporation (''MCC'') to determine the countries that will be eligible to receive assistance for the fiscal year, based on their demonstrated commitment to just and democratic governance, economic freedom, and investing in their people, as well as on the opportunity to reduce poverty and generate economic growth in the country. The Act also requires the submission of reports to appropriate congressional committees and the publication of notices in the **Federal Register** that identify, among other things:

1. The countries that are ''candidate countries'' for assistance for fiscal year (''FY'') 2018 based on their per-capita income levels and their eligibility to receive assistance under U.S. law, and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act (22 U.S.C. 7707(a)));

2. The criteria and methodology that the Board of Directors of MCC (the ''Board'') will use to measure and evaluate the policy performance of the ''candidate countries'' consistent with the requirements of section 607 of the Act in order to select ''eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act (22 U.S.C. 7707(b))); and

3. The list of countries determined by the Board to be ''eligible countries'' for FY 2018, with justification for eligibility determination and selection for compact negotiation, including with which of the eligible countries the Board will seek to enter into compacts (section 608(d) of the Act (22 U.S.C. 7707(d))).

This is the third of the above-described reports by MCC for FY 2018. It identifies countries determined by the Board to be eligible under section 607 of the Act (22 U.S.C. 7706) for FY 2018 with which the MCC will seek to enter into compacts under section 609 of the Act (22 U.S.C. 7708), as well as the justification for such decisions. The report also identifies countries selected by the Board to receive assistance under MCC's threshold program pursuant to section 616 of the Act (22 U.S.C. 7715).

Eligible Countries

The Board met on December 19, 2017 to select those eligible countries with which the United States, through MCC,

will seek to enter into a Millennium Challenge Compact pursuant to section 607 of the Act (22 U.S.C. 7706) for FY 2018. The Board selected the following eligible country for such assistance for FY 2018: Timor-Leste. The Board also reselected the following countries for compact assistance for FY 2018: Burkina Faso, Lesotho, Mongolia, Senegal, Sri Lanka, and Tunisia.

Criteria

In accordance with the Act and with the ''Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2018'' formally submitted to Congress on September 27, 2017, selection was based primarily on a country's overall performance in three broad policy categories: *Ruling Justly, Encouraging Economic Freedom,* and *Investing in People.* The Board relied, to the maximum extent possible, upon transparent and independent indicators to assess countries' policy performance and demonstrated commitment in these three broad policy areas. The Board compared countries' performance on the indicators relative to their income-level peers, evaluating them in comparison to either the group of low income countries (''LIC'') or the group of lower middle income countries (''LMIC'').

The criteria and methodology used to assess countries on the annual scorecards are outlined in the ''Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2018.'' [1] Scorecards reflecting each country's performance on the indicators are available on MCC's website at *www.mcc.gov/scorecards.*

The Board also considered whether any adjustments should be made for data gaps, data lags, or recent events since the indicators were published, as well as strengths or weaknesses in particular indicators. Where appropriate, the Board took into account additional quantitative and qualitative information, such as evidence of a country's commitment to fighting corruption, investments in human development outcomes, or poverty rates. For example, for additional information in the area of corruption, the Board considered how a country is evaluated by supplemental sources like Transparency International's Corruption Perceptions Index, the Global Integrity Report, Open Government Partnership status, and the Extractive Industry Transparency Initiative, among others, as well as on the defined indicator. The Board also took into account the margin of error around an indicator, when applicable. In keeping with legislative directives, the Board also considered the opportunity to reduce poverty and promote economic growth in a country, in light of the overall information available, as well as the availability of appropriated funds.

This was the ninth year the Board considered the eligibility of countries for subsequent compacts, as permitted under section 609(k) of the Act (22 U.S.C. 7708(k)). As in previous years, they considered the higher bar expected of subsequent compact countries, including examining the implementation of the first compact, and evidence of both improved scorecard policy performance and a commitment to reform. The Board also considered the eligibility of countries for initial compacts. The Board sees the selection decision as an annual opportunity to determine where MCC funds can be most effectively invested to support poverty reduction through economic growth in relatively well-governed, poor countries. The Board carefully considers the appropriate nature of each country partnership—on a case-by-case basis—based on factors related to economic growth and poverty reduction, the sustainability of MCC's investments, and the country's ability to attract and leverage public and private resources in support of development. In addition, this is the second year where the Board considered an explicit higher bar for those countries close to the upper end of the candidate pool, looking closely in such cases at a country's access to development financing, the nature of poverty in the country, and its policy performance.

As with previous years, a number of countries that performed well on the quantitative elements of the eligibility criteria (*i.e.,* on the policy indicators) were not chosen to develop a compact for FY 2018. FY 2018 was a particularly competitive year: Several countries were already working to develop compacts, multiple countries passed the scorecard (some for the first time), and funding was limited due to budget constraints. As a result, only one country that passed the scorecard and related stringent eligibility criteria was newly selected to develop an MCC compact, and only one country for the threshold program.

MCC's engagement with partner countries is not open-ended, and the Board is very deliberate when selecting for follow-on partnerships. In making subsequent compact selection decisions, the Board considered—in addition to the criteria outlined above—the country's performance implementing its first compact, including the nature of the country's partnership with MCC, the degree to which the country has demonstrated a commitment and capacity to achieve program results, and the degree to which the country has implemented the compact in accordance with MCC's core policies and standards. To the greatest extent possible, this was assessed using pre-existing monitoring and evaluation targets and regular quarterly reporting. This information was supplemented with direct surveys and consultation with MCC staff responsible for compact implementation, monitoring, and evaluation. MCC published a Guide to Supplemental Information [2] and a Guide to the Compact Survey Summary [3] in order to increase transparency about the type of supplemental information the Board uses to assess a country's policy performance and compact implementation performance. The Board also considered a country's commitment to further sector reform, as well as evidence of improved scorecard policy performance.

Countries Newly Selected for Compact Assistance

Using the criteria described above, Timor-Leste was the only candidate country under section 606(a) of the Act (22 U.S.C. 7705(a)) that was newly selected for assistance under section 607 of the Act (22 U.S.C. 7706).

Timor-Leste: Timor-Leste passes the MCC scorecard with 13 of 20 indicators met, including the hard hurdles on both control of corruption and democratic rights (including both Political Rights and Civil Liberties). MCC has found Timor-Leste to be a willing and committed partner during development of the threshold program over the past year. As a result, MCC feels Timor-Leste is now solidly exemplifying the profile of a compact partner, and has decided to move Timor-Leste from the threshold program to the compact program. Work done to date in developing the threshold program will contribute to the compact development process.

Countries Reselected To Continue Compact Development

Five of the countries selected for compact assistance for FY 2018 were previously selected for FY 2017. These

[1] Available at *https://www.mcc.gov/resources/doc/report-selection-criteria-and-methodology-fy18.*

[2] Available at *https://www.mcc.gov/resources/doc/guide-to-supplemental-information-fy18.*

[3] Available at *https://www.mcc.gov/resources/doc/guide-to-the-compact-survey-summary-fy18.*

countries are Burkina Faso, Mongolia, Senegal, Sri Lanka, and Tunisia. The Board reselected these countries based on their continued or improved policy performance since their prior selection. Lesotho, which had originally been selected for compact assistance for FY 2014, received vote deferrals for reselection in FY 2016 and FY 2017. Due to positive actions taken by the Government of Lesotho this year, the Board has once again selected the country for compact assistance for FY 2018.

Countries Selected To Receive Threshold Program Assistance

The Board selected The Gambia to receive threshold program assistance.

The Gambia: The Gambia offers MCC the opportunity to support the government as it continues its democratic transition following the inauguration of its new president in early 2017 and successful legislative elections in April 2017. While it has historically struggled to pass the MCC scorecard due to its performance on the democratic rights hard hurdle, the recent transition and reforms being pursued suggest the country will see strong improvements on these indicators in the coming years. The Gambia meets 12 of 20 indicators overall on the scorecard and demonstrates good performance on the control of corruption indicator.

Ongoing Review of Partner Countries' Policy Performance

The Board emphasized the need for all partner countries to maintain or improve their policy performance. If it is determined during compact implementation that a country has demonstrated a significant policy reversal, MCC can hold it accountable by applying MCC's Suspension and Termination Policy.[4]

[FR Doc. 2017–27876 Filed 12–21–17; 4:15 pm]

BILLING CODE 9211–03–P

[4] Available at *https://www.mcc.gov/resources/doc/policy-on-suspension-and-termination.*

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2018–011]

Freedom of Information Act (FOIA) Advisory Committee

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: We are announcing the following committee meeting of the Freedom of Information Act (FOIA) Advisory Committee.

DATES: The meeting will be held on January 16, 2018, from 10:00 a.m. to 1:00 p.m. EDT. You must register for the meeting by 5:00 p.m. EDT on January 15, 2018.

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue NW, William G. McGowan Theater, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Amy Bennett, Designated Federal Officer for this committee, by mail at National Archives and Records Administration, Office of Government Information Services, 8601 Adelphi Road—OGIS, College Park, MD 20740–6001, by telephone at 202–741–5770, or by email at *foia-advisory-committee@nara.gov.*

SUPPLEMENTARY INFORMATION: We announce this advisory committee meeting in accordance with the Federal Advisory Committee Act (5 U.S.C. App) and the second United States Open Government National Action Plan (NAP) released on December 5, 2013.

Agenda and meeting materials: You may find all meeting materials at *https://ogis.archives.gov/foia-advisory-committee/2016-2018-term/Meetings.htm.* This will be the seventh meeting of the second committee term. The purpose of this meeting will be to review the work of the committee's three subcommittees. Information on them is at *https://ogis.archives.gov/foia-advisory-committee/2016-2018-term/Subcommittees.htm.*

Procedures: The meeting is open to the public. Due to security requirements, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Registration for the meeting will go live via Eventbrite on December 19, 2017, at 10:00 a.m. EDT. To register for the meeting, please do so at this Eventbrite link: *https://www.eventbrite.com/e/freedom-of-information-act-foia-advisory-committee-meeting-january-16-2018-registration-37728051618.*

This program will be live-streamed on the U.S. National Archives' YouTube channel at *https://www.youtube.com/user/usnationalarchives/playlists.* The webcast will include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *foia-advisory-committee@nara.gov* or call 202–741–5770. Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Amy Bennett at the phone number, mailing address, or email address listed above.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2017–27681 Filed 12–22–17; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Notice of Record of Decision for the Arecibo Observatory in Puerto Rico

AGENCY: National Science Foundation.

ACTION: Notice of Record of Decision.

SUMMARY: On November 15, 2017, the National Science Foundation (NSF) signed a Record of Decision (ROD) for the Arecibo Observatory in Puerto Rico. This important step concludes the agency's decision-making process with respect to the general path forward for facility operations in a budget-constrained environment, and provides the basis for a future decision regarding a new collaborator.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Pentecost, Project Administrator, National Science Foundation, Division of Astronomical Sciences, 2415 Eisenhower Avenue, Room W 9152, Alexandria, VA 22314. *Telephone:* 703–292–4907, *Email: epenteco@nsf.gov.*

SUPPLEMENTARY INFORMATION: NSF issued its ROD following authorization from the National Science Board on November 9, 2017. The ROD was preceded by an extensive environmental impact analysis and broad input from the public and the scientific community, including the National Academies 6th Decadal Survey released in 2010, the NSF Division of Astronomical Sciences Portfolio Review Committee Reportreleased in 2012, and the NSF Geospace Sciences Portfolio Review Committee Report released in 2016.

The ROD formalizes the selection of NSF's Preferred Alternative: collaboration with interested parties to maintain science-focused operations at the Observatory with reduced agency funding. The selection of this Alternative will allow important research to continue while accommodating the agency's budgetary constraints and its core mission to

support cutting-edge science and education.

NSF remains deeply concerned about the impacts from recent hurricanes on Arecibo Observatory staff, the facility, and all citizens of Puerto Rico. The ROD arrives at a challenging time, but is necessary for the agency to secure a future for the Observatory, as it will allow negotiations to begin with potential collaborators who may take over management and operations as NSF funding is reduced.

Prior to issuance of the ROD, a Final Environmental Impact Statement (FEIS) was prepared in compliance with the Federal National Environmental Policy Act, 42 U.S.C. 4321, *et seq.* (NEPA), dated July 27, 2017, and availability of it was noticed in the **Federal Register** on August 4, 2017. As detailed in the FEIS, five Action Alternatives and a No-Action Alternative, were considered for the proposed change in operations of Arecibo Observatory. These Alternatives include:

- *Alternative 1:* Collaboration with Interested Parties for Continued Science-focused Operations (Agency-preferred Alternative)
- *Alternative 2:* Collaboration with Interested Parties for Transition to Education-focused Operations
- *Alternative 3:* Mothballing of Facilities
- *Alternative 4:* Partial Demolition and Site Restoration
- *Alternative 5:* Complete Demolition and Site Restoration
- *No-Action Alternative:* Continued NSF Investment for Science-focused Operations

The Preferred Alternative, which is also the environmentally preferable action alternative, was selected in the ROD. The ROD also reflected NSF's consideration of the outcomes of its compliance obligations under Section 106 of the National Historic Preservation Act and the Endangered Species Act.

The ROD is now available in both English and Spanish on the internet at: *https://www.nsf.gov/mps/ast/env_impact_reviews/env_rev_arecibo.jsp* in Adobe® portable document format (PDF). Limited hard copies of the ROD are also available, on a first request basis, by contacting the NSF contact, Elizabeth A. Pentecost, Project Administrator, National Science Foundation, Division of Astronomical Sciences, 2415 Eisenhower Avenue, Room W 9152, Alexandria, VA 22314, *Telephone:* 703–292–4907, *Email: epenteco@nsf.gov.*

Dated: December 20, 2017.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2017–27723 Filed 12–22–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On November 16, 2017, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on December 18, 2017 to:

1. Kasey Stewart, Permit No. 2018–026.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–27721 Filed 12–22–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of December 25, 2017, January 1, 8, 15, 22, 29, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of December 25, 2017

There are no meetings scheduled for the week of December 25, 2017.

Week of January 1, 2018—Tentative

There are no meetings scheduled for the week of January 1, 2018.

Week of January 8, 2018—Tentative

There are no meetings scheduled for the week of January 8, 2018.

Week of January 15, 2018—Tentative

Thursday, January 18, 2018

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Damaris Marcano: 301–415–7328)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 22, 2018—Tentative

Tuesday, January 23, 2018

9:00 a.m. Hearing on Construction Permit for Northwest Medical Isotopes Production Facility: Section 189a of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Michael Balazik: 301–415–2856)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, January 25, 2018

10:00 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 29, 2018—Tentative

There are no meetings scheduled for the week of January 29, 2018.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically.

If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Patricia.Jimenez@nrc.gov* or *Jennifer.BorgesRoman@nrc.gov.*

Dated: December 20, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–27844 Filed 12–21–17; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2015–0157]

Entergy Nuclear Operations, Inc.; Vermont Yankee Nuclear Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Final environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final environmental assessment (EA) and finding of no significant impact (FONSI) regarding the issuance of two exemptions in response to a January 6, 2015 request from Entergy Nuclear Operations, Inc. (Entergy or the licensee), on behalf of the owners of the Vermont Yankee Nuclear Power Station (VY). The exemptions allow the licensee to use funds from the VY decommissioning trust fund (the Trust) for irradiated fuel management activities.

DATES: The EA and FONSI referenced in this documents are available on December 26, 2017.

ADDRESSES: Please refer to Docket ID NRC–2015–0157 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0157. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jack D. Parrott, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6634; email: *Jack.Parrott@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 23, 2015 (80 FR 35992), the NRC issued exemptions from sections 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) of title 10 of the *Code of Federal Regulations* (10 CFR) to Entergy, for VY's Renewed Facility Operating License No. DPR–28. The VY facility is located in Windham County, Vermont. The licensee requested the exemptions by letter dated January 6, 2015 (ADAMS Accession No. ML15013A171). The exemptions allow the licensee to use funds from the Trust for irradiated fuel management activities, in the similar manner that funds from the Trust are used under 10 CFR 50.82(a)(8) for decommissioning activities. As explained below, although the exemptions also exempted VY from the regulatory requirement for prior notification to the NRC of disbursements from the Trust for irradiated fuel management activities, the licensee is still required to provide such prior notification to the NRC because of a separate requirement in the VY Renewed Facility Operating License.

At the time of issuance, the NRC's approval of the exemptions referenced the categorical exclusion criteria under 10 CFR 51.22(c)(25). However, on November 4, 2015, the State of Vermont, the Vermont Yankee Nuclear Power Corporation, and Green Mountain Power Corporation (together, Petitioners) filed a petition (ADAMS Accession No. ML16137A554) with the Commission that, in part, challenged the NRC staff's use of a categorical exclusion in granting the exemption request. The Commission, in their October 27, 2016 decision on the petition (ADAMS Accession No. ML16301A083), found that the exemptions were ineligible for a categorical exclusion under the National Environmental Policy Act (NEPA), and directed the staff to conduct an EA to examine the environmental impacts, if any, associated with the exemptions. Therefore, consistent with Commission direction and with 10 CFR 51.21, the NRC prepared a draft EA to document its environmental review for the exemption request, and published the draft EA for comment on March 8, 2017 (82 FR 13015). Comments were received from the Petitioners on April 7, 2017 (ADAMS Accession No. ML17107A145). After consideration of those comments, the staff has prepared this final EA. Based on the results of this final EA, the NRC has determined that it is not necessary to prepare an environmental impact statement and is therefore issuing this final FONSI.

II. Final Environmental Assessment

Description of the Action

The exemptions requested by Entergy on January 6, 2015, and granted by the NRC on June 23, 2015, exempt Entergy from the requirements set forth in 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv). Specifically, the exemptions allow Entergy to use funds from the Trust for irradiated fuel management activities, not associated with radiological decommissioning.

Need for the Action

By letter dated January 12, 2015 (ADAMS Accession No. ML15013A426), Entergy informed the NRC that it had permanently ceased power operations at VY and that the VY reactor vessel had been permanently defueled.

In its January 6, 2015 exemption request, Entergy stated that it needed access to the funds in the Trust, in excess of those funds needed for radiological decommissioning, to support irradiated fuel management activities not associated with radiological decommissioning. As required by 10 CFR 50.82(a)(8)(i)(A), decommissioning trust funds may be used by a licensee if the withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in 10 CFR 50.2. This definition addresses radiological decommissioning and does not include activities associated with irradiated fuel management. Similarly, the requirements of 10 CFR 50.75(h)(1)(iv) restrict decommissioning trust fund disbursements (other than for payments

of ordinary administrative costs and incidental expenses of the fund) to decommissioning expenses until final decommissioning has been completed. Therefore, Entergy needed exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) to allow the use of funds from the Trust for irradiated fuel management activities.

Environmental Impacts of the Action

The exemptions are of a financial nature and allow Entergy to use funds from the Trust to pay for irradiated fuel management activities. The exemptions do not authorize any additional regulatory or land-disturbing activities, but do allow Entergy to finance irradiated fuel management activities, which support decommissioning.

In granting the exemptions, the NRC staff performed an independent analysis of the Trust and confirmed that the existing funds, planned future contributions, and projected earnings of the Trust provide reasonable assurance of adequate funding to complete all NRC required decommissioning activities and to conduct irradiated fuel management. Consequently, the staff concluded that application of the requirements that funds from the Trust only be used for decommissioning activities and not for irradiated fuel management was not necessary to provide reasonable assurance that adequate funds will be available for the radiological decommissioning of VY.

The staff conclusion is also supported by the fact that the licensee has a comprehensive, regulation-based decommissioning funding oversight program to provide reasonable assurance that sufficient funding will be available for the radiological decommissioning of VY. After submitting its site-specific Decommissioning Cost Estimate as required by 10 CFR 50.82(a)(8)(iii), and until completing its final radiation survey and demonstrating that residual radioactivity has been reduced to a level that permits termination of its license as required by 10 CFR 50.82(a)(11), the licensee is required by 10 CFR 50.82(a)(8)(v) to annually submit to the NRC a financial assurance status report. The report must include, among other things, amounts spent on decommissioning, the remaining Trust balance, and estimated costs to complete radiological decommissioning. If the remaining Trust balance, plus earnings on such funds calculated at not greater than a 2 percent real rate of return, plus any other financial assurance methods being relied upon, does not cover the estimated costs to complete radiological decommissioning, 10 CFR 50.82(a)(8)(vi) requires that additional financial assurance to cover the estimated costs to complete radiological decommissioning must be provided. These annual reports provide a means for the NRC to monitor the adequacy of the funding available for the radiological decommissioning of VY notwithstanding the exemptions allowing Entergy to use funds from the Trust for irradiated fuel management activities.

Entergy also requested an exemption from the 10 CFR 50.75(h)(1)(iv) requirement that no disbursements may be made from the Trust until written notice of the intention to make the disbursement has been given to the NRC at least 30 working days before the date of the intended disbursement, except that notification is not required after decommissioning has begun and withdrawals are made under 10 CFR 50.82(a)(8). The NRC granted this exemption. However, the granting of this exemption did not relieve Entergy from a requirement for prior notification of disbursements of funds from the Trust for irradiated fuel management activities because of additional language in the VY Renewed Facility Operating License and the VY Master Decommissioning Trust Agreement. Specifically, in accordance with the VY Renewed Facility Operating License (ADAMS Accession No. ML052720265), Condition 3.J.a.(iii), the decommissioning trust agreement must provide that no disbursements or payments from the Trust, other than for ordinary administrative expenses, shall be made by the trustee until the trustee has first given the NRC 30 days prior written notice of payment. Article IV, Section 4.05, of the VY Master Decommissioning Trust Agreement (ADAMS Accession No. ML15111A086), by and between Entergy Nuclear Vermont Yankee, LLC, and The Bank of New York Mellon as Trustee, provides that no disbursements or payments shall be made by the Trustee, other than administrative expenses, until the Trustee has first given the NRC 30 days prior written notice of payment. Although Entergy had submitted a September 4, 2014 license amendment request to delete License Condition 3.J.(a) and thus remove the prior notification requirement (ADAMS Accession No. ML14254A405), Entergy withdrew this license amendment request on September 22, 2015 (ADAMS Accession Nos. ML15267A074 and ML15265A583). Therefore, License Condition 3.J.a.(iii) remains in effect and, despite the granting of the exemptions, VY remains subject to a prior notification requirement. Similar to the annual financial assurance status reports, prior notifications provide a means for the NRC to monitor the adequacy of the funding available for the radiological decommissioning of VY notwithstanding the exemptions allowing Entergy to use funds from the Trust for irradiated fuel management activities.

The environmental impacts of decommissioning have been generically evaluated by the NRC and documented in NUREG–0586, Supplement 1, Generic Environmental Impact Statement [GEIS] on Decommissioning of Nuclear Facilities (Decommissioning GEIS). Entergy's Post-Shutdown Decommissioning Activity Report (PSDAR) (ADAMS Accession No. ML14357A110) discussed that the impacts from the planned decommissioning activities at VY are less than and bounded by the impacts considered in the Decommissioning GEIS and NUREG–1496, Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities. The NRC staff found that the PSDAR contained the required information, including a discussion that provides the reasons for concluding that the environmental impacts associated with the decommissioning activities at VY will be bounded by previous analyses (ADAMS Accession No. ML15343A210).

The exemptions do not authorize Entergy to perform new land-disturbing activities that could affect land use, soils and geology, water resources, ecological resources, or historic and cultural resources. The exemptions do not authorize Entergy to conduct additional regulatory activities, outside those already licensed by the NRC; therefore, there are no incremental effects to air quality, traffic and transportation, socioeconomics, environmental justice, or accidents. The exemptions only change the source of funds allowed for irradiated fuel management activities. This will not increase the probability or consequences of accidents and, as a result of the exemptions, there are no changes in the types or amounts of effluents that are, or may be, released offsite. Entergy must continue to comply with all appropriate NRC regulations related to occupational and public radiation exposure and thus the exemptions will not result in an increase to occupational or public doses. Finally, Entergy is required to maintain adequate funding for the radiological decommissioning of VY and to provide information regarding this funding to the NRC. Accordingly,

the NRC concludes that there are no potential incremental environmental impacts as a result of the granted exemptions.

Environmental Impacts of the Alternatives to the Action

As an alternative to the action, the NRC staff could have denied Entergy's exemption request. Denial of the exemption request would have resulted in Entergy using funds from the Trust only for radiological decommissioning and not also for irradiated fuel management activities. The environmental impacts of this alternative would be substantively the same as the environmental impacts for granting the exemption request because there are no potential incremental environmental impacts as a result of granting the exemption request. Therefore, the environmental impacts of the alternative to the action would be the same as those already considered by the previous environmental analyses.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered.

Agencies and Persons Consulted

The NRC issued for public comment a draft of the EA and FONSI in the **Federal Register** on March 8, 2017 (82 FR 13015). Comments were received from the Petitioners on April 7, 2017 (ADAMS Accession No. ML17107A145).

Discussion of Comments

The NRC staff has summarized the Petitioners' comments and has responded to them below.

Petitioners comment 1. NRC staff's EA and FONSI fail to address numerous factors that trigger the need to prepare an Environmental Impact Statement (EIS). NRC should withdraw the EA and FONSI, and the approval of the exemption request granting approval to use the decommissioning trust fund for spent fuel management, and proceed to prepare an EIS that, among other things, addresses these comments and brings NRC's actions into compliance with NEPA.

NRC response. The NRC disagrees with this comment. The NRC has evaluated the environmental impacts of the exemptions in its EA and concluded that the exemptions did not, and will not, have a significant effect on the quality of the human environment. Accordingly, the NRC has decided not to prepare an EIS for the action and is issuing a FONSI. Therefore, the NRC staff will not withdraw the draft EA and FONSI to prepare an EIS nor will the NRC staff withdraw the approval of the exemption request. The staff's responses to the Petitioners' comments that the EA and FONSI fail to address numerous factors triggering the need to prepare an EIS are described below.

Petitioners comment 1.a. The sale of VY to NorthStar Nuclear Decommissioning Company, LLC (NorthStar), and its resulting changes to the plan, schedule, and cost estimate for decommissioning, is a reasonably foreseeable event that must be considered in the EA. The NRC ignored the pending sale of VY to NorthStar, and that sale's resulting changes to the plan, schedule, and cost estimate for decommissioning VY.

NRC response. The NRC disagrees with this comment. The NRC is aware of the possible sale of VY to NorthStar, and that the sale may result in changes to the plan, schedule, and cost estimate for decommissioning. However, the NRC does not consider the sale reasonably foreseeable for purposes of this EA. The sale transaction is still pending regulatory review and approval by both the Vermont Public Service Board and the NRC. Pursuant to 10 CFR 50.80, the VY license may not be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the NRC gives its consent in writing. The license transfer request related to the pending sale of VY to NorthStar is currently under NRC review. For the NRC to evaluate the exemption request as if approval of the license transfer request were ''reasonably foreseeable'' would suggest that the NRC is inappropriately pre-judging the merits of the license transfer request that is still under the agency's review. Thus, the NRC does not consider it ''reasonably foreseeable'' that the license transfer request will be approved by the NRC and the Vermont Public Service Board. Accordingly, the NRC will not consider the possible sale of VY to NorthStar for purposes of this EA. Furthermore, pursuant to 10 CFR 50.33(k), the license transfer request is required to state information in the form of a report indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

Petitioners comment 1.b. The EA fails to consider the reasonably foreseeable possibility of a shortfall in the Trust resulting from allowing $225 million or more from the Trust to be diverted to non-decommissioning expenses. By allowing $225 million or more to be diverted from the Trust for non-decommissioning expenses, the NRC has greatly increased the chances of a shortfall in the Trust that could leave the site radiologically contaminated.

NRC response. The NRC disagrees with this comment. In its evaluation of the underlying exemption request (80 FR 35992), the NRC staff performed an independent analysis of the Trust and confirmed that the existing funds, planned future contributions, and projected earnings of the Trust provide reasonable assurance of adequate funding to complete all NRC required decommissioning activities and to conduct irradiated fuel management in accordance with the VY Irradiated Fuel Management Plan and PSDAR.

The NRC's regulations in 10 CFR 50.82 provide for the oversight of decommissioning funding until decommissioning is complete and the license is terminated. At all times, the licensee remains responsible to assure that sufficient funding remains available for decommissioning. Once a licensee has permanently ceased operations, it is required to report its decommissioning funding status on an annual basis. In these submittals, the licensee is required to report any differences between the estimated costs to decommission the site, and the amount of decommissioning funding available or anticipated at that time, including plans for making up any identified shortfalls. Independent of these submittals, the NRC staff will validate the licensee's reporting of this information and review the Trust status against any new information regarding radiological contamination at the site and the ability to meet the requirements for release of the site for unrestricted use. Any unanticipated Trust shortfalls must be covered by the licensee. Should the licensee fail to cover a shortfall, the NRC may pursue enforcement methods as determined to be appropriate.

Given the NRC's regulatory framework for decommissioning funding assurance and the NRC's reasonable assurance findings in its evaluation of the exemption request, the NRC does not consider a shortfall in the Trust resulting from the exemptions to be reasonably foreseeable. Therefore, the Petitioners' comments suggesting that the NRC has greatly increased the chances of a shortfall in the Trust that could leave the site radiologically contaminated are unsupported and speculative.

Petitioners comment 1.c. The EA fails to consider cumulative impacts resulting from all of the non-decommissioning expenses Entergy withdraws from the Trust. The EA looks only at one of Entergy's uses of the Trust for a non-decommissioning expense (spent fuel management). NRC staff

simply provided conclusory statements supporting its position.

NRC response. The NRC disagrees with this comment. The EA appropriately considered all withdrawals from the decommissioning trust that would be permissible under the NRC's regulations and under the exemptions. Specifically, the EA considered withdrawals for decommissioning expenses, which are permitted by the NRC's regulations, and withdrawals for spent fuel management expenses, which are permitted by the exemptions. The EA did not consider withdrawals for any non-decommissioning expenses beyond spent fuel management expenses, because such withdrawals are prohibited by the NRC's regulations and are not allowed by the exemptions. In addition, this scope of the EA is appropriate because the NRC staff reviews the status of decommissioning funds annually during decommissioning to ensure that adequate funds for decommissioning are available and that withdrawals from the decommissioning fund are for approved purposes. Finally, the cumulative impacts of decommissioning were considered in the Decommissioning GEIS. Therefore, the EA's consideration of impacts was appropriate.

Petitioners comment 1.d. The EA fails to consider reasonable alternatives. The only alternative that the NRC staff evaluated was denying Entergy's exemption request. The NRC staff failed to evaluate other alternatives, such as granting conditional approval.

NRC response. The NRC disagrees that the EA fails to consider reasonable alternatives. The exemptions at issue here allow Entergy to use funds from the Trust for the non-decommissioning expense of irradiated fuel management activities. This EA evaluates denying the exemption request as a reasonable alternative to the action of granting the exemption request. Consistent with the NRC's regulations, imposing conditions on a licensee is typically done through the license amendment process and not through the exemption process; therefore, the NRC disagrees that it should have also evaluated as a reasonable alternative granting conditional approval of the exemption request.

Petitioners comment 2. The publication of the EA after the relevant decision has already been made does not comply with NEPA's requirement that the analysis occur before a decision is made. The NRC approved the exemption request on June 23, 2015, but published the draft EA and FONSI for comment on March 8, 2017. The NRC staff relies on the Decommissioning Financial Status Report from March 30, 2015 to support the EA, when it had a more recent report from March 30, 2016.

NRC response. The NRC disagrees with this comment. In CLI–16–17, the Commission directed the NRC staff ''to conduct an environmental assessment to examine the environmental impacts, if any, associated with the exemption.'' Although the Commission declined to reverse the staff's approval of the exemption request, it specified that if the staff's environmental review ''results in a determination of significant impacts, the Staff should promptly notify [the Commission] and, at that time, [the Commission] may reconsider whether the exemption should be stayed or vacated.''

The March 30, 2015 Decommissioning Financial Status Report (ADAMS Accession No. ML15092A141) was not needed to support the EA and neither was the more recent report from March 30, 2016 (ADAMS Accession No. ML16090A355). The supporting analysis of the adequacy of the Trust to provide reasonable assurance of adequate funding to complete all NRC required decommissioning activities and to conduct irradiated fuel management is described in the June 23, 2015 **Federal Register** Notice of the issuance of the exemptions.

III. Finding of No Significant Impact

Entergy proposed exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) to allow the licensee to use funds from the Trust for irradiated fuel management activities. The NRC granted the exemptions on June 23, 2015.

Consistent with 10 CFR 51.21, the NRC conducted the EA for the exemptions included in Section II of this document and incorporated by reference into this finding. On the basis of this EA, the NRC concludes that the exemptions did not, and will not, have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an EIS for the action.

Dated at Rockville, Maryland, this 19th day of December 2017.

For the Nuclear Regulatory Commission.

Bruce Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–27682 Filed 12–22–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0237]

Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1335, ''Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants.'' The DG–1335 is proposed revision 5 of regulatory guide (RG) 1.97, (same title), last revised in June 2006 (Revision 4). This guide describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements for instrumentation to monitor accidents in nuclear power plants. It endorses, with clarifications, the Institute of Electrical and Electronic Engineers (IEEE) Standard (Std.) 497–2016, ''IEEE Standard Criteria for Accident Monitoring Instrumentation for Nuclear Power Generating Stations.''

DATES: Submit comments by February 26, 2018. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0237. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–12H08, 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: Pong Chung, telephone: 301–415–2363, email: *Pong.Chung@nrc.gov;* and Stephen Burton, telephone: 301–415–7000, email: *Stephen.Burton@nrc.gov.* Both are staff members of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0237 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0237.
- *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 DG is electronically available in ADAMS under Accession No. ML17083A134. The regulatory analysis for this DG is available in ADAMS under Accession No. ML17083A133.
- *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–2017–0237 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. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled ''Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants,'' is proposed revision 5 to RG 1.97. The proposed revised RG is temporarily identified by its task number, DG–1335. The DG provides a more technology-neutral approach and brings the regulatory guide more in line with related international standards. This revision introduces a new set of variables for parameters that may be monitored when following severe accident management guidelines. The NRC staff determined that RG 1.97 should be revised to endorse the 2016 version of IEEE Std. 497, with certain exceptions and clarifications, and to make additional clarifying changes to support new reactor license applications, design certifications, and applications for license amendments.

Revising RG 1.97 to endorse the current version of the IEEE consensus standard is in accordance with Section 12(a)(2) of Public Law 104–113, ''National Technology Transfer and Advancement Act of 1995,'' (codified at 15 U.S.C. 272(b)(3)) and is consistent with the NRC policy of evaluating the latest versions of national consensus standards to determine their suitability for endorsement by regulatory guides. This revision also will comply with the NRC's Management Directive (MD) 6.5, ''NRC Participation in the Development and Use of Consensus Standards'' (ADAMS Accession No. ML16193A497).

Copies of IEEE documents may be purchased from the Institute of Electrical and Electronics Engineers Service Center, 445 Hoes Lane, PO Box 1331, Piscataway, NJ 08855 or through the IEEE's public website at *http://www.ieee.org/publications_standards/index.html.*

III. Backfitting and Issue Finality

Draft regulatory guide DG–1335, if finalized as revision 5 to RG 1.97, would endorse, with certain exceptions and clarifications, the 2016 revision of IEEE Std. 497, which contains a more technology-neutral approach and brings current guidance more in line with related international standards. This revision introduces a new set of variables for parameters that may be monitored when following severe accident management guidelines. Applicants and licensees may voluntarily use the guidance in DG–1335, if finalized as revision 5 to RG 1.97, to demonstrate compliance with the underlying NRC regulations. Current licensees may continue to use guidance the NRC found previously acceptable for complying with the identified regulations as long as their current licensing basis remains unchanged. As such, this draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.''

Dated at Rockville, Maryland, this 19th day of December 2017.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2017–27661 Filed 12–22–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–87; MC2018–60; CP2018–100; MC2018–61; CP2018–101; MC2018–62; CP2018–102; MC2018–63; CP2018–103; MC2018–64; CP2018–104; MC2018–65; CP2018–105; MC2018–66; CP2018–106; MC2018–67; CP2018–107; MC2018–68; CP2018–108; MC2018–69; CP2018–109]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 27, 2017 (Comment due date applies to CP2017–87; MC2018–60 and CP2018–100; MC2018–61 and CP2018–101); December 28, 2017 (Comment due date applies to MC2018–62 and CP2018–102; MC2018–63 and CP2018–103; MC2018–64 and CP2018–104; MC2018–65 and CP2018–105; MC2018–66 and CP2018–106); December 29, 2017 (Comment due date applies to MC2018–67 and CP2018–107; MC2018–68 and CP2018–108; MC2018–69 and CP2018–109).

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
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–87; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 279; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 27, 2017.

2. *Docket No(s).:* MC2018–60 and CP2018–100; *Filing Title:* USPS Request to Add First-Class Package Service Contract 88 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* December 27, 2017.

3. *Docket No(s).:* MC2018–61 and CP2018–101; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 65 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* December 27, 2017.

4. *Docket No(s).:* MC2018–62 and CP2018–102; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 66 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* December 28, 2017.

5. *Docket No(s).:* MC2018–63 and CP2018–103; *Filing Title:* USPS Request to Add Priority Mail Express Contract 56 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* December 28, 2017.

6. *Docket No(s).:* MC2018–64 and CP2018–104; *Filing Title:* USPS Request to Add Priority Mail Contract 393 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Christopher C. Mohr; *Comments Due:* December 28, 2017.

7. *Docket No(s).:* MC2018–65 and CP2018–105; *Filing Title:* USPS Request to Add Priority Mail Contract 394 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 28, 2017.

8. *Docket No(s).:* MC2018–66 and CP2018–106; *Filing Title:* USPS Request to Add Priority Mail Contract 395 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* December 28, 2017.

9. *Docket No(s).:* MC2018–67 and CP2018–107; *Filing Title:* USPS Request to Add Priority Mail Contract 396 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Gregory Stanton; *Comments Due:* December 29, 2017.

10. *Docket No(s).:* MC2018–68 and CP2018–108; *Filing Title:* USPS Request to Add Priority Mail Contract 397 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Gregory Stanton; *Comments Due:* December 29, 2017.

11. *Docket No(s).:* MC2018–69 and CP2018–109; *Filing Title:* USPS Request to Add Priority Mail Contract 398 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 18, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Matthew R. Ashford; *Comments Due:* December 29, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–27653 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–70; CP2018–110; MC2018–71; CP2018–111; MC2018–72; CP2018–112; MC2018–73; CP2018–113; MC2018–74; CP2018–114]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 29, 2017 (Comment due date applies to MC2018–70 and CP2018–110; MC2018–71 and CP2018–111); January 2, 2018 (Comment due date applies to MC2018–72 and CP2018–112; MC2018–73 and CP2018–113; MC2018–74 and CP2018–114).

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.

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Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2018–70 and CP2018–110; *Filing Title:* USPS Request to Add Priority Mail Contract 399 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 19, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* December 29, 2017.

2. *Docket No(s).:* MC2018–71 and CP2018–111; *Filing Title:* USPS Request to Add Parcel Select Contract 27 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 19, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* December 29, 2017.

3. *Docket No(s).:* MC2018–72 and CP2018–112; *Filing Title:* USPS Request to Add Parcel Select Contract 28 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 19, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* January 2, 2018.

4. *Docket No(s).:* MC2018–73 and CP2018–113; *Filing Title:* USPS Request to Add Parcel Select Contract 29 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 19, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* January 2, 2018.

5. *Docket No(s).:* MC2018–74 and CP2018–114; *Filing Title:* USPS Request to Add Priority Mail Express Contract 57 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 19, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* January 2, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–27773 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service ® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 19, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 57 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–74, CP2018–114.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27658 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a

domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 19, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 27 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–71, CP2018–111.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27655 Filed 12–22–17; 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):* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 19, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 399 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–70, CP2018–110.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27659 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 19, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 28 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–72, CP2018–112.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27656 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Parcel Select Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 26, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 19, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Parcel Select Contract 29 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–73, CP2018–113.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27657 Filed 12–22–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82363; File No. SR–Phlx–2017–103]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change To Amend Rule 1000 and Commentary .11 to Rule 1012

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 6, 2017, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to expand the Short Term Option Series Program to allow Monday expirations for options listed pursuant to the Short Term Option Series Program, including options on the SPDR S&P 500 ETF Trust.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Phlx Rules 1000(b)(44) and Rule 1012 at Commentary .11 to expand the Short Term Option Series Program (''Program'') to permit the listing and trading of options series with Monday expirations that are listed pursuant to the Program, including options on the SPDR S&P 500 ETF Trust (''SPY'').

As set forth in Rule 1044(b)(44), a Short Term Option Series is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Wednesday or Friday of the next business week. The Exchange is now proposing to amend Rule 1000(b)(44) to permit the listing of options series that expire on Mondays. Specifically, the Exchange is proposing that it may open for trading series of options on any Monday that is a business day and that expires on the Monday of the next business week. The Exchange is also proposing to list Monday expirations series on Fridays that precede the expiration Monday by one business week plus one business day. Since Rule 1000(b)(44) already provides for the listing of short term option series on Fridays, the Exchange is not modifying this provision to allow for Friday listing of Monday expiration series. However, the Exchange is amending Rule 1000(b)(44) to clarify that, in the case of a series that is listed on a Friday and expires on a Monday, that series must be listed one business week and one business day prior to that expiration (*i.e.,* two Fridays prior to expiration).

As part of this proposal, the Exchange is also amending Rule 1000(b)(44) to address the expiration of Monday expiration series when the Monday is not a business day. In that case, the rule will provide that the series shall expire on the first business day immediately following that Monday. This procedure differs from the expiration date of Wednesday expiration series that are scheduled to expire on a holiday. In that case, the Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week.[3] However, the Exchange believes that it is preferable to require Monday expiration series in this scenario to expire on the Tuesday of that week rather than the previous business day, *e.g.,* the previous Friday, since the Tuesday is closer in time to the scheduled expiration date of the series than the previous Friday, and therefore may be more representative of anticipated market conditions. The Exchange also notes that Cboe Exchange, Inc. (''Cboe'') uses the same procedure for options on the S&P 500 index (''SPX'') with Monday expirations that listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.[4]

The Exchange also proposes to make corresponding changes to Commentary .11 to Rule 1012, which sets forth the requirements for SPY options that are listed pursuant to the Short Term Options Series Program, to permit Monday SPY expirations (''Monday SPY Expirations''). Accordingly, the Exchange proposes to amend Commentary .11 to state that, with respect to Monday SPY Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire, provided that Monday SPY Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. As with the current rules for Wednesday SPY Expirations, the Exchange will also amend Commentary .11 to state that it may list up to five consecutive Monday SPY Expirations at one time, and may have no more than a total of five Monday SPY Expirations (in addition to a maximum of five Short Term Option Series expirations for SPY expiring on Friday and five Wednesday SPY Expirations). The Exchange will also clarify that, as with Wednesday SPY Expirations, Monday SPY Expirations will be subject to the provisions of this Rule.

The interval between strike prices for the proposed Monday SPY Expirations will be the same as those for the current Short Term Option Series for Wednesday and Friday SPY Expirations. Specifically, the Monday SPY Expirations will have a $0.50 strike interval minimum. As is the case with other options series listed pursuant to the Short Term Option Series, the Monday SPY Expiration series will be P.M.-settled.

Currently, for each option class eligible for participation in the Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class. The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective short term option rules; the Exchange may list these additional series that are listed by other exchanges.[5] This thirty (30) series restriction shall apply to Monday SPY Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY options expiring on Mondays.

Finally, the Exchange is amending Commentary .11(b) to Rule 1012, which addresses the listing of Short Term Options Series that expire in the same week as monthly or quarterly options series. Currently, that rule states that no Short Term Option Series may expire in the same week in which monthly option series on the same class expire (with the exception of Wednesday SPY Expirations) or, in the case of Quarterly Options Series, on an expiration that coincides with an expiration of Quarterly Option Series on the same class. As with Wednesday SPY Expirations, the Exchange is proposing to permit Monday SPY Expirations to expire in the same week as monthly options series on the same class. The Exchange believes that it is reasonable to extend this exemption to Monday SPY Expirations because Monday SPY Expirations and standard monthly options will not expire on the same trading day, as standard monthly options expire on Fridays. Additionally, the Exchange believes that not listing Monday SPY Expirations for one week every month because there was a monthly SPY expiration on the Friday of that week would create investor confusion.

Relatedly, Phlx is also amending Commentary .11(b) to Rule 1012 to clarify that Monday and Wednesday SPY Expirations may expire in the same week as monthly option series in the same class expire, but that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class. This change will make that provision more consistent with the existing language in Commentary .11 that prohibits Wednesday SPY Expirations from expiring on a Wednesday in which Quarterly Options Series expire.

[3] *See* Phlx Rule 1000(b)(44).

[4] *See* CBOE Rule 24.9(e)(1) (''If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.'')

[5] *See* Phlx Rule 1012 at Commentary .11(a).

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Monday expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday expiration series, including Monday SPY Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire almost every Wednesday and Friday, which provide market participants a tool to hedge special events and to reduce the premium cost of buying protection. The Exchange notes that it has been listing Wednesday expirations pursuant to Rule 1000 and Rule 1012 since 2016.[6] With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe that there are any material differences between Monday expirations and Wednesday or Friday expirations for Short Term Option Series.

The Exchange seeks to introduce Monday expirations to, among other things, expand hedging tools available to market participants and to continue the reduction of the premium cost of buying protection. The Exchange believes that Monday expirations, similar to Wednesday and Friday expirations, will allow market participants to purchase an option based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

While other exchanges do not currently list Monday SPY Expirations, the Exchange notes that other exchanges currently permit Monday expirations for other options. For example, Cboe lists options on the SPX with a Monday expiration as part of its Nonstandard Expirations Pilot Program.[7]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Monday expirations, including Monday SPY Expirations, simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Monday expirations, including Monday SPY Expirations, should create greater trading and hedging opportunities and flexibility, and will provide customers with the ability to tailor their investment objectives more effectively. While other exchanges do not currently list Monday SPY Expirations, the Exchange notes that Cboe currently permits Monday expirations for other options with a weekly expiration, such as options on the SPX.

With the exception of Monday expiration series that are scheduled to expire on a holiday, the Exchange does not believe that there are any material differences between Monday expirations, including Monday SPY expirations, and Wednesday or Friday expirations, including Wednesday and Friday SPY Expirations, for Short Term Option Series. The Exchange notes that it has been listing Wednesday expirations pursuant to Rule 1000 and Rule 1012 since 2016. The Exchange believes that it is consistent with the Act to treat Monday expiration series that expire on a holiday differently than Wednesday or Friday expiration series, since the proposed treatment for Monday expiration series will result in an expiration date that is closer in time to the scheduled expiration date of the series, and therefore may be more representative of anticipated market conditions. The Exchange also notes that Cboe uses the same procedure for SPX options with Monday expirations that are listed pursuant to its Nonstandard Expirations Pilot Program and that are scheduled to expire on a holiday.

Given the similarities between Monday SPY Expiration series and Wednesday and Friday SPY Expiration series, the Exchange believes that applying the provisions in Commentary .11 to Rule 1012 that currently apply to Wednesday SPY Expirations to Monday SPY Expirations is justified. For example, the Exchange believes that allowing Monday SPY Expirations and monthly SPY expirations in the same week will benefit investors and minimize investor confusion by providing Monday SPY Expirations in a continuous and uniform manner. The Exchange also believes that is appropriate to amend Commentary .11(b) to Rule 1012 to clarify that no Short Term Option Series may expire on the same day as an expiration of Quarterly Option Series on the same class. This change will make that provision more consistent with the existing language in Commentary .11 that prohibits Wednesday SPY Expirations from expiring on a Wednesday in which Quarterly Options Series expire.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in Monday expirations, including Monday SPY Expirations, in the same way that it monitors trading in the current Short Term Option Series. The Exchange also represents that it has the necessary systems capacity to support the new options series.

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 notes that having Monday expirations is not a novel proposal, as Cboe currently lists and trades short-term SPX options with a Monday expiration. The Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal. Additionally, the Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade short-term options series with Monday expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents,

[6] *See* Securities Exchange Act Release No. 78693 (August 26, 2016), 81 FR 60074 (August 31, 2016) (SR–Phlx–2016–89).

[7] *See* CBOE Rule 24.9(e)(1) (''The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration.'').

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–103 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–103. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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–Phlx–2017–103 and should be submitted on or before January 16, 2018. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27700 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82367; File No. SR–BX–2017–056]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 5 (Minimum Increments),[3] to extend through June 30, 2018 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

* * * * *

Nasdaq BX Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on [December 31, 2017]*June 30, 2018* or the date of permanent approval, if earlier, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's website.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [July 1, 2017]*January 1, 2018.*

(4) No Change.

(b) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the BX Options Market (''BX Options''), unless otherwise noted.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through June 30, 2018 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2017.[5]

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2018 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2018 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2018, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 80824 (May 31, 2017), 82 FR 26201 (June 6, 2017) (SR–BX–2017–026).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the January replacement, trading volume from May 30, 2017 through November 30, 2017 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the six-month analysis.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–056. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2017–056 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27704 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82366; File No. SR–NYSEARCA–2017–141]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 6.72–O in Order To Extend the Penny Pilot in Options Classes

December 19, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 11, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 6.72–O in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through June 30, 2018. The Pilot Program is currently scheduled to expire on December 31, 2017. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Rule 6.72–O to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on December 31, 2017, through June 30, 2018. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following January 1, 2018.[5] The Exchange believes that extending the Pilot would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

[4] *See* Securities Exchange Act Release No. 80988 (June 21, 2017), 82 FR 29128 (June 27, 2017) (SR–NYSEArca–2017–68).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following January 1, 2018 would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2017 through November 30, 2017. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on December 31, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2017–141 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2017–141. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2017–141 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27703 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82358; File No. SR–NYSEAMER–2017–38]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Commentary .02 to Rule 960NY in Order To Extend the Penny Pilot in Options Classes

December 19, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 11, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through June 30, 2018. The Pilot Program is currently scheduled to expire on December 31, 2017. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Rule 960NY to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on December 31, 2017, through June 30, 2018. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following January 1, 2018.[5] The Exchange believes that extending the Pilot would allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

This filing does not propose any substantive changes to the Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and

[4] *See* Securities Exchange Act Release No. 80989 (June 21, 2017), 82 FR 29130 (June 27, 2017) (SR–NYSEMKT–2017–36).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following January 1, 2018 would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2017 through November 30, 2017. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on December 31, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2017–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2017–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2017–38 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27698 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Form TCR and Form WB–APP-Implementing the Whistleblower Provisions of Section 21 F of the Securities Exchange Act of 1934; SEC File No. 270–625, OMB Control No. 3235–0686

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

In Release No. 34–64545,[1] the Commission adopted rules (''Rules'') and forms to implement Section 21F of the Securities Exchange Act of 1934 entitled ''Securities Whistleblower Incentives and Protection,'' which was created by Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[2] The Rules describe the whistleblower program that the Commission has established pursuant to the Dodd-Frank Act which requires the Commission to pay an award, subject to certain limitations and conditions, to whistleblowers who voluntarily provide the Commission with original information about a violation of the federal securities laws that leads to the successful enforcement of a covered judicial or administrative action, or of a related action. The Rules define certain terms critical to the operation of the whistleblower program, outline the procedures for applying for awards and the Commission's procedures for making decisions on claims, and generally explain the scope of the whistleblower program to the public and to potential whistleblowers.

Form TCR is a form submitted by whistleblowers who wish to provide information to the Commission and its staff regarding potential violations of the securities laws. Form TCR is required for submission of information under the Rules. The Commission estimates that it takes a whistleblower, on average, one and one-half hours to complete Form TCR. Based on the receipt of an average of approximately 700 annual Form TCR submissions for the past three fiscal years, the Commission estimates that the annual reporting burden of Form TCR is 1,050 hours.

Form WB–APP is a form that is submitted by whistleblowers filing a claim for a whistleblower award. Form WB–APP is required for application for an award under the Rules. The Commission estimates that it takes a whistleblower, on average, one hour to complete Form WB–APP. The completion time depends largely on the complexity of the alleged violation and the amount of information the whistleblower possesses in support of his or her application for an award. Based on the receipt of an average of approximately 110[3] annual Form WB–APP submissions for the past six fiscal years, the Commission estimates that the annual reporting burden of Form WB–APP is 110 hours.

Estimated annual reporting burden = 1,160 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 30 days of this publication. Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: December 20, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27740 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

[1] Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934, Release No. 34–64545; File No. S7–33–10 (adopted May 25, 2011).

[2] Public Law 111–203, § 922(a), 124 Stat 1841 (2010).

[3] This figure does not include Form WB–APP submissions which were facially deficient, subsequently withdrawn, or submitted by individuals who have been barred by the Commission from participation in the whistleblower program.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82364; File No. SR–MRX–2017–28]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'').

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2017.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2018, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2017, and ending November 30, 2017). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may

[3] *See* Exchange Act Release No. 80823 (May 31, 2017), 82 FR 26169 (June 6, 2017) (SR–MRX–2017–06).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–2017–28 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–MRX–2017–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MRX–2017–28 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27701 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82354; File No. SR–MIAX–2017–48]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 510 To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ™ (''QQQ''), SPDR® S&P 500® ETF (''SPY''), and iShares® Russell 2000 ETF (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 [3] and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on December 31, 2017.[4] The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through June 30, 2018.

In addition to the extension of the Penny Pilot Program through June 30, 2018, the Exchange proposes to extend one other date in the Rule. Currently,

[3] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[4] *See* Securities Exchange Act Release No. 80757 (May 24, 2017), 82 FR 25032 (May 31, 2017) (SR–MIAX–2017–23) (extending the Penny Pilot Program from June 30, 2017, to December 31, 2017).

Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2017.[5] Because this date has expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following January 1, 2018.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–48 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–MIAX–2017–48. This file number should be included on the subject line if email is used. To help the Commission process and review your

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following January 1, 2018, will be identified based on trading activity from June 1, 2017, through November 30, 2017.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2017–48 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27694 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82355; File No. SR–OCC–2017–007]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Related to The Options Clearing Corporation's Margin Policy

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, The Options Clearing Corporation (''OCC'') 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 OCC. On December 18, 2017, OCC filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to formalize and update OCC's Margin Policy in connection with requirements applicable to OCC under Rule 17Ad–22(e)(6), which generally requires a covered clearing agency to have policies and procedures reasonably designed to, among other things, cover its credit exposures to its participants through the establishment of a risk-based margin system meeting certain standards.[4] The Margin Policy is included as confidential Exhibit 5 of the filing. The policy is being submitted without marking to improve readability as it is being submitted in its entirety as new rule text.

The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[3] In Amendment No. 1, OCC modified a portion of its Margin Policy to: (i) State that OCC's Board of Directors (''Board'') is ultimately responsible for annual review and approval of the Policy, and (ii) correctly cite provisions in OCC's Rules governing its stock loan program. OCC did not propose any other changes in Amendment No. 1.

[4] 17 CFR 240.17Ad–22(e)(6).

[5] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

On September 28, 2016 the Commission adopted amendments to Rule 17Ad–22[6] and added new Rule 17Ab2–2[7] pursuant to Section 17A of the Act[8] and the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[9] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5)[10] (collectively, the new and amended rules are herein referred to as ''CCA'' rules). The CCA rules require that a covered clearing agency, among other things: ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [c]over . . . its credit exposures to its participants by establishing a risk-based margin system'' that satisfies certain criteria, including that it produces margin levels commensurate with the risks of particular products, collects margin at least daily, collects margin sufficient to cover exposure between the last margin collection and position closeout, uses reliable pricing sources, appropriately measures credit exposure and regularly reviews, tests and verifies its margin methodology.[11]

OCC is defined as a covered clearing agency under the CCA rules, and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(6).[12] Accordingly, OCC proposes to formalize its Margin Policy, as described below, to describe its approach for collecting margin and managing the credit exposures presented by its Clearing Members.

Margin Policy

The purpose of the Margin Policy is to describe OCC's approach for collecting margin and managing the credit exposure presented by its Clearing Members, so as to ensure that its margin methodologies are governed and implemented in a manner that is compliant with Rule 17Ad–22(e)(6).[13] The Margin Policy describes, in general:

[6] 17 CFR 240.17Ad–22.

[7] 17 CFR 240.17Ab2–2.

[8] 15 U.S.C. 78q–1.

[9] 12 U.S.C. 5461 *et seq.*

[10] 17 CFR 240.17Ad–22(a)(5).

[11] 17 CFR 240.17Ad–22(e)(6).

[12] *Id.*

[13] *Id.*

(i) The treatment of the various types of positions held by Clearing Members in connection with margin calculations; (ii) OCC's cross-margin programs with other clearing agencies; (iii) the treatment of collateral included in margin calculations; (iv) the model assumptions and market data OCC uses as inputs for its margin calculation methodologies; (v) OCC's margin calculation methodologies; (vi) protocols surrounding OCC's exercise of margin calls and adjustments; and (vii) daily back-testing and model validation that OCC conducts to measure performance of its margin methodologies.

The Margin Policy is designed to reflect OCC's efforts to provide for robust internal controls and governance surrounding its margin methodologies and promote compliance with the CCA rules, in particular Rule 17Ad–22(e)(6),[14] as informed by the Commission in the adopting release for the CCA rules.[15] The Margin Policy is part of a broader framework, including OCC's By-Laws, Rules and other policies, that is designed to support the resiliency of OCC by ensuring that it appropriately sizes margin to market risks.[16] The key substantive aspects of the Margin Policy, and how they foster compliance with the requirements of the CCA rules, are described in greater detail below.

Treatment of Various Types of Positions

The Margin Policy describes the treatment of various types of positions, originating from different types of market participants, in connection with OCC's calculation of margin requirements. As specified in OCC's By-Laws, OCC utilizes different types of Clearing Member accounts in order to maintain compliance with the relevant Customer protection and segregation requirements of the Commission and the Commodity Futures Trading Commission (''CFTC''), which affects how margin is calculated because of different assumptions regarding how such accounts or positions would be liquidated in the event of a Clearing Member default. Taking into account these different types of products in different types of accounts, with different Clearing Member liquidation scenarios, enables OCC to set margin requirements commensurate with the actual risks presented by these positions and further its compliance with the requirements in Rule 17Ad–22(e)(6)(i) and (v), which require that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that takes into account the ''risks and particular attributes of each relevant product, portfolio, and market'' and use ''an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.'' [17]

One category of positions addressed in the Margin Policy is long securities options positions. Under the Margin Policy, these positions are segregated from a Clearing Member's other positions under the assumption that such positions are fully paid and pose no additional risk to OCC, and the Margin Policy explains that a Clearing Member's segregated long positions are not included as part of its margin calculation. In addition, Clearing Members' customer segregated futures accounts are margined separately from Clearing Members' securities and/or proprietary accounts, and margin for these accounts is calculated on a gross basis by computing margin requirements for each customer account independently, and then aggregating the individual margin calculations to calculate the gross margin required from the Clearing Member. The Margin Policy further notes that OCC also computes the margin requirements for customer segregated futures accounts on a net basis and holds the greater of the net or gross margin requirement.

As described in the Margin Policy, stock loan/borrow positions are included as long/short stock positions in margin calculations on a net basis and may be offset against other positions held in an account. However, while OCC includes these positions in its risk calculations, it does not include the net asset value of these positions in its margin requirement calculations, which allows OCC to maintain financial resources in a manner that is consistent with the manner in which such positions would be liquidated during a Clearing Member default. In the event of such a default, OCC would instruct the non-defaulting Clearing Member to buy in or sell out of the position, with OCC compensating the Clearing Member for any difference between last mark and the closeout price.

Cross-Margining

The Margin Policy addresses the cross-margin programs that OCC maintains with other clearinghouses, which affects the calculation of margin with respect to positions in certain index options, options on centrally cleared fund shares, and futures and options on futures held as part of one of the programs, because positions are treated as if they were held within a single account at OCC. Under Rule 17Ad–22(e)(6)(v) a covered clearing agency's policies and procedures must be reasonably designed to establish a risk-based margin system that uses appropriate margin methods for measuring ''credit exposure . . . and portfolio effects across products,'' [18] which the CCA Adopting Release expressly states should take into consideration cross-margining arrangements with other clearinghouses.[19] The Margin Policy's allowance for offsets in required margin when calculating requirements for cross-margin products furthers compliance with this CCA rule.

Collateral

To mitigate credit risk exposure, OCC generally requires Clearing Members to deposit collateral as margin with respect to each account type on the morning following the trade date. Collateral management is generally governed by OCC's Collateral Risk Management Policy, but the Margin Policy does provide a general description of how the use of deposits in lieu of margin and collateral in margins may affect margin calculations. This furthers the purpose of Rules 17Ad–22(e)(6)(i) and (v) in that incorporating these elements enables OCC to set margin requirements commensurate with its actual credit exposure to its Clearing Members.[20]

The Margin Policy describes that OCC permits Clearing Members to make deposits in lieu of margin, which enable them to meet their margin requirements for securities options by posting escrow or specific deposits, *i.e.,* typically customer securities that have been fully paid and that represent the securities deliverable upon assignment of a short option or a deposit of acceptable collateral equal to the underlying value or aggregate exercise price of the option being covered, depending on the type of option. Because these short positions are fully collateralized, the Margin Policy specifies that OCC does not include deposits in lieu of margin when calculating margin requirements.

[14] *Id.*

[15] Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (''CCA Adopting Release'').

[16] CCA Adopting Release, *supra* note 14 at 70812 (noting that the requirements of Rule 17Ad–22(e)(6) ''further support the resiliency of a covered clearing agency by requiring the covered clearing agency to have policies and procedures that are designed to appropriately size . . . margin to market risks.'').

[17] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

[18] 17 CFR 240.17Ad–22(e)(6)(v).

[19] CCA Adopting Release, *supra* note 14, at 70819.

[20] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

The Margin Policy also indicates that OCC's margin methodology takes into account certain forms of posted margin when calculating a Clearing Member's margin requirement, a practice OCC refers to as ''collateral in margins.'' OCC computes margin requirements based on a combination of open positions in cleared contracts and any deposits of collateral eligible for inclusion in OCC's margin methodologies, *e.g.,* stocks, exchange-traded fund securities and eligible government securities. OCC's margin methodologies also incorporate scenarios that could exacerbate or mitigate risk exposure as a result of the collateral type deposited into its margin requirement calculations, thereby mitigating risk by creating an incentive for Clearing Members to deposit collateral that hedges their exposures in cleared contracts. The Margin Policy's recognition of the risk interactions between these open positions and collateral deposited as margin is consistent with the requirement of Rule 17Ad–22(e)(6)(v) that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that takes into account ''portfolio effects across products'' when measuring credit exposure.[21]

Model Assumptions, Sensitivity Analyses and Market Data

The Margin Policy has historically specified that OCC performs: (i) Daily backtesting of each Clearing Member Account, (ii) daily backtesting of OCC's margin methodology and (iii) monthly review of the assumptions used in performing the backtesting. The Margin Policy has also specified that all critical margin model assumptions should be consistent with OCC's default management assumptions. OCC performed the aforementioned backtesting in order to monitor whether the margin methodology is functioning as intended and appropriately captures the risks that OCC's Clearing Members present to it.

With the adoption of the CCA rules, and to enhance OCC's monitoring of its margin methodology, the proposed Margin Policy would establish additional monthly reviews of its margin methodology. First, the Margin Policy would specify that key model parameters and assumptions are also subject to a monthly, or more frequently when market conditions warrant, sensitivity analysis. In identifying which parameters and assumptions should be subject to this sensitivity analysis, OCC surveyed relevant industry guidance on the appropriate parameters and assumptions to first include in the sensitivity analysis. OCC plans to increase the number of assumptions and parameters included in the sensitivity analysis on an iterative basis as the process becomes more mature. Second, the Margin Policy would specify that OCC performs a monthly review of its parameters for business backtesting. OCC determined that all parameters contained in its margin methodology should be included in this monthly parameter review, and has identified all of these. The Margin Policy would also specify that this sensitivity analysis and parameter review would make use of both actual and hypothetical portfolios. These additions to the Margin Policy are designed to be consistent with Rules 17Ad–22(e)(6)(vi)(B) and (C), which require that policies and procedures of a covered clearing agency be reasonably designed to establish a risk-based margin system that incorporates monthly, or more frequent, sensitivity analyses and review of its parameters and assumptions for backtesting.[22]

The proposed Margin Policy would specify that the results of all such analyses are reported no less frequently than monthly to OCC's Model Risk Working Group, which then may escalate any issues to OCC's Management Committee. This reporting requirement is designed to be consistent with Rule 17Ad–22(e)(6)(vi)(D), which requires policies and procedures of a covered clearing agency to be reasonably designed to establish a risk-based margin system under which such analyses are reported to the covered clearing agency's ''appropriate decision maker,'' who may use ''these results to evaluate the adequacy of and adjust its margin methodology, model parameters, and any other relevant aspects of its credit risk framework.''[23]

The Margin Policy describes how OCC obtains the market data that it uses to value Clearing Members' portfolios and collateral deposits, perform mark-to-market calculations, support expiration processing, generate theoretical values for margin and Clearing Fund calculations, and support customer-level margin calculations. Rule 17Ad–22(e)(6)(iv) requires that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that uses ''reliable sources of timely price data'' and uses ''procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable.''[24] In compliance with this requirement, the Margin Policy requires OCC to take measures to ensure the quality and completeness of any market data it acquires. Primary among these measures is the use of redundant sources for market data and pricing system infrastructure and, when selecting vendors, prioritizing the quality and reliability of a data provider's service and its ability to provide data in a variety of market conditions, including periods of market stress. This aspect of the Margin Policy is specifically responsive to the Commission's statement in the CCA Adopting Release that a covered clearing agency should consider the ability of the vendor to provide data in a variety of market conditions, including periods of market stress and not just based on cost alone.[25]

The Margin Policy explains how, in order to ensure the integrity of this data, OCC monitors for delays in its receipt of price data and overall system health, as well as erroneous price data or interruptions in pricing data availability. The Margin Policy specifies that, in certain cases, OCC may be obligated to use settlement prices that are provided directly by the listing exchange[26] and prescribes procedures for utilizing alternative data sources where a final settlement value is not available from the listing exchange.

The Margin Policy also specifies that OCC utilizes sound valuation models, such as price-editing and smoothing,[27] as well as system edit checks, and automated and manual controls with any price data it obtains. Where OCC does not receive pricing information on a daily basis for a product, the Margin Policy specifies that OCC would rely on modeled prices. These requirements are designed to facilitate OCC's compliance with the Rule 17Ad–22(e)(6)(iv) requirement to maintain policies reasonably designed to establish a risk-based margin system that addresses ''circumstances in which pricing data are not readily available or reliable.''[28]

Margin Methodology

OCC's Margin Policy contains a description of OCC's System for

[21] 17 CFR 240.17Ad–22(e)(6)(v).

[22] 17 CFR 240.17Ad–22(e)(6)(v)(B) and (C).

[23] 17 CFR 240.17Ad–22(e)(6)(v)(D).

[24] 17 CFR 240.17Ad–22(e)(6)(iv).

[25] CCA Adopting Release, *supra* note 14, at 70819.

[26] In such a case, the listing exchange transmits price files to OCC, and the data is then processed by OCC systems and manually validated.

[27] ''Smoothing'' is a process OCC uses to calculate final prices, volatility measures, delta values and vega values for securities and futures options. The purpose of smoothing is to minimize arbitrage opportunities while producing final prices that remain within the bid-ask spread provided to OCC by the market.

[28] 17 CFR 240.17Ad–22(e)(6)(iv).

Theoretical Analysis and Numerical Simulations (''STANS''), its margin methodology for all positions it margins on a net basis. As required in Rule 17Ad–22(e)(6), STANS is a risk-based methodology that is designed to produce a margin requirement that exceeds OCC's minimum regulatory obligations. OCC achieves this through the use of an Expected Shortfall methodology (''ES''), which is effectively a weighted average of tail losses beyond the 99% Value-at-Risk (''VaR'') level.

As a statistical methodology that relies on randomized Monte Carlo simulations to generate ES estimates, STANS will produce slightly different ES estimates when Monte Carlo simulations are performed on each Clearing Member account; OCC refers to such variance in ES estimates as the ''standard error.'' However, significant variations in ES estimates among Clearing Member accounts may also signify other issues, such as underlying issues with STANS or its appropriateness for estimating ES for a particular Clearing Member account. Previously, OCC has relied on the expert judgment of its staff and undefined, qualitative factors to identify whether STANS may not be functioning as expected. After performing statistical analysis on the size of the standard error, and at what level an observed error is greater than the standard error at a statistically significant level, the proposed Margin Policy would state that the tolerance for the standard error of a typical, or median, Clearing Member account ES measurement in STANS is 5%.[29] This tolerance would define a statistical error threshold above which OCC must investigate whether STANS is appropriately measuring a Clearing Member's account.

Furthermore, any margin requirement calculated by STANS is on a ''portfolio'' basis, which inherently reflects offsets between products within each portfolio. This is intended to meet the Rule 17Ad–22(e)(6)(iii) requirement, as explained in the CCA Adopting Release, that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that calculates margin on a portfolio level and set initial margin requirements that meet ''an established single-tail confidence level of at least 99 percent'' with respect to each portfolio's distribution of future exposure.[30]

The Margin Policy also describes how STANS utilizes Monte Carlo simulations of portfolio values at a two-day risk horizon, based on the behavior of various risk factors affecting values of Clearing Member accounts, including implied volatility surfaces of options for all equity and index risk factors. These risk factors are relevant to the products in a Clearing Member's portfolio and are critical drivers of the inherent exposure OCC has to its Clearing Members' portfolios. Including them in STANS therefore enhances the robustness of OCC's margin resources and incentivizes Clearing Members to be aware of the risks in their portfolios and mitigate those risks to avoid higher margin requirements. The use of risk factors is intended to comply with Rule 17Ad–22(e)(6)(v), which requires that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that uses ''an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products.'' [31]

For purposes of calculating margin requirements, STANS assumes a two-day liquidation period for all positions margined on a net basis. The Margin Policy explains that this assumption is based on a thorough analysis of market conditions and the risks associated with the products OCC clears. As the Commission noted in the CCA Adopting Release, the assumed liquidation period in a margin model should be tailored to the market conditions and the risks of the products being cleared.[32] OCC's assumed two-day liquidation period is so tailored, and the Margin Policy is designed to enable OCC to comply with Rule 17Ad–22(e)(6)(iii), under which a covered clearing agency's policies and procedures must be reasonably designed to establish a risk-based margin system requirement that covers potential future exposure to Clearing Members in the interval between the last margin collection and the close-out of a Clearing Member's positions should it default.[33] This assumption allows OCC to maintain consistency with the timeframes required to facilitate the hedging or close-out of a position, which OCC would employ under its default management procedures.

The Margin Policy describes other aspects of STANS that are designed to address the particular attributes and risk factors of the products being margined, as is consistent with Rule 17Ad–22(e)(6)(i) and (v).[34] This includes the use of 500 business days of ''look-back'' historical data, where available, in its econometric models and the incorporation of multiple stress tests components into STANS that are designed to identify increases in OCC's exposure that may arise from atypical market movements.

The Margin Policy provides for daily evaluation of the market data that supports STANS' econometric models and monthly recalibration of STANS to ensure that it accounts for changes to market conditions over the past month. These recalibrations incorporate a long-run historical volatility estimate, which serves as a minimum volatility value during periods of low market volatility, reducing procyclicality in OCC's margin estimates by not allowing margin rates to drop below a certain long-run measure of market volatility. The Margin Policy also provides that on a daily basis OCC utilizes a ''scale factor'' to account for daily changes in market volatility that may occur between monthly recalibrations. In some instances, products less dependent on the monthly recalibration process—such as Treasury and volatility contracts—may have their econometric models recalibrated on a daily basis.

The Margin Policy provides for the use of alternatives to STANS for certain products or accounts. For example, OCC has the ability to apply add-on charges to cover Stock Loan position exposures arising from Clearing Member specific preferences and surcharges for certain Clearing Members with higher risk levels. Furthermore, the Margin Policy explains that OCC utilizes the Standard Portfolio Analysis of Risk margin methodology (''SPAN''), instead of STANS, to compute gross margin for the segregated futures customer accounts of Clearing Members. SPAN is a market simulation-based VaR system that assesses risk on a portfolio basis for a wide variety of financial instruments. SPAN uses ''scan ranges'' that estimate price movements based on historical volatility data of specific products, which are in turn used to estimate movements in affected portfolios. ''Scan ranges'' also serve as minimum estimates of portfolio volatility in times of low market volatility to guard against the effects of procyclicality, and are regularly monitored and recalibrated by OCC's Pricing & Margins team. A description of SPAN is provided in the Margin Policy. Like STANS, SPAN is intended to comply with Rule 17Ad–22(e)(6), including the Rule 17Ad–

[29] This use of a 5% ES error tolerance is a proposed enhancement to OCC's existing margin policies and procedures.

[30] CCA Adopting Release, *supra* note 14, at 70819; 17 CFR 240.17Ad–22(e)(6)(iii).

[31] 17 CFR 240.17Ad–22(e)(6)(v).

[32] CCA Adopting Release, *supra* note 14, at 70818 (''. . . liquidation periods generally should be tailored to the market conditions and risks of the products being cleared.'').

[33] 17 CFR 240.17Ad–22(e)(6)(iii).

[34] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

22(e)(6)(iii) requirement that a covered clearing agency's policies and procedures be reasonably designed to establish a risk-based margin system that calculates margins on a portfolio level and sets initial margin requirements that meet ''an established single-tailed confidence level of at least 99 percent'' with respect to each portfolio's distribution of future exposure.[35] The Margin Policy indicates that OCC will also calculate a segregated futures customers account's net margin requirement under STANS, and that if the STANS-calculated requirement exceeds the SPAN-calculated requirement, an add-on is applied to the Clearing Member's account so that the Clearing Member is effectively required to meet the greater of the gross SPAN or two-day net STANS requirement.

Margin Calls and Adjustments

The Margin Policy provides for OCC calculating and collecting margin requirements on a daily basis, as well as making intraday margin calls and adjustments. This is consistent with Rule 17Ad–22(e)(6)(ii), under which a covered clearing agency must maintain policies and procedures reasonably designed to establish a risk-based margin system that ''collects margin . . . at least daily'' and includes ''the authority and operational capacity to make intraday margin calls in defined circumstances.'' [36]

As described in the Margin Policy, OCC issues margin calls during standard trading hours within a timeframe established in OCC's procedures, when unrealized losses [37] exceeding 50% of an account's total risk charges are observed for that account, based on start-of-day positions. Intraday margin calls are also subject to a minimum value established in OCC's procedures, and must be approved by a Vice President or above. The Margin Policy describes the process by which margin calls may be deferred and evaluated and for execution of a margin call outside of the time frame described above.

The Margin Policy provides for certain exceptions to the above intraday margin call time frame. For instance, in the case of extended trading hours (''ETH''), OCC may issue a margin call prior to 9:00 a.m. Central Time when (1) unrealized losses observed for an account, based on new ETH positions, exceed 25% of that account's total risk charges and (2) the overall Clearing Member portfolio is also experiencing losses. ETH margin calls are limited to price changes in ETH-eligible products, and similarly remain subject to a minimum value established in OCC's procedures and must be approved by a Vice President or above. In the case of bank holidays, margin calls may be issued against Clearing Members on the day prior to the bank holiday when it coincides with a day one or more of OCC's markets are open for trading.

The Margin Policy indicates that additional margin adjustments may be performed as the need arises and following approval by an officer of OCC.

Back-Testing and Model Validation

OCC's Margin Policy provides that OCC conducts daily back-tests for each margin account, analyzing in detail all accounts exhibiting losses in excess of calculated margin requirements. This is intended to comply with Rule 17Ad–22(e)(6)(vi)(A), which calls for back-tests of the margin model at least daily, ''using standard predetermined parameters and assumptions.'' [38] To the extent the results of these back-tests reflect losses in excess of the aggregate ES and stress test add-on charges required for a Clearing Member's account, the test result will be classified as an ''exceedance,'' and all such exceedances will be reported no less frequently than monthly and evaluated through OCC's governance process for model risk management.

The Margin Policy states that OCC's Model Validation Group (''MVG''), an independent group with a separate reporting line from model developers, is responsible for evaluating the overall performance of STANS and its associated models on at least an annual basis. This aspect of the policy is intended to comply with Rule 17Ad–22(e)(6)(vii), under which a covered clearing agency's policies and procedures must be reasonably designed to establish a risk-based margin system that requires ''a model validation for the covered clearing agency's margin system and related models to be performed not less than annually'' or more frequently as may be contemplated by the agency's risk management framework.[39] MVG presents its findings and recommendations to the Risk Committee of OCC's Board.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act [40] requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible and, in general, to protect investors and the public interest. Through each of its respective sections, the Margin Policy provides a framework for managing margin and credit exposure presented by OCC's Clearing Members. To manage these exposures, the Margin Policy establishes the manner in which OCC requires Clearing Members to deposit margin to assure performance and to mitigate their credit exposures if a Clearing Member defaults. The Margin Policy also describes the types of positions OCC will use in making margin calculations, how OCC will manage margin risk arising from its cross-margining program, key assumptions of OCC's margin methodologies, OCC's margin methodologies, how OCC administers margin calls on both daily and intraday bases, and how OCC monitors and reports on the performance of its margin systems. The Margin Policy's promotion of each aforementioned activity ultimately inures to the protection of investors and the public interest, as well as the safeguarding of securities and funds in OCC's custody or control [41] in a manner consistent with Section 17A(b)(3)(F) of the Act.[42]

OCC also believes that the Margin Policy is consistent with the requirements of Rule 17Ad–22(e)(6), as detailed above.[43] For example, the Margin Policy is reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that meets the minimum regulatory requirements in: Collecting margin on a daily or intraday basis at levels commensurate with the risks and particular attributes of each relevant product, portfolio and market, as is consistent with Rules 17Ad–22(e)(6)(i), (ii) and (v); [44] calculating margin requirements sufficient to cover potential future exposures to a defaulting Clearing Member during the interval between last margin collection and closeout, as is consistent with Rule 17Ad–22(e)(6)(iii); [45] using reliable sources of timely price data and sound valuation models and procedures when

[35] CCA Adopting Release, *supra* note 14, at 70819; 17 CFR 240.17Ad–22(e)(6)(iii).

[36] 17 CFR 240.17Ad–22(e)(6)(ii).

[37] This excludes accounts holding only collateral positions or long option positions where the account's net asset value could never become negative.

[38] 17 CFR 240.17Ad–22(e)(6)(vi)(A).

[39] 17 CFR 240.17Ad–22(e)(6)(vii).

[40] 15 U.S.C. 78q–1(b)(3)(F).

[41] These activities, in turn, help ensure that OCC remains capable of continuing its operations and services in a manner that promotes the prompt and accurate clearance and settlement of securities transactions.

[42] 15 U.S.C. 78q–1(b)(3)(F).

[43] *See supra* notes 12–20, 21–24, 27, 29–35, 37 and 38 and accompanying text.

[44] *See supra* notes 16, 33 and 35 and accompanying text.

[45] *See supra* note 32 and accompanying text.

data is unavailable, as is consistent with Rule 17Ad–(22)(e)(6)(iv);[46] using appropriate methods for measuring credit exposures that account for relevant product risk factors and portfolio effects across products, as is consistent with Rules 17Ad–22(e)(6)(i) and (v);[47] and conducting daily backtests of its margin models, conducting sensitivity analyses of the underlying parameters and assumptions monthly, or more frequently, and engaging in model validation not less frequently than annually, as is consistent with Rules 17Ad–22(e)(vi) and (vii).[48]

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[49] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change sets forth the framework surrounding OCC's margin methodologies. The Margin Policy primarily describes OCC's existing policies and practices with respect to margin, much of which is also addressed in OCC's By-Laws and Rules. All Clearing Members are subject to the same methodologies for determining their margin requirements, dictated by the overall risk to OCC presented by the positions in their respective portfolios. Consequently, no Clearing Member is provided a competitive advantage over any other Clearing Member. Further, the Margin Policy does not affect Clearing Members' access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

[46] *See supra* notes 23 and 27 and accompanying text.

[47] *See supra* notes 16, 17, 20 and 30 and accompanying text.

[48] *See supra* notes 37 and 38 and accompanying text.

[49] 15 U.S.C. 78q–1(b)(3)(I).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2017–007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2017–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_007.pdf.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2017–007 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.[50]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27695 Filed 12–22–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82357; File No. SR–ISE–2017–107]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[50] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'').

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2017.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2018, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2017, and ending November 30, 2017). This filing does not propose any substantive changes to the Penny Pilot Program: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed

[3] *See* Exchange Act Release No. 80827 (May 31, 2017), 82 FR 26168 (June 6, 2017) (SR–ISE–2017–48).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–107 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–107. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. 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–ISE–2017–107 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

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[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82349; File No. SR–PEARL–2017–38]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Type of MIAX Express Orders Interface Port Known as a MEO Purge Port and To Amend MIAX PEARL Rule 519C, Mass Cancellation of Trading Interest, To Adopt a New Purge Message, as Well as To Amend Its Fee Schedule To Identify the New MEO Purge Port

December 19, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2017, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 519C, Mass Cancellation of Trading Interest, to adopt new rule text to reflect the proposed MEO Purge Port functionality, as well as to make clarifying changes to existing rule text to more accurately describe current functionality. The Exchange is also proposing to amend its Fee Schedule to identify the New MEO Purge Ports.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to offer Members[3] that connect to the Exchange using the MIAX Express Orders interface (''MEO Interface'')[4] a new type of connection port, named MEO Purge Port, to be used as a dedicated port for sending purge messages to the Exchange. The Exchange also proposes to amend its Fee Schedule to identify the new MEO Purge Port. Finally, the Exchange proposes to amend Exchange Rule 519C, Mass Cancellation of Trading Interest, to adopt new rule text to reflect the proposed MEO Purge Port functionality, as well as to make clarifying changes to existing rule text to

[3] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the MIAX PEARL Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[4] The term ''MEO Interface'' means a binary order interface used for submitting certain order types (as set forth in Rule 516) to the MIAX PEARL System. *See* Exchange Rule 100.

more accurately describe current functionality.

Members connect to the Exchange's System [5] via their assigned MEO ports. Currently, the Exchange offers Members three different types of MEO port connections. The first is a Full Service MEO Port—Bulk [6] which supports all MEO input message types and binary bulk order entry; the second is a Full Service MEO Port—Single [7] which supports all MEO input messages and binary order entry on a single order-by-order basis, but not bulk orders; the third is a Limited Service MEO Port [8] which supports all MEO input message types, but does not support bulk order entry and only supports limited order types, as specified by the Exchange via Regulatory Circular. The Exchange limits Members to two (2) Full Service MEO Ports of either type per Matching Engine [9] and allows up to eight (8) Limited Service MEO Ports per Matching Engine.[10]

The proposed MEO Purge Ports are a new, optional type of MEO port dedicated solely to handling purge messages which would enable a Member, by MPID,[11] to (i) remove all or a subset of its quotations [12] in the System and (ii) block all or a subset of new inbound quotations from being received; [13] or cancel all of its MEO Day orders [14] in the System and block all new inbound MEO Day orders from being received by MPID.[15] Sending a purge message to cancel and block MEO Day orders will not cancel or block MEO immediate-or-cancel (''IOC'') orders.[16] MEO IOC orders allow Members to continue to provide targeted liquidity to the market and to interact with Public Customer [17] orders. When quotes have been purged as described above, the block will remain in effect until the Member requests that the Exchange remove the block.

The purge messages described above may be sent via any type of MEO port, however, purge messages received on the proposed MEO Purge Ports will be handled by the System in a way that ensures minimum possible latency (as MEO Purge Ports solely process purge messages, as opposed to Full Service MEO Ports—Bulk, Full Service MEO Ports—Single, and Limited Service MEO Ports, which also process additional message types), thereby providing Members with a faster, more efficient means to have their quotes removed from the System, which will provide Members with an enhanced level of risk protection.

The proposed MEO Purge Ports are designed to assist Members in the management of, and risk control over, their orders, particularly if the Member has resting orders in a large number of options. For example, if a Member detects market indications that may influence the direction or bias of its orders, the Member may use the proposed MEO Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of options seamlessly to avoid unintended executions, while continuing to evaluate the direction of the market.

The Exchange also proposes to amend Section 5(d) of its Fee Schedule to identify the new MEO Purge Ports. Members are allocated two (2) Full Service MEO Ports of either type and up to eight (8) Limited Service MEO Ports per Matching Engine to which they connect.[18] The Exchange currently waives monthly MEO Port fees for all Members and will similarly waive MEO Purge Port fees until such time as the Exchange submits a rule filing to the Commission [19] to establish the fee amount, and any related requirements, and provides notice to expire the applicable Waiver Period.[20]

With the introduction of MEO Purge Ports, the Exchange proposes to amend Section 5(d) of its Fee Schedule to provide that a Member may request and be allocated two (2) MEO Purge Ports per Matching Engine to which it connects via a Full Service MEO Port. Specifically, a Member must have either a Full Service MEO Port—Bulk, or a Full Service MEO Port—Single connection to a Matching Engine in order to be eligible to receive MEO Purge Ports with respect to that Matching Engine.

The Exchange also proposes to amend Exchange Rule 519C, Mass Cancellation of Trading Interest, to adopt new rule text for new functionality being introduced in this proposal which provides that a Member may cancel all of its MEO Day orders and block all new inbound MEO Day orders by MPID. This request may only be submitted to the Exchange's System electronically via the Member's MEO port; either via its existing MEO ports, or via the new proposed MEO Purge Ports.

The Exchange also proposes to amend Exchange Rule 519C, Mass Cancellation of Trading Interest, to clarify functionality, in light of the new proposed functionality. Specifically, the Exchange proposes to amend 519C(b) which reads, ''[a] Member may request Exchange staff to (i) remove all of its quotations and cancel all of its orders in the System and (ii) block all new inbound quotations and orders, by firm name or by MPID.'' Accordingly, the Exchange is proposing to delete the reference to staff in the first sentence as a Member may either contact Exchange staff to have this action performed on their behalf or, by utilizing the new

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] *See* MIAX PEARL Fee Schedule, Definitions.

[7] *See* MIAX PEARL Fee Schedule, Definitions.

[8] *See* MIAX PEARL Fee Schedule, Definitions.

[9] ''Matching Engine'' is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. *See* MIAX PEARL Fee Schedule, Definitions.

[10] *See* MIAX PEARL Fee Schedule, Section 5(d).

[11] The term ''MPID'' means unique market participant identifier. *See* Exchange Rule 100.

[12] The term ''quote'' or ''quotation'' means a bid or offer entered by a Market Maker as a firm order that updates the Market Maker's previous bid or offer, if any. When the term order is used in these Rules and a bid or offer is entered by the Market Maker in the option series to which such Market Maker is registered, such order shall, as applicable, constitute a quote for purposes of MIAX PEARL Rules. *See* Exchange Rule 100.

[13] A Member currently has the ability to send a purge message to remove all or a subset of its quotations and block all or a subset of its new inbound quotations via its MEO port or by request to the Exchange's Help Desk. That ability is not changing with this proposal. What is changing with this proposal is the ability of a Member to send that purge message via the proposed MEO Purge Ports.

[14] This would include both Day Limit Orders and Post-Only Orders entered via the MEO interface. A Day Limit Order is an order to buy or sell which, if not executed, expires at the end of the trading in the security on the day on which it was entered. *See* Exchange Rule 516(h). Post-Only Orders are orders that will not remove liquidity from the Book. *See* Exchange Rule 516(j).

[15] The Exchange is introducing a new purge message that will cancel all of a Member's MEO Day orders and block all of its new inbound MEO Day orders. This request may only be sent electronically via a Member's existing MEO port, or via the new proposed MEO Purge Ports.

[16] An immediate-or-cancel order is an order that is to be executed in whole or in part upon receipt. Any portion not so executed is canceled. *See* Exchange Rule 516(e).

[17] The term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* Exchange Rule 100.

[18] *See* MIAX PEARL Fee Schedule, Section 5(d).

[19] The term ''SEC'' or ''Commission'' means the United States Securities and Exchange Commission. *See* Exchange Rule 100.

[20] ''Waiver Period'' means, for each applicable fee, the period of time from the initial effective date of the MIAX PEARL Fee Schedule until such time that the Exchange has an effective fee filing establishing the applicable fee. The Exchange will issue a Regulatory Circular announcing the establishment of an applicable fee that was subject to a Waiver Period at least fifteen (15) days prior to the termination of the Waiver Period and effective date of any such applicable fee.

purge message, may submit a request to the Exchange's System via its MEO Port to cancel all of its MEO Day orders and block all new inbound MEO Day orders by MPID. Additionally, the Exchange proposes to amend the last sentence of 519C(b) which currently states that, ''[t]he block will remain in effect until the Member requests Exchange staff to remove the block,'' by removing the word ''staff.'' To remove a block a Member may (i) send an electronic message directly into the Exchange's System; or (ii) contact Exchange staff. The Exchange believes removing the word ''staff'' from the rule text more accurately encompasses the activity under both scenarios.

The Exchange notes that this proposal does not preclude Members from using the existing purge messages provided by either the MEO protocol or the cancel messages provided by the FIX protocol. Under the MEO protocol, Members may request that all quotations for all underlyings, or for a specific underlying, be removed, and that new inbound quotations for all underlyings, or specific underlyings, be blocked. Under the FIX protocol, Members may also request that all, or a subset, of orders for an MPID, or all Day or GTC orders for an MPID, on the requesting session, be canceled.

Additionally, the Exchange notes that this functionality is similar to functionality recently adopted by the Exchange's affiliate, Miami International Securities Exchange, LLC (''MIAX Options'').[21]

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule. The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [22] in general, and furthers the objectives of Section 6(b)(5) of the Act [23] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] in that it promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market. Offering Members designated MEO Purge Ports would enhance their ability to manage quotes, quote traffic, and quoting obligations for Members that are Market Makers,[25] which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that MEO Purge Ports would foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating MEO Purge Ports for purges only may encourage better use of dedicated ports. This may, concurrent with the ports that carry quotes and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Members' resources. As MEO Purge Ports are only available for purging and not for activities such as order or quote entry, the MEO Purge Ports are not designed to permit unfair discrimination but rather are designed to enable Members to better manage their market risk, which, in turn, benefits all market participants. The Exchange also notes that similar connectivity and functionality is offered by other exchanges.[26]

The Exchange notes that the proposed rule change will not relieve Market Makers of their continuous quoting obligations under Exchange Rule 604 and under Regulation NMS Rule 602.[27] Specifically, any interest that is executable against a Market Maker's quotes that is received by the Exchange's Matching Engine prior to the time that the purge message is received by the Exchange's Matching Engine will automatically execute at that price, up to the quote's size. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet its continuous quoting obligation each trading day.

In addition, the Exchange believes that the proposal removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing Members with an additional purge message which allows them to cancel their MEO Day orders by MPID and blocks new inbound MEO Day orders from being received yet preserves their ability to continue to provide liquidity to the market and interact with Public Customer orders via MEO IOC orders. Further, the Exchange is clarifying existing rule text in Rule 519C to better describe current functionality available on the Exchange. The Exchange believes that clarifying current functionality promotes the protection of investors and the public interest by helping market participants better understand the risk protection tools available on the Exchange.

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[28] in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls. Even though the Exchange is proposing to waive this particular fee during the Waiver Period,[29] the Exchange believes that it is appropriate to provide market participants with the overall structure of the fee by outlining the structure on the Fee Schedule without setting forth a specific fee amount, so that there is a general awareness that the Exchange intends to assess such a fee in the future.

The Exchange also believes that the proposed amendments to its fee schedule are non-discriminatory because they will apply uniformly to all Members. The proposed MEO Purge Ports are completely voluntary and no Member is required, or under any regulatory obligation, to utilize them. All Members have the option to select any connectivity option, and fees, when charged, are charged uniformly for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance

[21] *See* Securities Exchange Act Release No. 81252 (July 28, 2017), 82 FR 36172 (August 3, 2017) (SR–MIAX–2017–36).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.*

[25] *See* Exchange Rule 604 and 605(d)(1).

[26] *See* Securities Exchange Act Release Nos. 81252 (July 28, 2017), 82 FR 36172 (August 3, 2017) (SR–MIAX–2017–36); 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016) (SR–Phlx–2016–45); 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); and 81095 (July 7, 2017), 82 FR 32409 (July 13, 2017) (SR–ISE–2017–62).

[27] 17 CFR 242.602.

[28] 15 U.S.C. 78f(b)(4).

[29] *See supra* note 20.

of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition because it will enable it to offer similar connectivity and functionality as its competitor exchanges.[30] In addition, the proposed MEO Purge Ports are completely voluntary and no Member is required or under any regulatory obligation to utilize them.

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes the proposed rule change will enhance competition because it will enable it to offer similar connectivity and functionality as its competitor exchanges.[31] In addition, the proposed MEO Purge Ports are completely voluntary and no Member is required or under any regulatory obligation to utilize them. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The Exchange also does not believe the proposed rule change would impact intramarket competition as it would apply to all Members and non-Members equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [32] and Rule 19b–4(f)(6) [33] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2017–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2017–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2017–38 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27689 Filed 12–22–17; 8:45 am]

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[30] *See supra* note 26.

[31] *Id.*

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82365; File No. SR–NASDAQ–2017–130]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 12, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter VI, Section 5 (Minimum Increments) [3] of the rules of the NASDAQ Options Market (''NOM'') to extend through June 30, 2018 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is set forth below. Proposed new language is underlined; deleted text is in brackets.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References herein to Chapter and Series refer to rules of the NASDAQ Options Market (''NOM''), unless otherwise noted.

The Nasdaq Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)–(2) No Change.

(3) For a pilot period scheduled to expire on *June 30, 2018* [December 31, 2017] or the date of permanent approval, if earlier, if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's website.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following *January 1, 2018* [July 1, 2017].

(4) No Change.

(b) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Chapter VI, Section 5, to extend the Penny Pilot through June 30, 2018 or the date of permanent approval, if earlier,[4] and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on December 31, 2017.[5]

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2018 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity in the previous six months.[6]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional six months through June 30, 2018 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2018, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange.

Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading

[4] The options exchanges in the U.S. that have pilot programs similar to the Penny Pilot (together ''pilot programs'') are currently working on a proposal for permanent approval of the respective pilot programs.

[5] *See* Securities Exchange Act Release No. 80756 (May 24, 2017), 82 FR 25023 (May 31, 2017) (SR–NASDAQ–2017–049).

[6] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's website. Penny Pilot replacement issues will be selected based on trading activity in the previous six months, as is the case today. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the January replacement, trading volume from May 30, 2017 through November 30, 2017 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the six-month analysis.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2017–130 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–130. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2017–130 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27702 Filed 12–22–17; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82352; File No. SR–OCC–2017–021]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Concerning Updates to and Formalization of OCC's Recovery and Orderly Wind-Down Plan

December 19, 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder [2] notice is hereby given that on December 8, 2017, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by the OCC would formalize and update OCC's Recovery and Orderly Wind-Down Plan

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''RWD Plan'' or ''Plan'') consistent with the requirement applicable to OCC in Rule 17Ad–22(e)(3)(ii).[3] Pursuant to a temporary exemption issued by the Commission in April 2017, the compliance date for Rule 17Ad–22(e)(3)(ii) has been extended until December 31, 2017.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On September 28, 2016 the Commission adopted amendments to Rule 17Ad–22 [5] and added new Rule 17Ab2–2 [6] pursuant to Section 17A of the Securities Exchange Act of 1934 [7] and the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [8] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5) [9] (collectively, the new and amended rules are herein referred to as ''CCA'' rules). The CCA rules require that covered clearing agencies, among other things:

''[E]stablish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the [CCA], which . . . [i]ncludes plans for the recovery and orderly wind-down of the [CCA] necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.'' [10]

OCC is defined as a covered clearing agency under the CCA rules, and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(3).[11]

Proposed RWD Plan

OCC is proposing to update, formalize and adopt its RWD Plan.[12] Consistent with the Commission's guidance concerning the requirements of Rule 17Ad–22(e)(3)(ii), the purpose of the proposed RWD Plan is to (i) demonstrate that OCC has considered the scenarios which may potentially prevent it from being able to provide its ''Critical Services'' (defined below) as a going-concern,[13] (ii) provide appropriate plans for OCC's recovery or orderly wind-down based on the results of such consideration; [14] and (iii) impart to relevant authorities the information reasonably anticipated to be necessary for purposes of recovery and orderly wind-down planning.[15]

As discussed in greater detail below, in preparing the proposed Plan, OCC was informed by relevant guidance from not only from OCC's regulators, but also from certain international organizations. Within the framework of this guidance, OCC has drafted the proposed Plan to reflect OCC's specific characteristics, including its ownership, organizational, and operational structures, as well as OCC's size and systemic importance relative to the products that its clears.[16]

The proposed RWD Plan consists of eight chapters. A description of each of the first seven chapters of the proposed Plan is provided below (Chapter 8 of the proposed plan consists of a series of appendices containing supporting material).

Chapter 1: Executive Summary

Chapter 1 of the RWD Plan would provide an executive summary and overview of the proposed Plan. Chapter 1 would begin by acknowledging OCC's status as a designated Systemically Important Financial Market Utility (''SIFMU'') [17] and would recognize that the proposed Plan is designed to satisfy OCC's regulatory requirements under Rule 17Ad–22(e)(3)(ii). Chapter 1 would include a list of relevant guidance that was considered by OCC in drafting the proposed Plan; the guidance considered by OCC includes, but is not limited to, the materials listed below:

- The sections of the preamble to the Commission's adopting release for its CCA rules that address topics relating to recovery and orderly wind-down of a CCA; [18]
- *Principles for Financial Market Infrastructures* (''PFMI''), published by the Bank for International Settlements Committee on Payment and Settlement Services and the Board of the International Organization of Securities Commissions (''CPSS–IOSCO''); [19]
- *Recovery and Resolution Planning for Systemically Important Financial Institutions: Guidance on Identification of Critical Functions and Critical Shared Services,* published by the Financial Stability Board (''FSB''); [20]
- *Recovery of Financial Market Infrastructures,* published by the Bank for International Settlements Committee on Payments and Market Infrastructures and the Board of the International Organization of Securities Commissions (''CPMI–IOSCO''); [21]
- Commodity Futures Trading Commission (''CFTC'') Staff Letter 16–61, published by the Division of Clearing and Risk of the CFTC; [22]
- *Essential Aspects of CCP Resolution Planning,* published by the FSB; [23]
- *Guidance on Central Counterparty Resolution and Resolution Planning,* published by the FSB; [24] and

[3] 17 CFR 240.17Ad–22(e)(3)(ii). The Commission's approval of this proposed rule change is contingent upon the prior approval of filings currently pending for certain of OCC's Enhanced Risk Management Tools and OCC's Recovery Tools. *See* SR–OCC–2017–016; SR–OCC–2017–017; SR–OCC–2017–018; SR–OCC–2017–019; SR–OCC–2017–020.

[4] *See* Exchange Act Release No. 34–80378 (April 5, 2017).

[5] 17 CFR 240.17Ad–22.

[6] 17 CFR 240.17Ab2–2.

[7] 15 U.S.C. 78q–1.

[8] 12 U.S.C. 5461 *et. seq.*

[9] 17 CFR 240.17Ad–22(a)(5).

[10] 17 CFR 240.17Ad–22(e)(3)(ii).

[11] *Id.*

[12] OCC maintains a recovery and orderly wind-down plan that was prepared in response to evolving international standards for CCPs. The existing version of OCC's recovery and orderly wind-down plan was prepared in advance of the adoption of the CCA rules.

[13] As defined by Rule 17Ad–22(e)(3)(ii), those scenarios are: ''credit losses, liquidity shortfalls, losses from general business risks and other losses.'' 17 CFR 240.17Ad–22(e)(3)(ii).

[14] *See* Standards for Covered Clearing Agencies, 81 FR 70786, 70810 (Oct. 13, 2016).

[15] *Id.*

[16] *See* 81 FR at 70808.

[17] The Financial Stability Oversight Council designated OCC a SIFMU on July 18, 2012 pursuant to the Payment, Clearing and Settlement Supervision Act. *See* 12 U.S.C. 5463.

[18] *See* 81 FR 70786.

[19] CPSS–IOSCO, Principles for financial market infrastructures (Apr. 16, 2012), available at *http://www.bis.org/publ/cpss101a.pdf.*

[20] FSB, Recovery and Resolution Planning for Systemically Important Financial Institutions: Guidance on Identification of Critical Functions and Critical Shared Services.

[21] CPMI–IOSCO, Recovery of financial market infrastructures (published as revised on July 5, 2017), available at: *http://www.bis.org/cpmi/publ/d162.pdf* (''Recovery Report'').

[22] CFTC Staff Letter 16–61, available at: *http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/16-61.pdf.*

[23] FSB, Essential Aspects of CCP Resolution Planning, (Aug. 16, 2016), available at: *http://www.fsb.org/wp-content/uploads/Essential-Aspects-of-CCP-Resolution-Planning.pdf.*

[24] FSB, Guidance on Central Counterparty Resolution and Resolution Planning, (July 5, 2017),

Continued

• *Resilience of Central Counterparties: Further Guidance on the PFMI,* published by CPMI–IOSCO.[25]

Chapter 1 would highlight OCC's designated Critical Services and would summarize the approach OCC used in preparing its ''Stress Scenarios,'' which are six detailed storyline scenarios that address OCC's possible response to one or more of the following stresses: Individual Clearing Member default, multiple successive Clearing Member defaults, disruption or failure of a bank or liquidity facility provider, inability to access another financial market infrastructure and general business and operational risks. The Stress Scenarios would be included in Appendix H of the Plan. Chapter 1 would restate each of the five qualitative ''Recovery Trigger Events'' that are identified in Chapter 5 of the RWD Plan (which constitutes OCC's ''Recovery Plan'') and explain that the timeframe for OCC's recovery, based on the Stress Scenarios, could range from intraday to several months. Chapter 1 also would restate each of the six qualitative ''W[ind -]D[own]P[lan] Trigger Events,'' which, if occurring during OCC's recovery efforts, could likely jeopardize the viability of OCC's recovery and signal that initiation of OCC's Wind-Down Plan (''WDP'') should be considered. Chapter 1 would explain that, given OCC's critical role as the sole clearing organization for all securities options exchanges in the U.S., OCC would seek to focus primarily on recovering from any severe stress scenario; however, in the extremely remote circumstance that that OCC experienced a stress severe enough to initiate the WDP, the ultimate goal of OCC's resolution would be to transfer ownership of OCC itself by the consummation of a consensual sale or similar transaction, in a manner ensuring the ongoing provision of OCC's Critical Services. Chapter 1 would conclude by summarizing OCC's assumptions for the duration of its resolution process and the estimated amount of operating capital needed to fund OCC's resolution.

Chapter 2: OCC Overview

Chapter 2 of the proposed RWD Plan is designed to impart information that OCC believes would be essential to relevant authorities for purposes of recovery and orderly wind-down planning, as well as to provide readers of the Plan with necessary context for the subsequent discussion and analysis of OCC's ''Critical Services'' and ''Critical Support Functions'' in Chapter 4 (discussed below) and of OCC's resolution process in Chapter 6 (discussed below). To accomplish this, Chapter 2 would provide a detailed description of OCC's business, summarizing the role that OCC plays in the options market and the services and products it provides to its clearing members and market participants. Chapter 2 also would describe the regulatory oversight to which OCC is subject, and give details on the basic structure and organization of OCC's Board of Directors and management. Chapter 2 also would provide OCC's financial statements and summarize the services OCC provides to its clearing members and other financial market utilities (''FMUs''). Chapter 2 would include details about OCC's internal and external interconnectedness, distinguishing as appropriate between financial, operational and external forms of interconnectedness. Chapter 2 would further provide an explanation of each of OCC's three lines of defense, which are employed to mitigate the various risks to which OCC is exposed,[26] and the internal controls framework used to implement OCC's three lines of defense model. Chapter 2 would also discuss the participation and role of OCC's internal Management Committee and the Board of Directors and its various committees in OCC's risk management process. Finally, Chapter 2 would provide a discussion of OCC's budgeting process, pricing decisions, refund pricing, retirement plan obligations, other material financial obligations and sources of funds relevant to OCC's critical operations.[27]

Chapter 3: Support Functions

In Chapter 3 of the proposed RWD Plan, OCC would identify each of its fourteen different internal support functions and provide a brief description of the activities performed by each such support function. Together, Chapters 2 and 3 of the proposed Plan are designed to provide foundational information about the organization and operation of OCC that might be essential to relevant authorities in the event of an orderly wind-down planning. Like Chapter 2, the information provided in Chapter 3 also would provide readers of the RWD Plan with necessary context for the subsequent discussion and analysis in Chapters 4 and 6.

Chapter 4: Critical Services and Critical Support Functions

The primary purpose of Chapter 4 of the proposed RWD Plan would be to identify OCC's ''Critical Services'' and ''Critical Support Functions.'' A ''Critical Service,'' as defined in the proposed Plan, is a service provided by OCC that, if interrupted, would likely have a material negative impact on participants or significant third parties, give rise to contagion, or undermine the general confidence of markets the FMU serves.[28] Similarly, a ''Critical Support Function,'' as defined in the proposed Plan, is a function within OCC that must continue in some capacity in order for OCC to be able to continue providing its Critical Services.

Chapter 4 of the proposed Plan sets forth the framework that OCC has used to designate its ''Critical Services'' and provides the analysis that OCC employed such designation. As proposed, the framework for designating OCC's ''Critical Services'' enlists the following criteria to determine if failure or discontinuation of a particular its services would adversely impact financial and operational capabilities of OCC's clearing members, other FMUs, and/or the broader financial system:

• *Market Dominance:* This criterion considers OCC's market share in the relevant service and evaluation of importance of relevant service to clearing members and to the overall economy.

• *Substitutability:* This criterion considers the existence of service providers other than OCC that could replicate the functionality of OCC's Critical Service if such Critical Service failed or was discontinued and the ability to transfer customers and transactions to other providers in a short timeframe.

• *Interconnectedness:* This criterion considers the depth and breadth of connections between OCC and other market participants that increase the likelihood of contagion if the service failed or was discontinued.

• *Barriers to Entry:* This criterion considers the business, structural, and/or operational complexity of OCC's services that may increase barriers to entry to other service providers.[29]

available at: *http://www.fsb.org/wp-content/uploads/P050717-1.pdf.* (''CCP Resolution Report'').

[25] CPMI–IOSCO, Resilience of central counterparties: Further guidance on the PFMI (published on July 5, 2017), available at: *http://www.bis.org/cpmi/publ/d163.pdf.*

[26] The three lines of defense are discussed in greater detail in a proposed rule change regarding OCC's ''Risk Management Framework.'' *See* Securities Exchange Act Release No. 34–81909 (Oct. 19, 2017), 82 FR 49456 (Oct. 25, 2017) (SR–OCC–2017–005).

[27] Each of the items listed is discussed in the ''Subsequent Events'' section of OCC's 2016 Annual Report, available at: *https://www.theocc.com/components/docs/about/annual-reports/occ-2016-annual-report.pdf.*

[28] *See* Recovery Report, p. 8.

[29] The criteria OCC selected align with criteria set forth in the Recovery Report to identify services as

In proposed Chapter 4, OCC further reduces each criterion to between one and three ''measurable indicators.'' Each measureable indicator is assigned a ''high,'' ''medium'' or ''low'' rating relative to each of the services evaluated, and each rating assigned to a measurable indicator is given equal weight in OCC's designation analysis. OCC evaluated eight discreet services, five of which were assigned a ''high'' rating for at least one of the measurable indicators in each of the four selected criteria. In proposed Chapter 4, certain qualitative and quantitative characteristics of each of those five discreet services is further discussed in order to reach a conclusion about the service's criticality. In proposed Chapter 4, OCC designates several of its services as Critical Services on the basis of this final discussion; the services designated as Critical Services would include, but not be limited to, clearance services for listed options and clearance services for futures.

Proposed Chapter 4 derives OCC's Critical Support Functions from the Critical Services designations. In proposed Chapter 4, OCC inventories each of the fourteen support functions discussed in Chapter 3 and determines which are minimally necessary for the continued and orderly operation each of the services identified as Critical Services. On the basis of this identification process, proposed Chapter 4 identifies the eleven support functions as ''Critical Support Functions.''

The final sections of Chapter 4 would discuss the critical vendors for each of the Critical Support Functions, as well as the critical external interconnections that OCC maintains with other FMUs, exchanges (including designated contract markets), clearing and settlement banks, custodian banks, letter of credit banks, clearing members and credit facility lenders. These sections would be supported by the materials in Appendix B (which identifies OCC's clearing members), Appendix C (which identifies OCC's settlement banks), Appendix D (which identifies OCC's custodial banks), Appendix E (which identifies OCC's letter of credit banks), Appendix F (which identifies OCC's key vendors and service providers) and Appendix G (which identifies key agreements to be maintained).

Chapter 5: Recovery Plan

Chapter 5 of OCC's proposed Plan would constitute OCC's Recovery Plan. Consistent with the above-stated purpose of a recovery and orderly wind-down plan, the purpose of Chapter 5 would be to demonstrate that OCC has considered scenarios which may potentially prevent it from being able to provide its Critical Services as a going-concern and that, based on the scenarios considered, OCC has prepared appropriate plans for its recovery.[30]

The Recovery Plan would begin by describing the approach OCC initially took in developing the stress scenarios and recovery scenarios in OCC's existing orderly recovery and wind-down plan. Proposed Chapter 5 would then describe the approach OCC took in refining existing scenarios and adding new scenarios to arrive at the six storyline Stress Scenarios in Appendix H of the proposed RWD Plan.[31]

The Recovery Plan would next identify and discuss each of OCC's ''Enhanced Risk Management Tools'' and ''Recovery Tools,'' which together would form the tool set that OCC could deploy, as applicable facts and circumstances might warrant, in a stress scenario. With respect to the Enhanced Risk Management Tools and Recovery Tools, the Recovery Plan would provide an overview of the tool, and as appropriate for each tool, the Recovery Plan would include a discussion of the implementation of the tool (including the estimated time frame for implementation of the tool), the key risks associated with the tool, and the expected impact and incentives associated with use of the tool.

Enhanced Risk Management Tools

Proposed Chapter 5 would explain that OCC's Enhanced Risk Management Tools are designed to supplement OCC's existing processes and other existing tools in scenarios where OCC faces heightened stresses. Contrary to the Recovery Tools (which are described in greater detail below), the use of OCC's Enhanced Risk Management Tools would not be intended to be limited strictly to situations in which a Recovery Trigger Event has occurred. Rather, OCCs Enhanced Risk Management Tools have been designed such that they could be used prior to the occurrence of a Recovery Trigger Event (and preferably, the Enhanced Risk Management Tools would be used prophylactically in an effort to prevent the occurrence of a Recovery Trigger Event). As proposed, OCC would not anticipate there being a rigid order or timing for the deployment of its Enhanced Risk Management Tools, subject to one caveat—''Cash Settlement of Physically Delivered Options and Single Stock Futures'' would only be deployed in very narrow circumstances where a correspondent clearing organization has rejected the settlement obligations of an OCC Clearing Member and OCC does not believe it has sufficient liquid resources immediately available to facilitate settlement through a substitute broker.

Descriptions of each of the Enhanced Risk Management Tools contained in the proposed Recovery Plan are provided below:

Use of Current/Retained Earnings. Section 5(d) of Article VIII of OCC's By-Laws provides OCC with the authority to use current and/or retained earnings to discharge a loss that would be chargeable against the Clearing Fund. The Recovery Plan would identify this existing authority as one of OCC's Enhanced Risk Management Tools.

As stated in Section 5(d) of Article VIII of the By-Laws, use of OCC's current and/or retained earnings would require prior unanimous consent from the holders of OCC's Class A common stock and Class B common stock. Accordingly, the Recovery Plan would acknowledge that the utility of this particular tool is limited by the fact that the tool is dependent upon receipt of unanimous consent from OCC's existing stockholders (and therefore, the availability of the tool cannot be known in advance). The Recovery Plan would further acknowledge that because OCC's retained earnings presently amount to only a small fraction of OCC's existing prefunded Clearing Fund resources, the maximum utility of this particular tool may be realized in specific circumstances at either the beginning of OCC's loss waterfall (*i.e.,* by attempting to fully extinguish the liabilities and obligations arising from a Clearing Member's default without charging the Clearing Fund whatsoever) or toward the end of OCC's loss waterfall (*i.e.,* by attempting to contribute additional resources that may be necessary for OCC

''critical'' based upon ''the importance to the service to the FMI's participants and other FMIs, and to the smooth functioning of the markets the FMI serves and, in particular, the maintenance of financial stability.'' *See* Recovery Report, p. 8.

[30] For the purposes of the RWD Plan, OCC would define ''recovery'' consistent with the definition advanced by CPMI–IOSCO, which is ''the actions of an FMI, consistent with its rules, procedures, and other ex-ante contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational or other structural weakness, including the replenishment of any depleted pre-funded financial resources and liquidity arrangements, as necessary to maintain the FMI's viability as a going concern.'' *See* Recovery Report, p. 3.

[31] As stated above, the Stress Scenarios are six detailed storyline scenarios that address OCC's possible response to one or more of the following stresses: Individual Clearing Member default, multiple successive Clearing Member defaults, disruption or failure of a bank or liquidity facility provider, inability to access another financial market infrastructure and general business and operational risks.

to fully extinguish its liabilities and obligations through tear-up).

Minimum Clearing Fund Cash Contribution. OCC is in the process of proposing a requirement that Clearing Members collectively contribute $3 billion in cash to the Clearing Fund and that OCC would have discretionary authority, in certain limited circumstances, to increase that minimum cash requirement from $3 billion up to the then-minimum size of the Clearing Fund (''Cash Clearing Fund Requirement'').[32] The Cash Clearing Fund Requirement would be included in the Recovery Plan as one of OCC's Enhanced Risk Management Tools.

With respect to OCC's discretionary authority to increase the minimum cash requirement, the proposal would allow OCC's Executive Chairman, Chief Administrative Officer (''CAO''), or Chief Operating Officer (''COO''), upon providing notice to the Risk Committee of OCC's Board of Directors (''Risk Committee''), to temporarily increase the amount of cash required to be maintained in the Clearing Fund up to an amount that includes the size of the Clearing Fund for the protection of OCC, clearing members or the general public. Any determination by the Executive Chairman, CAO and/or COO to implement a temporary increase in Clearing Fund size would (i) be based upon then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. The proposal would require that any such temporary increase be reviewed by the Risk Committee as soon as practicable, but in any event within 20 calendar days of the increase. Clearing Members would be required to satisfy any such increase in their required cash contributions no later than one hour before the close of the Fedwire (*i.e.,* 5:30 p.m. Central Time) on the business day following OCC's issuance of an instruction to increase cash contributions.

OCC's Recovery Plan would acknowledge that the process for initiating any increase to the minimum cash requirement would be driven by the preparation of a ''Close-Out Action Plan,'' which is an internal document prepared in accordance with OCC's Default Management Policy and Default Management Procedures that, among other things, takes into consideration the projected liquidity demands for successful management of a defaulted Clearing Member. The Recovery Plan recognizes that the expected impact of any increase to the minimum Clearing fund cash requirement could be the exacerbation of any ongoing liquidity constraints facing OCC's Clearing Members.

Borrowing Against Clearing Fund. Presently, Article VIII, Section 5(e) of OCC's By-Laws provides OCC with the authority to borrow against the Clearing Fund in two circumstances. First, Article VIII, Section 5(e) of OCC's By-Laws provides OCC the authority to borrow where OCC ''deems it necessary or advisable to borrow or otherwise obtain funds from third parties in order to meet obligations arising out of the default or suspension of a Clearing Member or any action taken by the Corporation in connection therewith pursuant to Chapter XI of the Rules or otherwise.'' Second, Article VIII, Section 5(e) of OCC's By-Laws provides OCC the authority to borrow against the Clearing Fund where OCC ''sustains a loss reimbursable out of the Clearing Fund pursuant to [Article VIII, Section 5(b) of OCC's By-Laws] but [OCC] elects to borrow or otherwise obtain funds from third parties in lieu of immediately charging such loss to the Clearing Fund.'' In order for a loss to be reimbursable out of the Clearing Fund under Article VIII, Section 5(b) of OCC's By-Laws, it must arise from a situation in which any bank or securities or commodities clearing organization has failed ''to perform any obligation to [OCC] when due because of its bankruptcy, insolvency, receivership, suspension of operations, or because of any similar event.''[33] OCC has proposed to extend this borrowing authority to include a third scenario, whereby OCC could borrow (or otherwise obtain funds through any means determined to be reasonable by the Executive Chairman, COO or CAO) against the Clearing Fund if it reasonably believes such borrowing is necessary to meet its liquidity needs for same-day settlement as a result of the failure of any bank or securities or commodities clearing organization to achieve daily settlement.[34] This borrowing authority, as expanded by the proposed rule change, would be included in the Recovery Plan as one of OCC's Enhanced Risk Management Tools.

The Recovery Plan would acknowledge that the process for initiating any borrowing against the Clearing Fund would be driven by the preparation of a ''Close-Out Action Plan'' (in the event of a Clearing Member default), in accordance with the execution of OCC's ''Settlement Bank Failure Procedure'' (in the event of a disruption to or failure of a settlement bank), in accordance with the execution of OCC's ''Linked FMI Disruption Procedure'' (in the event of a disruption to a linked financial market infrastructure). The Recovery Plan would further acknowledge that a borrowing pursuant to a recommendation in a Close-Out Action Plan or under either of the Settlement Bank Failure Procedures or Linked FMI Disruption Procedures would occur in accordance with OCC's ''Syndicated Credit Facility Procedure.'' The Recovery Plan recognizes that a key risk of this particular tool would be that in a heightened stress scenario OCC's primary liquidity facilities already may be fully or partially utilized (and therefore, the availability of the tool cannot be known in advance).

OCC's Credit Facility. OCC maintains a $2.0 billion senior secured 364-day revolving credit facility with a syndicate of lenders.[35] The purpose of the facility is to provide OCC with liquidity to meet settlement obligations as a central counterparty. The Recovery Plan would include the facility among OCC's Enhanced Risk Management Tools.

The Recovery Plan would recognize that borrowings under the facility would occur in accordance with OCC's Syndicated Credit Facility Procedure. The Recovery Plan would further recognize that the key risk associated with the use of the facility is that a portion of the syndicate may not timely fund OCC's draw.

OCC's Non-Bank Facility. OCC maintains a $1.0 billion secured non-bank liquidity facility.[36] The purpose of the non-bank facility is to provide OCC with a non-bank liquidity resource to meet settlement obligations as a central counterparty. The Recovery Plan would include the non-bank facility among OCC's Enhanced Risk Management Tools.

The Recovery Plan would recognize that borrowings under the facility would

[32] *See* Securities Exchange Act Release No. 34–82156 (Nov. 27, 2017), 82 FR 57015 (Dec. 1, 2017) (SR–OCC–2017–019).

[33] To the extent that a loss resulting from any of the events referred to in Article VIII, Section 5(b) is recoverable out of the Clearing Fund pursuant to Article VIII, Section 5(a), the provisions of Article VIII, Section 5(a) control and render the provisions of Article VIII, Section 5(b) inapplicable.

[34] OCC has filed a proposed rule change with the Commission in connection with the authority to borrow against the Clearing Fund to address liquidity needs for same-day settlement. *See* Securities Exchange Act Release No. 34–81058 (Jun. 30, 2017), 82 FR 31371 (July 6, 2017) (SR–OCC–2017–803).

[35] *See* Securities Exchange Act Release No. 34–81956 (Oct. 26, 2017) (SR–OCC–2017–017).

[36] *See* Securities Exchange Act Release No. 34–76821 (Jan 4, 2016), 81 FR 3208 (Jan. 4, 2016) (SR–OCC–2016–805).

occur in accordance with OCC's ''Non-Bank Facility Procedure.'' The Recovery Plan would further recognize that the key risk associated with the use of the non-bank facility is that OCC's counterparty may not timely execute the transaction.

Cash Settlement of Physically Delivered Options and Single Stock Futures. OCC is in the process of proposing a new Rule 913,[37] which would provide OCC the ability to require cash settlement of otherwise physically-settled delivery obligations arising from exercised or assigned stock options and/or physically-settled matured stock futures in the event that a correspondent clearing corporation [38] rejects the settlement obligations for such stock options and/or stock futures (such rejected stock options and/or stock futures hereinafter, ''Rejected Cleared Securities'') and either of the two following necessary conditions exists: (i) The liquidity demand on OCC to fund an alternative form of settlement for such Rejected Cleared Securities (*i.e.,* settlement through the use of a ''substitute broker'') [39] would exceed the amount of liquid resources immediately available to OCC, or (ii) no agent is available to serve as substitute broker to facilitate alternative settlement for OCC.[40] In these extremely limited circumstances, fixing cash settlement amounts pursuant to proposed Rule 913 would provide OCC with the ability to substantially reduce the liquidity demands that it might otherwise face if required to fund an alternative form of settlement to effect physical delivery. The Recovery Plan would include cash settlement of otherwise physically-delivered options and single-stock futures pursuant to proposed Rule 913 among OCC's Enhanced Risk Management Tools.

The Recovery Plan would acknowledge that, assuming one of the two necessary conditions exists, the process for initiating cash settlement would be driven by the preparation of a ''Close-Out Action Plan,'' which would recommend impacted options and single-stock futures be cash settled in lieu of physical delivery. The Recovery Plan would also acknowledge that execution of cash settlement would occur in accordance with OCC's ''Alternative Cash Settlement of Cleared Contracts Procedure.'' The Recovery Plan recognizes that a key risk of this particular tool would be the potentially detrimental impacts on Clearing Members and their customers, who would receive a cash settlement amount when they had anticipated receiving physical securities.

Recovery Tools

Proposed Chapter 5 would explain that OCC's Recovery Tools differ from OCC's Enhanced Risk Management Tools in that the use of each Recovery Tool is generally limited to a scenario in which a Recovery Trigger Event has occurred, and as discussed below, the sequence and timing of the deployment of each Recovery Tool is more structured than the sequence and timing for the deployment of the Enhanced Risk Management Tools. As noted below, each of the Recovery Tools is discussed in greater detail in a proposed rule change that has been filed with the Commission.

Descriptions of each of the Recovery Tools contained in the proposed Recovery Plan are provided below:

Assessment Powers. OCC is in the process of amending its By-Laws to revise its assessment powers such that OCC would have the authority to assess non-defaulting Clearing Members during any ''cooling-off period'' (explained below) in an aggregate amount equal to 200% of each such Clearing Member's required contribution as of the time immediately preceding the start of the applicable cooling-off period (hereinafter, ''Assessment Powers'').[41] Under the proposed Assessment Powers, an automatic minimum fifteen calendar day cooling-off period would begin whenever a proportionate charge is assessed by OCC against Clearing Members' Clearing Fund contributions. While the cooling-off period would continue for a minimum of fifteen consecutive calendar days, if one or more of the events described in clauses (i) through (iv) of Article VIII, Section 5(a) of OCC's By-Laws occur(s) during that fifteen calendar day period and result(s) in one or more proportionate charges against the Clearing Fund, the cooling-off period would be extended through either (i) the fifteenth calendar day from the date of the most recent proportionate charge resulting from the subsequent event, or (i) the twentieth day from the date of the proportionate charge that initiated the cooling-off period, whichever is sooner. During such cooling-off period, the proposed Assessment Powers would cap each Clearing Member's aggregate liability to replenish the Clearing Fund at 200% of the Clearing Member's then-required contribution to the Clearing Fund. Once the cooling-off period ends each remaining Clearing Member would be required to replenish the Clearing Fund in the amount necessary to meet its then-required contribution.[42] The Recovery Plan would include the proposed Assessment Powers among OCC's Recovery Tools.

The Recovery Plan would discuss the mechanics for replenishment of the Clearing Fund, which is the mechanism by which assessments would be collected from Clearing Members.[43] The Recovery Plan would acknowledge that one of the key risks associated with OCC's assessment powers is that utilization of assessment powers (or even prefunded Clearing Fund

[37] OCC will be filing a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2017–018.

[38] Under Article I of OCC's By-Laws, the term ''correspondent clearing corporation'' means the National Securities Clearing Corporation or any successor thereto which, by agreement with the OCC, provides facilities for settlements in respect of exercised option contracts or BOUNDs or in respect of delivery obligations arising from physically-settled stock futures.

[39] ''Substitute broker'' refers to the use of another OCC clearing member that remains in good standing at the correspondent clearing corporation and that, on OCC's behalf, will facilitate settlement of OCC's delivery obligations of the Rejected Cleared Securities through the correspondent clearing corporation.

[40] To avoid the retroactive application of Rule 913, OCC's ability to require cash settlement of cleared securities would only apply where the relevant cleared securities were issued by OCC after regulatory approval is received for this proposed rule change and the change has been implemented by OCC. As of the date of this filing, OCC lists standard equity options through November 25, 2024 and flexible style equity options through December 18, 2026.

[41] OCC has filed a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2017–020.

[42] Under the proposed Assessment Powers, the time frame within which a Clearing Member may provide a termination notice to OCC to avoid liability for replenishment of the Clearing Fund after the cooling-off period would be extended and the obligations of such a terminating Clearing Member for closing-out and transferring its remaining open positions would be modified. Specifically, to effectively terminate its status as a Clearing Member and not be liable replenishing the Clearing Fund after the cooling-off period, a Clearing Member would be required to: (i) Notify OCC in writing of its intent to terminate not later than the last day of the cooling-off period, (ii) not initiate any opening purchase or opening writing transaction, and, if the Clearing Member is a Market Loan Clearing Member or a Hedge Clearing Member, not initiate any Stock Loan transaction, through any of its accounts, and (iii) close-out or transfer all of its open positions by no later than the last day of the cooling-off period. If a Clearing Member failed to satisfy all of these conditions by the end of a given cooling-off period, it would not have completed all of the requirements necessary to terminate its status as a Clearing Member and therefore it would remain subject to the obligation to replenish the Clearing Fund after the end of the cooling-off period.

[43] Article 6 of OCC's By-Laws states that Clearing Members are required to promptly make good any deficiency in their required contribution that results from a charge against the Clearing Fund, and Clearing Members must make good any such deficiencies by 9:00 a.m. Central Time on the first business day following the day on which OCC notifies Clearing Members of such deficiency.

resources) may incentivize Clearing Members to withdraw from membership (to avoid replenishing the Clearing Fund following the cooling-off period), thereby potentially reducing the size of the future Clearing Fund as well as OCC's future assessment powers.

Voluntary Payments. OCC is in the process of proposing new Rule 1009, which would provide a framework by which OCC could receive voluntary payments in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211,[44] OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default.[45] Under proposed Rule 1009, non-defaulting Clearing Members would be invited to make voluntary payments to the Clearing Fund, in addition to any amounts they are otherwise required to contribute. If OCC subsequently recovers from the estate(s) of the defaulted Clearing Member(s), all non-defaulting Clearing Members that made voluntary payments would be repaid from such recovery (and if the amount recovered the defaulted Clearing Member(s) is less than the aggregate amount of voluntary payments, non-defaulting Clearing Members that made voluntary payments each would receive a percentage of the recovery that corresponds to that Clearing Member's percentage of the total amount of voluntary payments received). The Recovery Plan would include proposed Rule 1009 among OCC's Recovery Tools.

The Recovery Plan would discuss the mechanics for voluntary payments and the estimated time frame for issuing a ''Voluntary Payment Notice'' and collecting voluntary payments (from several hours to overnight, depending on the timing of the event driving OCC's determination to call for voluntary payments).[46] The Recovery Plan would acknowledge that the key risk associated with the ability to call for voluntary payments is that non-defaulting Clearing Members would be unwilling, or unable, to participate.

Voluntary Tear-Up. OCC is in the process of proposing new Rule 1111, which, in relevant part, would establish a framework by which non-defaulting Clearing Members and non-defaulting customers of Clearing Members could be given an opportunity to voluntarily extinguish (*i.e.,* voluntarily tear-up) their open positions at OCC in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default.[47] OCC presumes that the scope of any voluntary tear-up would be dictated by the cleared contracts remaining in the portfolio(s) of the defaulted Clearing Member(s); however, to ensure OCC retains sufficient flexibility to effectively deploy this tool in an extreme stress event, proposed Rule 1111(c) would provide the Risk Committee with discretion to determine the appropriate scope of each voluntary tear-up. New Rule 1111(c) also would impose standards designed to circumscribe the Risk Committee's discretion, requiring that any determination regarding the scope of a voluntary tear-up would (i) be based on then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. The Recovery Plan would include this proposed authority to call for voluntary tear-ups among OCC's Recovery Tools.

The Recovery Plan anticipates that OCC's tear-up process—for both voluntary tear-ups as well as partial tear-ups—would be initiated on a date sufficiently in advance of the exhaustion of OCC's financial resources such that OCC would be expected to have adequate remaining resources to cover the amount it must pay to extinguish the positions of Clearing Members and customers without haircutting gains.[48] The Recovery Plan contemplates that, if tear-up becomes necessary, OCC likely would initiate its tear-up process after the market closes on the date on which OCC has determined that the amount of its remaining financial resources measured against the estimated stressed exposure of the unauctioned positions in the portfolio(s) of the defaulted Clearing Member(s) warrants the initiation of OCC's tear-up process (for purposes of this example, Day T). The Recovery Plan anticipates that notice of tear-up (both voluntary tear-up and partial tear-up) would be published no later than the morning of the following trading day prior to the market opening (for purposes of this example, Day T+1) and that the call for voluntary tear-ups would remain open throughout the duration of the trading on Day T+1. The Recovery Plan anticipates that voluntarily tendered positions would be extinguished either after the close on Day T+1 or prior to the opening of the markets on Day T+2 (where Day T+2 is a trading day), and that such positions would be extinguished at their last established end-of-day settlement price, in accordance with OCC's existing practices concerning pricing and valuation (*i.e.,* the closing price on Day T+1).

After OCC has completed its tear-up process and re-established a matched book, OCC expects that holders of both voluntarily torn-up and mandatorily torn-up positions would be provided with a limited opportunity to re-establish positions in the contracts that were voluntarily or mandatorily extinguished. For the losses, costs or expenses imposed upon the holders of torn-up positions, proposed Rule 1111 would provide OCC with two separate and non-exclusive means of equitably re-allocating such losses costs or expenses.[49]

[44] Rule 707 addresses the treatment of funds in a Clearing Member's X–M accounts. Rule 1001 addresses the size of OCC's Clearing Fund and the amount of a Clearing Member's contribution. Rules 1104 through 1107 concern the treatment of the portfolio of a defaulted Clearing Member. Rules 2210 and 2211 concern the treatment of Stock Loan positions of a defaulted Clearing Member.

[45] OCC has filed a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2017–020.

[46] Article 6 of OCC's By-Laws states that Clearing Members are required to promptly make good any deficiency in their required contribution that results from a charge against the Clearing Fund, and Clearing Members must make good any such deficiencies by 9:00 a.m. Central Time on the first business day following the day on which OCC notifies Clearing Members of such deficiency.

[47] OCC has filed a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2017–020.

[48] OCC is not proposing a tear-up process that would require the imposition of ''gains haircutting'' (*i.e.,* the reduction of unpaid gains) on a portion of OCC's cleared contracts. In general, OCC believes that forced gains haircutting is a tool that can be more easily applied to products whose gains are settled at least daily, like futures through an exchange of variation margin, and by central counterparties with comparatively large daily settlement flows. Listed options, which constitute the vast majority of the contracts cleared by OCC, do not have daily settlement flows and any attempt to reduce the ''unrealized gains'' of a listed options contract would require the reduction of the option premium that is embedded within the required margin (such a process would effectively require haircutting the listed option's initial margin). In OCC's proposed tear-up process, the holders of torn-up positions would be assigned a Tear-Up Price and OCC would draw on its remaining financial resources in order to extinguish the torn-up positions at the assigned Tear-Up Price without forcing a reduction in the amount unpaid gains on such positions.

[49] Proposed Rule 1111 would provide OCC discretion to use remaining Clearing Fund contributions to re-allocate losses imposed on non-defaulting Clearing Members and customers from such tear-up(s). Further, proposed Rule 1111(a) also would provide that if OCC subsequently recovers from the estate(s) of the defaulted Clearing

In addition to discussing the above mechanics for voluntary tear-up and the estimated time frame for initiating and completing OCC's tear-up process, the Recovery Plan would acknowledge that the key risk associated with the ability to call for voluntary tear-ups is that non-defaulting Clearing Members and nonwould be unwilling, or unable, to participate.

Partial Tear-Up. Proposed Rule 1111 also would provide the Board with discretion to extinguish the remaining (*i.e.,* mandatorily extinguish) open positions of any defaulted Clearing Member or customer of such defaulted Clearing Member(s) (such positions, ''remaining open positions''), as well as any related open positions as necessary to mitigate further disruptions to the markets affected by the Remaining Open Positions (such positions, ''related open positions''), in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default (such tear-ups, ''partial tear-ups''). Like the determination for voluntary tear-ups, OCC presumes that the scope of any partial tear-up would be dictated by the cleared contracts remaining in the portfolio(s) of the defaulted Clearing Member(s); however, to ensure OCC retains sufficient flexibility to effectively deploy this tool in an extreme stress event, proposed Rule 111(c) would provide the Risk Committee with discretion to determine the appropriate scope for each partial tear-up. Proposed Rule 1111(c) would impose the same standards designed to circumscribe the Risk Committee's discretion as would be imposed with respect to voluntary tear-ups: Partial tear-ups would (i) be based on then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. The Recovery Plan would include this proposed authority to impose mandatory tear-ups among OCC's Recovery Tools.

As explained above, the Recovery Plan would anticipate that the process for implementing a partial tear-up would be intertwined with the process for implementing a voluntary tear-up. The Recovery Plan would also make clear that partially torn-up positions would be allocated to non-defaulting Clearing Members' accounts (and further allocated by Clearing Members to their non-defaulting customers' accounts) on a pro rata basis.

Replenishment Capital. In 2015 OCC adopted a capital plan (''Capital Plan'') under which OCC's stockholder exchanges made an additional capital contribution and, in the event that total shareholder's equity falls below a certain threshold, committed to replenishing OCC's capital up to an amount determined as OCC's ''Baseline Capital Requirement.'' [50] The Recovery Plan would include the replenishment capital that OCC's stockholder exchanges would be required to provide under the Capital Plan among OCC's Recovery Tools.

In addition to generally discussing each of the Enhanced Risk Management Tools and Recovery Tools as described above, the Recovery Plan also would provide a mapping of OCC's Enhanced Risk Management Tools and Recovery Tools against the types of financial market infrastructure (''FMI'') risk exposures identified in the Recovery Report.[51] The general mapping of tools to risk exposures is presented below:

- *Tools to address uncovered credit losses from a Clearing Member default:* Use of current/retained earnings, proposed voluntary payments and proposed Assessment Powers.
- *Tools to address liquidity shortfalls:* Minimum Clearing Fund cash contribution, borrowing against Clearing Fund, OCC's credit facility, OCC's non-bank facility and cash settlement of physically delivered options and single stock futures.
- *Tools to replenish financial resources:* Replenishment capital.
- *Tools to address losses related to business, operational or other structural weaknesses (i.e., losses not caused by Clearing Member Default):* Borrowing against Clearing Fund and replenishment capital.
- *Tools to re-establish a matched book:* Voluntary tear-up and partial tear-up.

The Recovery Plan would include a short discussion of how the Enhanced Risk Management Tools and Recovery Tools would apply to each of the risk categories and failure scenarios identified in the Recovery Report.[52] The discussion of each risk category would reference the appropriate Stress Scenarios in Appendix H that demonstrate the use of applicable Enhanced Risk Management Tools and Recovery Tools. The Recovery Plan also would discuss the Enhanced Risk Management Tools and Recovery Tools in the context of the characteristics of recovery tools enumerated in the CPMI–IOSCO Recovery Report.[53]

After discussing the Enhanced Risk Management Tools and Recovery Tools, the Recovery Plan would identify five qualitative ''Recovery Trigger Events'' (events that—if occurring during OCC's risk management efforts—would indicate that OCC is facing an extreme stress event that potentially threatens OCC's viability). The Recovery Plan would specify that the occurrence of a Recovery Trigger Event shall require OCC personnel to notify the Commission and the CFTC (and the Federal Deposit Insurance Corporation, to the extent applicable), and such notice shall apprise the regulator(s) of the specific Recovery Trigger Event that has occurred and sufficient information to enable the regulator(s) to understand the nature of the occurrence of the Recovery Trigger Event. The Recovery Plan would further outline an escalation process for the occurrence of a Recovery Trigger Event. The escalation process would start with individual support function leads, who would be responsible for communicating the possible occurrence of a Recovery Trigger Event to other support functions within OCC. The escalation process would require OCC's Enterprise Risk Management and Financial Risk

Member(s) and the amount of such recovery exceeds the amount OCC received in voluntary payments, then non-defaulting Clearing Members and non-defaulting customers that voluntarily tore-up open positions and incurred losses from such tear-ups would be repaid from the amount of the recovery in excess of the amount OCC received in voluntary payments (if the amount recovered is less than the aggregate amount of voluntary tear-up, each non-defaulting Clearing Member and non-defaulting customer that incurred losses from voluntarily torn-up positions would be repaid in an amount proportionate to the percentage of its total amount of losses, costs and fees imposed on Clearing Members or customers as a result of the voluntary tear-ups).

[50] *See* Securities Exchange Act Release No. 34–74387 (Feb. 26, 2015), 80 FR 12215 (Mar. 6, 2015) (SR–OCC–2014–813). As stated in the advance notice, OCC's Baseline Capital Requirement for 2015 was $117,000,000.

[51] The Recovery Report recognizes the following risk exposures for an FMI: Legal risk, credit risk, liquidity risk, general business risk, custody risk, investment risk and operational risk. *See* Recovery Report, p. 12.

[52] The Recovery Report identifies the following purposes for an FMI's recovery tools: (i) Tools to allocate uncovered credit losses caused by a participant default, (ii) tools to address uncovered liquidity shortfalls, (iii) tools to replenish financial resources, (iv) tools for CCPs to re-establish a matched book following a participant default, and (v) tools to allocate losses not caused by participant default. *See* Recovery Report, p. 17.

[53] The Recovery Report states that a financial market infrastructure's recovery tools should (i) be comprehensive, (ii) be effective, (iii) be transparent, measurable, manageable and controllable, (iv) create appropriate incentives, and (v) minimize negative impact. *See* Recovery Report, p. 13.

Management groups to be responsible for assessing the situation and providing recommendations regarding the potential use of Enhanced Risk Management Tools and Recovery Tools. The escalation process would identify that the Chief Executive Officer and Executive Chairman would be responsible for providing necessary approvals for the implementation of Enhanced Risk Management Tools and Recovery Tools, and that the Chief Risk Officer and the Management Committee would be responsible for overseeing the deployment of any Enhanced Risk Management Tools or Recovery Tools. The escalation process would identify OCC's Board and the Risk Committee of the Board as being responsible for generally overseeing OCC's recovery efforts.

Finally, the Recovery Plan would provide general descriptions of how OCC would anticipate deploying its Enhanced Risk Management and Recovery Tools in response to each of the six Stress Scenarios detailed in Appendix H. As described above, the six detailed Stress Scenarios would be grouped into the following categories of stresses: Individual Clearing Member default, multiple successive Clearing Member defaults, disruption or failure of a bank or liquidity facility provider, inability to access another financial market infrastructure and general business and operational risks.

Chapter 6: Wind-Down Plan

Chapter 6 of OCC's proposed RWD Plan would constitute OCC's WDP. Consistent with the above-stated purpose of an orderly wind-down plan, Chapter 6 would demonstrate that OCC has considered scenarios which may potentially prevent it from being able to provide its Critical Services as a going-concern and that OCC has adequately evaluated plans for its orderly wind-down.[54]

The WDP would state OCC's basic assumptions concerning the resolution process, including assumptions about the duration of the resolution process, the cost of the resolution process, OCC's capitalization through the resolution process, the maintenance of Critical Services and Critical Support Functions and the retention of personnel and contractual relationships. The WDP would further identify six ''WDP Trigger Events'' that—if occurring during OCC's recovery efforts—could likely jeopardize the viability of OCC's recovery and signal that initiation of the WDP should be considered. Upon the occurrence of any WDP Trigger Event, the WDP would require OCC personnel to notify the Commission and the CFTC (and the Federal Deposit Insurance Corporation, to the extent applicable), and such notice must apprise the regulator(s) of the specific WDP Trigger Event that has occurred and sufficient information to enable the regulator(s) to understand the nature of the occurrence of the WDP Trigger Event. Additionally, the WDP would prescribe for each WDP Trigger Event more tailored internal notification requirements. These more tailored notification requirements would designate OCC personnel in specific support functions (generally, the function whose area is most closely related to, or impacted by, the specific WDP Trigger Event) as responsible for identifying such WDP Trigger Event and for notifying OCC's senior management.

The WDP also would reference the importance of the critical external interconnections (discussed in Chapter 4) to the resolution process and highlight the key agreements that would be necessary to maintain throughout OCC's resolution (such agreements would be listed in Appendix G). The WDP would provide a discussion of the key actions that OCC (or a resolution authority) could take during the resolution process. The key actions discussed in the WDP would include the following: The decision by OCC's Board (informed by senior management) to abandon recovery and initiate OCC's resolution process; the potential institution of new or heightened requirements on clearing membership; the potential imposition of heightened capital requirements on clearing members (consistent with the existing requirements in Rule 301); the imposition of increased margin requirements for Clearing Members (pursuant to the existing authority under Rule 603); ceasing OCC's investment activities; instituting new operational practices (to address any operation weaknesses that caused, or contributed to, the events resulting in the initiation of the resolution process), and; targeted reductions in force (by each of the fourteen support functions discussed in Chapter 3).

The WDP also would identify potential transactions that could be entered to accomplish the objectives of wind-down (''WDP Transactions''), as well as discuss the possibility of ceasing operation of OCC's Critical Services. The WDP would state that the goal of OCC's resolution—and thusly of any WDP Transaction—would be to transfer ownership of OCC itself by the consummation or a consensual sale or similar transaction, in a manner that ensures the continuation of OCC's Critical Services. The WDP would examine the structure of three potential WDP Transactions, with a focus on the corporate, transactions, governance and regulatory issues relating to each structure. In order of preference based on OCC's examination, the first structure would be a ''Stock Transaction,'' meaning a sale by OCC's stockholder exchanges of all of their shares of stock to one or more new owners; the second structure would be a ''Merger Transaction,'' meaning a merger or consolidation of OCC with another entity (with the aim of OCC remaining as the surviving entity), and; the third structure would be an ''Asset Transaction,'' meaning that substantially all of OCC's assets and some or all of OCC's liabilities, including open positions in OCC-cleared contracts along with related Clearing Fund deposits and margin collateral, would be transferred to a third party.

With respect to the possibility of ceasing OCC's Critical Services, the WDP would consider taking a corporate action to consider institution of a bankruptcy or insolvency proceeding, which would have the effect of triggering the existing close-out netting provisions in Article VI, Section 27 of OCC's By-Laws.

Chapter 7: RWD Plan Governance

Chapter 7 of OCC's proposed Plan would memorialize the prior governance for approval of the earlier drafts of OCC's recovery and orderly wind-down plan and would establish an internal governance process for the maintenance, review and approval of the proposed RWD Plan. The internal governance process for the approval of subsequent changes to OCC's proposed RWD Plan would initiate with an RWD Working Group, which would recommend any changes to OCC's Management Committee. OCC's Management Committee, in turn, would review and, as appropriate, approve and recommend any changes to OCC's Risk Committee. OCC's Risk Committee, in

[54] For the purposes of the RWD Plan, OCC would frame its wind-down objective consistent with the objective advanced by the FSB for CCP resolution: ''CCP resolution should have as its objective the pursuit of financial stability and ensure the continuity of critical CCP functions in all jurisdictions where those functions are critical and without exposing taxpayers to risk of loss. . . . The objectives of CCP resolution can be achieved either by: (i) Restoring the ability of the CCP to continue to perform its critical functions as a going concern; or (ii) ensuring continued performance of those functions by another entity or arrangement (including a bridge entity established by the resolution authority) coupled with the orderly wind-down of the residual CCP in resolution.'' *See* CCP Resolution Report, p. 2.

turn, would review and, as appropriate, approve and recommend any changes to OCC's Board. OCC's Board would have final responsibility for review and approval of subsequent changes to OCC's proposed RWD Plan.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [55] because the proposed change to update and formalize OCC's RWD Plan ultimately would protect investors and the public interest. The Recovery Plan is designed to enhance OCC's ability to address extreme stresses or crises by establishing a framework that OCC could use to navigate the use its Enhanced Risk Management Tools and Recovery Tools, with the aim of maintaining OCC's viability as a going concern. In the event that OCC's recovery efforts are not successful, the WDP would seek to improve the possibility that a resolution of OCC's operations can be conducted in an orderly manner, thereby minimizing the disruption to Clearing Members and market participants and improving the likelihood of minimizing the risk of contagion to the broader financial system. Accordingly, OCC believes its proposed RWD Plan improves the possibility of maintaining market and public confidence during a time of unprecedented stress. In this regard, OCC believes the proposed rule change ultimately would protect investors and the public interest in a manner consistent with Section 17A(b)(3)(F) of the Act.[56]

OCC believes that the proposed rule change is also consistent with Rule 17Ad–22(e)(3)(ii).[57] As stated above, the RWD Plan would describe OCC's plans to recover from, or orderly resolve its operations as a result of, severe stress brought about by credit losses, liquidity shortfalls, losses from general business risk or other losses.[58] Consistent with the Commission's guidance, the proposed RWD Plan would consider scenarios which may potentially prevent OCC from providing its Critical Services as a going-concern and provide appropriate plans for OCC's recovery or orderly wind-down based on the results of such considerations. Further, OCC's proposed Plan would seek to provide the information that a resolution authority may reasonably anticipate as necessary for purposes of recovery and orderly wind-down planning.[59] In this regard, OCC believes its proposed rule change is consistent with Rule 17Ad–22(e)(3)(ii).[60]

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [61] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition.[62] The proposed rule change would update and memorialize OCC's RWD Plan. The RWD Plan would only be used in extreme stress scenarios, and the Plan is designed to be used only internally (or by a resolution authority). The proposed rule change would not affect Clearing Members' access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impact or impose a burden on competition.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2017–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2017–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_021.pdf.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2017–021 and should be submitted on or before January 16, 2018.

[55] 15 U.S.C. 78q–1(b)(3)(F).

[56] 15 U.S.C. 78q–1(b)(3)(F).

[57] 17 CFR 240.17Ad–22(e)(3)(ii).

[58] 17 CFR 240.17Ad–22(e)(3)(ii).

[59] *See* 81 FR at 70810.

[60] 17 CFR 240.17Ad–22(e)(3)(ii).

[61] 15 U.S.C. 78q–1(b)(3)(I).

[62] 15 U.S.C. 78q–1(b)(3)(I).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[63]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27692 Filed 12–22–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82368; File Nos. SR–DTC–2017–005; SR–FICC–2017–009; SR–NSCC–2017–006]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Notice of Filing of Amendments No. 2 and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, To Adopt the Clearing Agency Stress Testing Framework (Market Risk)

December 19, 2017.

I. Introduction

On April 7, 2017, The Depository Trust Company (''DTC''), Fixed Income Clearing Corporation (''FICC''), and National Securities Clearing Corporation (''NSCC,'' each a ''Clearing Agency,'' and collectively, the ''Clearing Agencies''), filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–DTC–2017–005, SR–FICC–2017–009, and SR–NSCC–2017–006, respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2]

The proposed rule changes were published for comment in the **Federal Register** on April 25, 2017.[3] On June 7, 2017, the Commission designated a longer period for Commission Action on the proposed rule changes.[4] On July 19, 2017, the Clearing Agencies each filed Amendments No. 1 to their respective proposed rule changes. Amendments No. 1 would clarify how the Clearing Agencies would use scenarios to estimate the profits and losses (''P&L'') of a member closeout.

On July 24, 2017, the Commission published a notice in the **Federal Register** of filing Amendments No. 1 and order instituting proceedings under Section 19(b)(2)(B)(i) of the Act [5] to determine whether to approve or disapprove the proposed rule changes.[6] On October 16, 2017, the Commission designated a longer period on the proceedings to determine whether to approve or disapprove the proposed rule changes.[7] On December 12, 2017, the Clearing Agencies each filed Amendments No. 2 to their respective proposed rule changes (hereinafter, ''Proposed Rule Changes''). Amendments No. 2 would clarify the historical scenarios that the Clearing Agency would use for stress testing. The Commission did not receive any comment letters on the Proposed Rule Changes.

II. Description of the Proposed Rule Changes

The Proposed Rule Changes would adopt the Clearing Agency Stress Testing Framework (Market Risk) (''Framework''), which would set the Clearing Agencies' procedures for identifying, measuring, monitoring, and managing their credit exposures to members. Although the Framework would be a rule of each Clearing Agency, the Proposed Rule Changes do not require any changes to the Rules, By-Laws and Organizational Certificate of DTC (''DTC Rules''), the Rulebook of GSD (''GSD Rules''), the Clearing Rules of MBSD (''MBSD Rules''), or the Rules & Procedures of NSCC (''NSCC Rules''), as the Framework would be a standalone document.[8]

In general, the Framework would describe the stress-testing practices adopted by the Clearing Agencies. The Clearing Agencies designed their stress testing to help ensure the sufficiency of each Clearing Agency's total prefunded-financial resources.[9] The Framework would describe (i) the sources of each Clearing Agency's total prefunded-financial resources; (ii) the Clearing Agencies' stress-testing methodologies; (iii) the Clearing Agencies' stress-testing governance and execution processes; and (iv) the Clearing Agencies' model-validation practices.[10]

A. Sources of Prefunded-Financial Resources

The Framework would outline the prefunded-financial resources and related stress-testing methodologies of the Clearing Agencies. The Framework would begin by describing the applicable regulatory requirements, with respect to credit risk management, of each Clearing Agency and how the Clearing Agencies address those requirements.[11] The Framework would address those requirements by describing how each Clearing Agency maintains sufficient prefunded-financial resources to cover fully the credit exposures to each of their respective members with a high degree of confidence.[12] The Framework would also describe how the Clearing Agencies maintain additional prefunded-financial resources that, at a minimum, would enable them to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the affiliated family of members (''Affiliated Family'') that would potentially cause the largest aggregate credit exposure to the Clearing Agency in extreme but plausible market conditions (''Cover One Requirement'').[13] Because the credit risks and prefunded-financial resources of each Clearing Agency differ, the Framework would describe the prefunded-financial resources and related stress-testing methodologies of the Clearing Agencies separately.[14]

With respect to FICC and NSCC, the Framework would describe that the prefunded-financial resources are their respective clearing funds, containing deposits from their members of both cash and eligible securities.[15] The Framework would describe that such deposits are calculated for each individual member pursuant to the GSD Rules, MBSD Rules, or NSCC Rules, as applicable, and each member's deposit

[63] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80485 (April 19, 2017), 82 FR 19131 (April 25, 2017) (SR–DTC–2017–005; SR–FICC–2017–009; SR–NSCC–2017–006) (''Notice'').

[4] *See* Securities Exchange Act Release No. 80876 (June 7, 2017), 82 FR 27091 (June 13, 2017) (SR–DTC–2017–005; SR–FICC–2017–009; SR–NSCC–2017–006).

[5] 15 U.S.C. 78s(b)(2)(B)(i).

[6] *See* Securities Exchange Act Release No. 81192 (July 24, 2017), 82 FR 35245 (July 28, 2017) (SR–DTC–2017–005; SR–FICC–2017–009; SR–NSCC–2017–006).

[7] *See* Securities Exchange Act Release No. 81883 (October 16, 2017), 82 FR 48858 (October 20, 2017) (SR–DTC–2017–005; SR–FICC–2017–009; SR–NSCC–2017–006).

[8] *Available at http://www.dtcc.com/en/legal/rules-and-procedures.* FICC is comprised of two divisions: The Government Securities Division (''GSD'') and the Mortgage-Backed Securities Division (''MBSD''). Each division serves as a central counterparty, becoming the buyer and seller to each of their respective members' securities transactions and guarantying settlement of those transactions, even if a member defaults. GSD provides, among other things, clearance and settlement for trades in U.S. Government debt issues. MBSD provides, among other things, clearance and settlement for trades in mortgage-backed securities. GSD and MBSD maintain separate sets of rules, margin models, and clearing funds. Notice, 82 FR at 19131.

[9] Notice, 82 FR at 19132.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *See* 17 CFR 240.17Ad–22(e)(4)(iii).

[14] Notice, 82 FR at 19132.

[15] *Id.* Any eligible security is subject to a haircut. GSD Rule 4 (Clearing Fund and Loss Allocation), MBSD Rule 4 (Clearing Fund and Loss Allocation), and NSCC Rule 4 (Clearing Fund), *supra* note 8.

would be referred to in the Framework as its ''Required Deposit.'' [16]

With respect to DTC, the Framework would describe that its prefunded-financial resources are cash deposits to its Participants Fund.[17] The Framework would also describe that DTC may use its risk management control, the Collateral Monitor, to monitor and assure that the settlement obligations of each member are fully collateralized.[18]

B. Stress-Testing Methodology

The Framework would describe the stress-testing methodologies that the Clearing Agencies use to test the sufficiency of their total prefunded-financial resources against the Cover One Requirement. The Framework would state that the stress testing is designed to identify potential weaknesses in the methodologies used to calculate members' Required Deposits and to determine collateral haircuts.[19]

The Framework would describe in detail the three key components of the development of stress-testing methodologies:

1. Risk Identification. The Clearing Agencies would identify the principal credit-risk drivers that are representative and specific to each Clearing Agency's clearing and/or collateral portfolio under stressed market conditions.[20]

2. Scenario Development. The Clearing Agencies would construct comprehensive and relevant sets of extreme but plausible historical and hypothetical stress scenarios for the identified risk drivers.[21] The Framework would describe how the Clearing Agencies would develop and select both historical and hypothetical scenarios that reflect stressed market conditions.[22] Historical scenarios would be based on stressed market conditions that occurred on specific dates in the past.[23] In contrast, hypothetical stress scenarios would be theoretical market conditions.[24]

3. Risk Measurement and Aggregation. The Clearing Agencies would calculate the risk metrics of each Clearing Agency's actual portfolio to estimate the P&L of a close out over a suitable stressed period of risk, deficiencies, and coverage ratios.[25] The Framework would describe how the Clearing Agencies would develop P&L estimation methodologies, and how they would calculate risk metrics that are applicable to such methodologies under the chosen stress-testing scenarios.[26] The Clearing Agencies could use a number of P&L methodologies for stress-testing purposes, including risk sensitivity, index mapping, and actual or approximate historical shock approaches.[27]

The Framework would further describe the stress-testing methodology by stating that the Clearing Agencies would calculate member stress deficiencies,[28] Affiliated Family deficiencies,[29] and Cover One Ratios daily.[30]

The Framework would further state that FICC and NSCC would consider non-Cover-One Ratio coverages, such as comparing member stress deficiencies against such member's known financial resources (*e.g.,* equity capital base), to keep abreast of potential financial vulnerabilities facing such member.[31] Additionally, the Framework would state that DTC would also test the adequacy of its collateral haircuts by measuring the amount of stress losses that exceed the haircut applied to the collateral securities (*i.e.,* ''Haircut Deficiency'').[32]

Moreover, the Framework would state that the Clearing Agencies measure both specific and generic wrong-way risk for each Clearing Agency's members and Affiliated Families.[33] To measure specific wrong-way risk, for each given Member and its Affiliated Family and each given scenario, the securities issued by the Affiliated Family would be subject to shocks that reflect the default of a Member's Affiliated Family. To measure general wrong-way risk, the Framework would apply historical scenarios during the 2008 financial crisis to securities issued by the Affiliated Family as well as securities issued by the non-Affiliated Family.

The Framework would also describe the reverse stress-testing analysis that is performed by FICC and NSCC on at least a semi-annual basis.[34] The analysis would provide another means for FICC and NSCC, as central counterparties, to test the sufficiency of the Clearing Agencies' respective prefunded financial resources.[35] In conducting reverse stress-testing, FICC and NSCC would utilize scenarios of multiple defaults, extreme market shocks, or shocks for other risk factors, which would cause those Clearing Agencies, as applicable, to exhaust all of their respective prefunded financial resources.[36]

C. Stress-Testing Governance and Execution Process

The Framework would describe the Clearing Agencies' stress-testing governance and execution processes. Stress testing would be conducted daily for each of the Clearing Agencies, and stress-testing risk metrics also would be generated each day.[37] The Cover One Ratios and member stress deficiencies would be monitored against pre-established thresholds.[38] Breaches of these pre-established thresholds would initially be subject to more detailed studies to identify any potential impact to the applicable Clearing Agencies' Cover One Requirement.[39] The Framework would describe that, to the extent such studies indicate a potential impact to a Clearing Agency's Cover One Requirement, the threshold breach would be escalated internally and analyzed to determine if (i) there is a need to adjust the stress-testing methodology, or (ii) the threshold breach indicates an issue with a particular member.[40] Based on that analysis, the Clearing Agencies would determine the appropriate course of action.[41]

D. Model Validation

The Framework would describe the process the Clearing Agencies would use to validate their stress-testing

[16] *Id.*

[17] *Id.* DTC Rule 4 (Participants Fund and Participants Investment). *Supra* note 8.

[18] Notice, 82 FR at 19132. ''Collateral Monitor'' is defined in DTC Rule 1, Section 1 (Definitions), and its calculation is further provided for in the DTC Settlement Service Guide of the DTC Rules. *Supra* note 8.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] Notice, 82 FR at 19133.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] The Framework would define ''member stress deficiency'' for each scenario as, with respect to FICC and NSCC, the stress loss exceeding the applicable member's Required Deposits. The Framework would define ''member stress deficiency'' for each scenario at DTC as the shortfall of a member's Collateral Monitor. *Id.*

[29] The Framework would define ''Affiliated Family deficiency'' as the aggregate of all member stress deficiencies within the applicable Affiliated Family. *Id.*

[30] The Framework would define ''Cover One Ratio'' as the ratio of Affiliated Family deficiency over the total value of the relevant Clearing Agency's clearing fund (or, for DTC, the Participants Fund), excluding the value of the applicable Affiliated Family's Required Deposits. *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] According to the Clearing Agencies, risk-threshold levels are chosen to assist each Clearing Agency in achieving a high degree of confidence that its Cover One Requirement is met daily. *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

procedures. The Clearing Agencies would each conduct a comprehensive analysis of their respective daily stress-testing results, existing scenario sets (including any changes to such scenarios for the period since the last review), and the performance of the stress-testing methodologies along with key underlying parameters and assumptions.[42] The analysis would be performed at least monthly and would be conducted to assess whether each Clearing Agency's stress-testing components appropriately determine the sufficiency of the Clearing Agency's prefunded-financial resources.[43] The Framework would state that such analysis may occur more frequently than monthly if, for example, (i) the products cleared or markets served by a Clearing Agency display high volatility or become less liquid, or (ii) the size or concentration of positions held by the applicable Clearing Agency's members increases significantly.[44]

The Framework would state that the results of the analysis are reviewed monthly by the DTCC Enterprise Stress Testing Council.[45] The Framework would also state that daily stress-testing results are summarized and reported monthly to the DTCC Risk Management Committee.[46] Finally, the Framework would state that stress-testing methodologies and related models are subject to independent model validation on at least an annual basis.[47]

E. Notice of Filing of Amendments No. 2

As proposed, the Framework did not specify the historical scenarios the Clearing Agencies would use in their stress testing. The Clearing Agencies filed Amendments No. 2 to clarify that, at a minimum, the Clearing Agencies would use certain specific historical scenarios.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[48] After carefully considering the Proposed Rule Changes, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Clearing Agencies. In particular, the Commission believes the proposal is consistent with Section 17A(b)(3)(F) of the Act,[49] as well as Rule 17Ad–22(e)(4) thereunder.[50]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote prompt and accurate clearance and settlement, and assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[51]

As described above, the Framework would describe (i) the sources of each Clearing Agency's total prefunded-financial resources; (ii) the Clearing Agencies' stress-testing methodologies; (iii) the Clearing Agencies' stress-testing governance and execution processes; and (iv) the Clearing Agencies' model-validation practices. Moreover, the Framework would describe the Clearing Agencies' stress testing practices in a clear and comprehensive manner. Therefore, the Framework could help improve the Clearing Agencies' ability to determine and evaluate the credit risk presented by Clearing Agencies' members by testing (i) the sufficiency of their credit resources in a variety of extreme but plausible scenarios, and (ii) the potential losses to the Clearing Agencies from a participant default.

The improved ability to evaluate credit risk could enable the Clearing Agencies to deploy their risk-management tools more effectively to manage the credit and market presented by such members. Through such preparation, the Framework could decrease the possibility of a member default. By enabling the Clearing Agencies to use their risk-management tools to monitor its credit and market more effectively, the proposed Framework is designed to help mitigate the risk that the Clearing Agencies and their non-defaulting members would suffer a loss from a member default.

Therefore, the Commission finds that the proposed rule changes are designed to help promote prompt and accurate clearance and settlement, and assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible, consistent with Section 17A(b)(3)(F) of the Act.[52]

B. Consistency With Rule 17Ad–22(e)(4)(i), (iii), (iv), (v), and (vi)

Rule 17Ad–22(e)(4) under the Act requires, in part, that the Clearing Agencies establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage their credit exposures to participants and those arising from its payment, clearing, and settlement processes.[53] Specifically, Rule 17Ad–22(e)(4)(i) under the Act requires that a covered clearing agency maintain sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[54] As described above, the descriptions in the Framework, both individually and collectively, are designed by the Clearing Agencies to evaluate the credit exposure presented by many of the Clearing Agencies' members. The Clearing Agencies would construct comprehensive and relevant sets of extreme but plausible historical and hypothetical stress scenarios for the identified risk drivers.[55] The Clearing Agencies would also calculate the risk metrics of each Clearing Agency's actual portfolio to estimate the P&L of resolving a participant default over a suitable stressed period of risk, deficiencies, and coverage ratios. Thus, the Framework would help the Clearing Agencies to determine the financial resources necessary to cover their credit exposure, as applicable, with a high degree of confidence, consistent with Rule 17Ad–22(e)(4)(i).[56]

Rule 17Ad–22(e)(4)(iii) under the Act requires that, to the extent not already maintained pursuant to Rule 17Ad–22(e)(4)(i) under the Act, the Clearing Agencies maintain additional financial resources that, at minimum, enable them to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions.[57]

As described above, the Framework would describe how the Clearing Agencies have developed and carried out a credit-risk management strategy to (i) maintain prefunded financial

[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] 15 U.S.C. 78s(b)(2)(C).
[49] 15 U.S.C. 78q–1(b)(3)(F).
[50] 17 CFR 240.17Ad–22(e)(4).
[51] 15 U.S.C. 78q–1(b)(3)(F).
[52] 15 U.S.C. 78q–1(b)(3)(F).
[53] 17 CFR 240.17Ad–22(e)(4).
[54] 17 CFR 240.17Ad–22(e)(4)(i).
[55] *Id.*
[56] *Id.*
[57] 17 CFR 240.17Ad–22(e)(4)(iii).

resources to comply with a Cover One Requirement; (ii) test the sufficiency; (iii) provide governance for the testing; and (iv) validate the testing models for the requirement. The Framework would also describe how each Clearing Agency tests the sufficiency of its prefunded resources daily to support compliance with this requirement. Such testing could better enable the Clearing Agencies to determine their respective Cover One Requirement in extreme but plausible scenarios by determining the impact of member defaults in various scenarios. With this identification of Cover One Requirement, the Clearing agencies could size their margin requirements to maintain their Cover One Requirement. Thus, the Commission believes the Proposed Rule Changes are consistent with Rule 17Ad–22(e)(4)(iii).[58]

Rule 17Ad–22(e)(4)(iv) under the Act requires that a covered clearing agency include prefunded financial resources, exclusive of assessments for additional guaranty fund contributions or other resources that are not prefunded, when calculating financial resources available to meet the standards under Rule 17Ad–22(e)(4)(i) through (iii) under the Act, as applicable.[59] Because the credit risks and prefunded-financial resources of each Clearing Agency differ, the Framework would describe the prefunded-financial resources and related stress-testing methodologies of the Clearing Agencies separately.

With respect to FICC and NSCC, the Framework would describe the prefunded-financial resources are their respective clearing funds, containing deposits from their members of both cash and eligible securities. With respect to DTC, the Framework would describe that its prefunded-financial resources are cash deposits to its Participants Fund. The Framework would also describe that DTC may use its risk management control, the Collateral Monitor, to help monitor and ensure that the settlement obligations of each member are fully collateralized. Such identification is designed to meet the financial resources availability requirements under Rule 17Ad–22(e)(4)(i) and (iii). Therefore, the Commission believes the Framework is consistent with Rule 17Ad–22(e)(4)(iv) under the Act.[60]

Rule 17Ad–22(e)(4)(v) under the Act requires that the Clearing Agencies maintain the financial resources under Rule 17Ad–22(e)(4)(iii) under the Act, in combined or separately maintained clearing or guaranty funds.[61] As described above, the Framework would identify the sources of prefunded resources to comply with each Clearing Agency's Cover One Requirement. The Framework would require NSCC and FICC to maintain those prefunded sources in their respective clearing funds. The Framework also would require DTC to maintain its prefunded sources in its Participants Fund. Thus, the Commission believes the Framework is consistent with Rule 17Ad–22(e)(v) under the Act.[62]

Rule 17Ad–22(e)(4)(vi)(A) under the Act requires that a covered clearing agency test the sufficiency of its total financial resources available to meet the minimum financial resource requirements under Rule 17Ad–22(e)(4)(i) through (iii) under the Act by conducting stress testing of its total financial resources daily using standard predetermined parameters and assumptions.[63] As described above, the Framework would describe the Clearing Agencies' stress-testing methodologies and validation. Specifically, the Framework would state how the Clearing Agencies would conduct stress tests on a daily basis, and the three risk components the Clearing Agencies would use for the stress testing methodologies for these tests. Likewise, the Framework would describe how the stress testing methodologies are developed through risk identification, scenario development, and risk measurement and aggregation. Therefore, the Commission believes the Framework is consistent with Rule 17Ad–22(e)(4)(vi)(A) under the Act.[64]

Rule 17Ad–22(e)(4)(vi)(B) under the Act requires that a covered clearing agency test the sufficiency of its total financial resources available to meet the minimum financial resource requirements under Rule 17Ad–22(e)(4)(i) through (iii) under the Act by conducting a comprehensive analysis on at least a monthly basis of the existing stress testing scenarios, models, and underlying parameters and assumptions, and consider modifications to ensure they are appropriate for determining the covered clearing agency's required level of default protection in light of current and evolving market conditions.[65]

As described above, the Framework, with respect to model validation, would state that the stress-testing methodologies are reviewed and analyzed monthly to determine if the components continue to be appropriate for determining sufficiency of the Clearing Agencies' prefunded financial resources. The analysis would be performed at least monthly and would be conducted to assess whether each Clearing Agency's stress-testing components appropriately determine the sufficiency of the Clearing Agency's prefunded-financial resources.[66] The Framework would state that such analysis may occur more frequently than monthly if, for example, (i) the products cleared or markets served by a Clearing Agency display high volatility or become less liquid, or (ii) the size or concentration of positions held by the applicable Clearing Agency's members increases significantly. The Framework also would state that the results of the analysis are reviewed monthly by the DTCC Enterprise Stress Testing Council. For these reasons, the Commission believes the Framework is consistent with Rule 17Ad–22(e)(4)(vi)(B) under the Act.[67]

Rule 17Ad–22(e)(4)(vi)(C) under the Act requires that a covered clearing agency test the sufficiency of its total financial resources available to meet the minimum financial resource requirements under Rule 17Ad–22(e)(4)(i) through (iii) under the Act by conducting a comprehensive analysis of stress testing scenarios, models, and underlying parameters and assumptions more frequently than monthly when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by the covered clearing agency's members increases significantly.[68]

As described above, the Framework would describe that the stress-testing validations are performed at least monthly, and may occur more frequently than monthly if, for example, (i) the products cleared or markets served by a Clearing Agency display high volatility or become less liquid, or (ii) the size or concentration of positions held by the applicable Clearing Agency's members increases significantly. The Framework also would state that the analysis is designed to assess whether each Clearing Agency's stress-testing components are appropriate for determining the sufficiency of its prefunded financial resources in light of current and evolving market conditions. As such, the Commission believes the Framework

[58] *Id.*

[59] 17 CFR 240.17Ad–22(e)(4)(iv).

[60] *Id.*

[61] 17 CFR 240.17Ad–22(e)(4)(v).

[62] *Id.*

[63] 17 CFR 240.17Ad–22(e)(4)(vi)(A).

[64] *Id.*

[65] 17 CFR 240.17Ad–22(e)(4)(vi)(B).

[66] *Id.*

[67] *Id.*

[68] 17 CFR 240.17Ad–22(e)(4)(vi)(C).

is consistent with Rule 17Ad–22(e)(4)(vi)(C) under the Act.[69]

Rule 17Ad–22(e)(4)(vi)(D) under the Act requires that a covered clearing agency test the sufficiency of its total financial resources available to meet the minimum financial resource requirements under Rule 17Ad–22(e)(4)(i) through (iii) under the Act by reporting the results of its analyses under Rule 17Ad–22(e)(4)(vi)(B) and (C) to appropriate decision makers at the covered clearing agency, including but not limited to, its risk management committee or board of directors, and use these results to evaluate the adequacy of and adjust its margin methodology, model parameters, models used to generate clearing or guaranty fund requirements, and any other relevant aspects of its credit risk management framework, in supporting compliance with the minimum financial resources requirements set forth in Rule 17Ad–22(e)(4)(i) through (iii) under the Act.[70]

As described above, the Framework would provide for stress-testing governance and model validation. To the extent the stress-testing methodology indicates a potential impact to a Clearing Agency's Cover One Requirement, the Framework would describe the threshold parameters that would results in the Clearing Agency escalating internally and analyzing to determine if (i) there is a need to adjust the stress-testing methodology, or (ii) the threshold breach indicates an issue with a particular member. Additionally, the model validation description in the Framework would state that the results of the stress-testing methodologies are reviewed monthly by the DTCC Enterprise Stress Testing Council. The Framework also would state that the DTCC Enterprise Stress Testing Council would consider the results in evaluating the adequacy of the stress-testing methodologies and would determine if adjustments to the stress-testing methodologies are appropriate to support the Clearing Agencies' compliance with the minimum financial resources requirements set forth in Rule 17Ad–22(e)(4)(i) through (iii) under the Act.

The Framework also would state that daily stress testing results are summarized and reported monthly to the DTCC Risk Management Committee. Based on its review of the information provided, the committee may determine to inform or further escalate any concerns to the Risk Committees of the Boards, as it deems necessary. Therefore, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(vi)(D) under the Act.[71]

Rule 17Ad–22(e)(4)(vii) under the Act requires a covered clearing agency to perform a model validation for its credit risk models not less than annually or more frequently as may be contemplated by the covered clearing agency's risk management framework established pursuant to Rule 17Ad–22(e)(3) under the Act.[72] As described above, the model validation portion of the Framework would provide that the Clearing Agencies' stress-testing methodologies and models are subject to independent model validation on at least an annual basis. Therefore, the Commission believes that the Framework is consistent with Rule 17Ad–22(e)(4)(vii) under the Act.[73]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether these filings, as modified by Amendments No. 2, are 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–DTC–2017–005, SR–FICC–2017–009, or SR–NSCC–2017–006 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–DTC–2017–005, SR–FICC–2017–009, or SR–NSCC–2017–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filings also will be available for inspection and copying at the principal office of DTCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2017–005, SR–FICC–2017–009, or SR–NSCC–2017–006 and should be submitted on or before January 16, 2018.

V. Accelerated Approval of Proposed Rule Changes

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[74] to approve the Proposed Rule Changes prior to the 30th day after the date of publication of Amendments No. 2 in the **Federal Register**. As discussed above, Amendments No. 2 make clear which specific historical scenarios, at a minimum, the Clearing Agencies would use for stress testing.

By listing the specific historic scenarios, Amendments No. 2 provides for a more clear and comprehensive Framework, which could help improve the Clearing Agencies' ability to determine and evaluate the credit risk presented by Clearing Agencies' members. That improved ability could better enable the Clearing Agencies to deploy their risk-management tools more effectively to manage the credit and market presented by such members and, thus, help mitigate the risk that the Clearing Agencies and their non-defaulting members would suffer a loss from a member default.

Therefore, the Commission finds that Amendments No. 2 are designed to help assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible, consistent with Section 17A(b)(3)(F) of the Act.[75] Accordingly, the Commission finds good cause for approving the proposed rule changes, as modified by Amendments No. 2, on an accelerated

[69] *Id.*

[70] 17 CFR 240.17Ad–22(e)(4)(vi)(D).

[71] *Id.*

[72] 17 CFR 240.17Ad–22(e)(4)(vii).

[73] *Id.*

[74] 15 U.S.C. 78s(b)(2).

[75] 15 U.S.C. 78q–1(b)(3)(F).

basis, pursuant to Section 19(b)(2) of the Exchange Act.[76]

VI. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Changes are consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act[77] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule changes SR–DTC–2017–005, SR–FICC–2017–009, and SR–NSCC–2017–006, as modified by Amendments Nos. 1 and 2, be, and hereby are, APPROVED on an accelerated basis.[78]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[79]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27705 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[76] *Id.*

[77] 15 U.S.C. 78q–1.

[78] In approving the Proposed Rule Changes, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[79] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 82 FR 60252, December 19, 2017.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, December 21, 2017.

CHANGES IN THE MEETING: The following matter will also be considered during the 2 p.m. Closed Meeting scheduled for Thursday, December 21, 2017: Litigation matter.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: December 20, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–27833 Filed 12–21–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82353; File No. SR–BOX–2017–37]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7260 by Extending the Penny Pilot Program Through June 30, 2018

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2017, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7260 by extending the Penny Pilot Program through June 30, 2018. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the effective time period of the Penny Pilot Program that is currently scheduled to expire on December 31, 2017, until June 30, 2018.[3] The Penny Pilot Program permits certain classes to be quoted in penny increments. The minimum price variation for all classes included in the Penny Pilot Program, except for PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), will continue to be $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY, and IWM will continue to be quoted in $0.01 increments for all options series.

The Exchange may replace, on a semi-annual basis, any Pilot Program classes that have been delisted on the second trading day following January 1, 2018. The Exchange notes that the replacement classes will be selected based on trading activity for the six month period beginning June 1, 2017 and ending November 30, 2017 for the January 2018 replacements. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable under the Pilot Program, including excluding high-priced underlying securities. The Exchange will distribute a Regulatory Circular notifying Participants which replacement classes shall be included in the Penny Pilot Program.

BOX is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot Program has been in effect on the Exchange since its inception in May 2012. *See* Securities Exchange Act Release Nos. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No. 10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), 67328 (June 29, 2012), 77 FR 40123 (July 6, 2012) (SR–BOX–2012–007), 68425 (December 13, 2012), 77 FR 75234 (December 19, 2013) (SR–BOX–2012–021), 69789 (June 18, 2013), 78 FR 37854 (June 24, 2013) (SR–BOX–2013–31), 71056 (December 12, 2013), 78 FR 76691 (December 18, 2013) (SR–BOX–2013–56), 72348 (June 9, 2014), 79 FR 33976 (June 13, 2014) (SR–BOX–2014–17), 73822 (December 11, 2014), 79 FR 75606 (December 18, 2014) (SR–BOX–2014–29), 75295 (June 25, 2015), 80 FR 37690 (July 1, 2015) (SR–BOX–2015–23), 78172 (June 28, 2016), 81 FR 43325 (July 1, 2016) (SR–BOX–2016–24), 79429 (November 30, 2016), 81 FR 87991 (December 6, 2016) (SR–BOX–2016–55) and 80828 (May 31, 2017), 82 FR 26175 (June 6, 2017) (SR–BOX–2017–18). The extension of the effective date and the revision of the date to replace issues that have been delisted are the only changes to the Penny Pilot Program being proposed at this time.

requirements of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot until June 30, 2018 and changes the dates for replacing Penny Pilot issues that were delisted to the second trading day following January 1, 2018, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

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. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing.[9] However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[11] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal

[13] 15 U.S.C. 78s(b)(2)(B).

office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–37 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27693 Filed 12–22–17; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82356; File No. SR–GEMX–2017–57]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to extend a pilot program to quote and to trade certain options classes in penny increments (''Penny Pilot Program'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.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.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31, 2017.[3] The Exchange proposes to extend the Penny Pilot Program through June 30, 2018, and to provide a revised date for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2017, and ending November 30, 2017). This filing does not propose any substantive changes to the Penny Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh any increase in quote traffic.

[3] *See* Exchange Act Release No. 80826 (May 31, 2017), 82 FR 26203 (June 6, 2017) (SR–GEMX–2017–21).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

19b 4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–57 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–GEMX–2017–57. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–57 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27696 Filed 12–22–17; 8:45 am]

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[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82362; File No. SR–ISE–2017–106]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Permit the Listing and Trading of NQX Index Options

December 19, 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 December 6, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit the listing and trading of options based on ⅕ the value of the Nasdaq-100 Index (''Nasdaq-100'') on a twelve month pilot basis.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's rules to permit the listing and trading of index options on the Nasdaq 100 Reduced Value Index (''NQX'') on a twelve month pilot basis. The NQX options contract will be the same in all respects as the current Nasdaq-100 (''NDX'') options contract listed on the Exchange,[3] except that it will be based on ⅕ of the value of the Nasdaq-100, and will be P.M.-settled with an exercise settlement value based on the closing index value of the Nasdaq-100 on the day of expiration.[4] The Exchange believes that the proposed contract will be valuable for retail and other investors that wish to trade reduce value options on the Nasdaq-100, or who wish to hedge positions in the related E-mini Nasdaq 100 (''NQ'') futures contract, which is also based on ⅕ the value of the Nasdaq-100.

I. Nasdaq-100 Index

The Nasdaq-100 is a modified market capitalization-weighted index that includes 100 of the largest non-financial companies listed on The Nasdaq Stock Market (''Nasdaq''),[5] based on market capitalization.[6] It does not contain securities of financial companies, including investment companies. Security types generally eligible for the Nasdaq-100 include common stocks, ordinary shares, American Depository Receipts, and tracking stocks. Security or company types not included in the Nasdaq-100 are closed-end funds, convertible debentures, exchange traded funds, limited liability companies, limited partnership interests, preferred stocks, rights, shares or units of beneficial interest, warrants, units and other derivative securities.[7]

II. NQX Options Contract

Currently, the Exchange lists and trades NDX options that are based on the full value of the Nasdaq-100. In an effort to attract additional interest in index options based on the Nasdaq-100, the Exchange now proposes to list and trade a new reduced value option contract based on this index on a twelve month pilot basis. NQX options will trade independently of and in addition to NDX options, and the NQX options will be subject to the same rules that presently govern the trading of index options based on the Nasdaq-100, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, NQX options will be European-style and cash-settled, and will have a contract multiplier of 100. The contract specifications for NQX options will mirror in all respects those of the NDX options contract already listed on the Exchange, except that the Exchange proposes that NQX options will be based on ⅕ of the value of the Nasdaq-100, and will be P.M.-settled pursuant to proposed Rule 2009(a)(6). Similar features are available with other index options contracts listed and/or approved for trading on the Exchange and other options exchanges, including the Exchange's affiliate, Nasdaq Phlx (''Phlx''). Specifically, options contracts based on 1/10 the value of the Nasdaq-100, *i.e.,* ''MNX'' options, are listed on the Exchange with limited strikes, and are also currently listed on Phlx and the Chicago Board Options Exchange (''CBOE''). In addition, Phlx recently received approval to trade P.M.-settled options on the full value of the Nasdaq-100 (''NDXPM'').[8]

The value of the Nasdaq-100 has increased significantly in recent years such that the value of the index stood at 6,242.47, as of the opening of trading on December 5, 2017. As a result of the increase in the value of the underlying Nasdaq-100 index, the premium for NDX options has also increased. The Exchange believes that this has caused NDX options to trade at a level that may be uncomfortably high for certain retail and other investors. The Exchange believes that listing options on reduced values will attract a greater source of retail customer business. The Exchange further believes that listing options on reduced values will provide an opportunity for investors to trade and hedge the market risk associated with the Nasdaq-100.

With an exercise settlement value based on ⅕ of the Nasdaq-100, the Exchange believes that retail and other investors would be able to use this trading vehicle while extending a smaller outlay of capital. Furthermore, the proposed reduced value index will have a notional value at a level that is comparable to similar products that have been successful in the market, including the S&P 500, which had an index value of 2,639.78 as of the opening of trading on December 5, 2017, and the Russell 2000, which had an index value of 1,532.72 as of the opening of trading on that date. Finally, options based on ⅕ of the value of the Nasdaq-100 will be a particularly useful hedge, as NQ futures are similarly based on the value of ⅕ of the value of the Nasdaq-100. The Exchange therefore believes that basing the proposed NQX options contract on ⅕ of the value of the Nasdaq-100 should attract additional investors, and, in turn, create a more active and liquid trading environment.

NQX options will also be P.M.-settled as the Exchange believes that market participants, and in particular, retail investors, who are the target audience for this product, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. Feedback from members that handle retail order flow has indicated that P.M.-settlement is needed to garner retail investor support for this product. In this regard, the Exchange notes that there is ample precedent for P.M.-settlement of broad-based index options. As described above, the Exchange's affiliate, Phlx, recently received approval to list NDXPM options. In addition, CBOE offers P.M.-settled index options based on both the Standard & Poor's 500 index (''SPXW''),[9] and the Standard & Poor's 100 index (''OEX'').[10]

The Exchange does not believe that the introduction of a new P.M.-settled Nasdaq-100 contract will cause any market disruptions. Similar to other P.M.-settled index option products, the Exchange is proposing to list and trade NQX options contracts pursuant to a pilot, and will provide data to the Commission during the pilot period as described in Section VI below. The

[3] *See* Securities Exchange Act Release No. 51121 (February 1, 2005), 70 FR 6476 (February 7, 2005) (SR–ISE–2005–01) (Approval Order).

[4] In addition to the current Nasdaq-100 index value, Nasdaq will disseminate an index value for NQX that is ⅕ of the value of the Nasdaq-100.

[5] Nasdaq is an affiliate of the Exchange.

[6] The Nasdaq-100 is a broad-based index, as defined in Rule 2001(k).

[7] A description of the Nasdaq-100 is available on Nasdaq's website at *https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf.*

[8] *See* Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (SR–Phlx–2017–04) (Approval Order).

[9] *See* Securities Exchange Act Release No. 80060 (February 17, 2017), 82 FR 11673 (February 24, 2017) (SR–CBOE–2016–091) (Approval Order).

[10] OEX has been P.M. settled since 1983.

Exchange will monitor for any disruptions caused by P.M.-settlement of the proposed NQX options contract or the development of any factors that could cause such disruptions. P.M.-settled options predominate in the over-the-counter (''OTC'') market, and the Exchange is not aware of any adverse effects in the OTC market attributable to the P.M.-settlement feature. The Exchange is merely proposing to offer a P.M.-settled product in an exchange environment, which offers the additional benefits of added transparency, price discovery, and stability.

III. Trading Hours, Minimum Increments, Expirations and Strike Prices

NQX options will be available for trading during the Exchange's standard trading hours for index options, *i.e.,* from 9:30 a.m. to 4:15 p.m. New York time,[11] with a minimum trading increment of $0.05 for options trading below $3.00 and $0.10 for all other series.[12] NQX options will have monthly expiration dates on the third Friday of each month (*i.e.,* Expiration Friday), and the Exchange proposes to list NQX options in expiration months consistent with those of other index option products available on the Exchange.[13] In addition, the Exchange may list long-term index options series (''LEAPS'') that expire from twelve (12) to sixty (60) months from the date of issuance.[14] NQX options would also be eligible to be added to the Short Term Option Series Program (''Weeklies'') and/or Quarterly Options Series Program (''Quarterlies'') if designated by the Exchange pursuant to Supplementary Material .01 or .02 to Rule 2009, respectively.[15]

Generally, pursuant to Rule 2009(c)(1), index options listed on the Exchange are subject to strike price intervals of no less than $5, provided that certain classes of index options (including NDX and MNX) have strike price intervals of no less than $2.50 if the strike price is less than $200. The Exchange proposes to amend Rule 2009(c)(1) to add NQX options to the list of classes where strike price intervals of no less than $2.50 are generally permitted if the strike price is less than $200. In addition, Rule 2009(c)(5) provides finer strike price intervals for MNX options as these contracts are based on a reduced value of the Nasdaq-100. Specifically, Rule 2009(c)(5) provides that notwithstanding Rule 2009(c)(1) discussed above, the interval between strike prices of series of MNX options will be $1 or greater, subject to certain conditions. The Exchange proposes to adopt the same strike price intervals for NQX options as currently approved for MNX options. Thus, notwithstanding Rule 2009(c)(1), the interval between strike prices of series of NQX options will be $1 or greater, subject to the conditions described in Rule 2009(c)(5), which currently apply to the listing of strikes in reduced value MNX contracts. The Exchange will not list LEAPS on NQX options at intervals less than $5. If the Exchange determines to add NQX options to the Weeklies or Quarterlies programs such options will be listed with expirations and strike prices described in Supplementary Material .01 or .02 to Rule 2009.

IV. Position and Exercise Limits; Margin

As with NDX, in determining compliance with Rule 2004—*i.e.,* Position Limits for Broad-Based Index Options—there will be no position limits for broad-based index option contracts in the NQX class. Although there will be no position limits for NQX options, the Exchange proposes to amend Rule 2004(c) to correctly describe how positions in reduced-value options would be aggregated with full-value options. Rule 2004(c) provides that positions in reduced-value index options shall be aggregated with positions in full-value indices. In addition, the rule currently states that for such purposes, ten reduced-value contracts shall equal one contract, as this was consistent with other reduced-value contracts offered on the Exchange—*i.e.,* MNX, which is based on 1/10 of the value of the Nasdaq-100. Since the Exchange is proposing to list a reduced-value NQX contract that is based on 1/5 of the value of the Nasdaq-100, the Exchange proposes to amend this language to state instead that reduced-value contracts will be counted consistent with their value (*e.g.,* 5 NQX reduced-value contracts equal 1 NDX full-value contract). With this change, the rule will more accurately reflect how the Exchange would aggregate reduced-value and full-value positions for NQX. In addition, as with NDX, there would be no exercise limits for NQX.[16] Finally, the Exchange proposes to apply broad-based index margin requirements for the purchase and sale of NQX options that are the same as margin requirements currently in place for NDX options.

V. Surveillance and Capacity

The Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of NQX options. In addition, index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in NQX options thereby aiding in the maintenance of a fair and orderly market.

VI. Pilot Program Reports

The Exchange proposes to list and trade NQX options on a pilot basis for period of twelve months (''Pilot Program''). If the Exchange were to propose an extension of the program or should the Exchange propose to make the program permanent, then the Exchange would submit a filing proposing such amendments to the 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 an NQX options 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 the 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

[11] *See* Rule 2008(a).

[12] *See* Rule 710(a).

[13] *See* Rule 2009(a)(3). Rule 2009(a)(3) currently provides that the Exchange may list up to six expiration months in index option contracts at any one time that may expire at three-month intervals or in consecutive months. The Exchange intends to file separately to modify the expiration months permitted for index option contracts consistent with Phlx Rule 1101A(b).

[14] *See* Rule 2009(b).

[15] The Exchange expects that it will add NQX options to the Weeklies program.

[16] *See* Rule 2007(a), which provides that exercise limits for index options products are equivalent to the position limits in place for those products.

reports while the pilot 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:[17]

(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 is in effect. These interim reports would also be provided on a confidential basis.

Finally, the annual report would contain the following analysis of trading patterns in Expiration Friday, P.M.-settled NQX option series in the pilot: (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. 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.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Section 6(b)(5) of the Act,[19] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, the Exchange believes that the listing and trading of a reduced value P.M.-settled index option contract based on the Nasdaq-100 will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Specifically, the Exchange believes that NQX options would provide additional opportunities for market participants to trade and hedge exposure to the Nasdaq-100. The proposed NQ [sic] options product is similar to NDX options that are currently listed and traded on the Exchange with two important differences: (1) NQX options will be based on ⅕ the value of the Nasdaq-100, and (2) NQX options will be P.M.-settled. These differences are based on the Exchanges experience listing NDX options, and are designed to attract additional participation from retail and other investors. Based on feedback received from members, the Exchange believes that the proposed contract specifications will be attractive to market participants, and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

Currently, the Exchange believes that there is unmet market demand for exchange-listed index options on the Nasdaq-100. This unmet demand stems in part from the high value of the Nasdaq-100 and the consequently higher cost of purchasing NDX options. The value of the Nasdaq-100 was 6,242.47, as of the opening of trading on December 5, 2017, and this high value has made it more difficult for retail and other investors to comfortably purchase options on the index. The Exchange believes that a reduced value index option would allow additional participation from these investors. Specifically, the Exchange believes that basing the contract on a reduced value of the Nasdaq-100 will encourage additional participation by retail and other investors due to the reduced capital outlay needed to trade these options. While the Exchange previously listed a reduced value MNX contract that product never attracted significant trading volume. The Exchange believes that basing NQX options on ⅕ the value of the Nasdaq-100 strikes a more appropriate balance than the MNX product that is based on 1/10 the value of this index, as this value is more similar to other competitive index option products and is also helpful for market participants that want to hedge exposure to NQ futures that are similarly based on ⅕ the value of the Nasdaq-100.

Furthermore, based on member feedback, the Exchange believes that providing P.M.-settlement will make this product more attractive to market participants and help garner additional support for this new index options product. Specifically, the Exchange believes that P.M.-settlement will be attractive to retail and other investors that want to use these options to hedge an entire week of risk without leaving residual risk on the day of expiration, and without having to actively manage these positions, for example, by rolling their hedge into the next expiration. For this reason, other popular index option products have been transitioning to P.M.-settlement. For example, due to market demand for P.M.-settlement, CBOE recently transitioned its heavily traded SPX index options to P.M.-settlement, and removed related A.M.-settled products.[20] The Exchange believes that market participants similarly desire P.M.-settlement for index options on the Nasdaq-100, and proposes to offer such a product so that it can compete effectively with similar index option products offered by CBOE.

When cash-settled index options were first introduced in the 1980s, they generally utilized closing-price settlement procedures (*i.e.,* P.M.-settlement). Due to concerns raised by the Commission on the impact of P.M.-settlement on market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading on expiration day, however, exchanges moved to A.M.-settlement for these products. As discussed in the recent approval of the NDXPM product,[21] however, the Commission has recognized that these risks may be mitigated today by the enhanced closing procedures that are now employed by the primary equity

[17] Based on the data elements to be provided to the Commission for the NDXPM pilot. *See* supra note 7.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *See* CBOE Regulatory Circular RG10–112.

[21] *See* supra note 7.

markets. The Exchange believes that the concerns that led to the transition to A.M.-settlement for index derivatives have been largely mitigated today. Opening procedures in the 1990s were deemed acceptable to mitigate one-sided order flow driven by index option expiration. Nasdaq now has an automated closing cross that that facilitates orderly closings by aggregating a large pool of liquidity, across a variety of order types, in a single venue. The Exchange believes that Nasdaq's closing procedures are well-equipped to mitigate imbalance pressure at the close. Furthermore, the Exchange believes that the proposed Pilot Program is designed to mitigate any potential concerns regarding P.M. settlement. Specifically, the Exchange believes that the Pilot Program will provide additional trading and hedging opportunities for investors while providing the Commission with data to monitor for and assess any potential for adverse market effects of allowing P.M.-settlement for NQX options, including on the underlying component stocks.

Finally, NQX options will be subject to the same rules that presently govern the trading of index options based on the Nasdaq-100, including sales practice rules, margin requirements, trading rules, and position and exercise limits. The Exchange therefore believes that the rules applicable to trading in NQX options are consistent with the protection of investors and the public interest. Furthermore, the Exchange represents that it has sufficient systems capacity and adequate surveillance procedures to handle trading in NQX options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. NQX options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of NQX will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 and seek Commission approval to list and trade options on such an index.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number* SR–ISE–2017–106 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–106. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–106 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27699 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32942; 812–14742]

FQF Trust, et al.

December 19, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days

after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

APPLICANTS: FQF Trust (''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, FFCM, LLC (''FFCM'' or ''Initial Adviser''), a Delaware limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940, and Foreside Fund Services, LLC (''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on February 6, 2017, and amended on June 12, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 16, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: FFCM, LLC and FQF Trust, 53 State Street, Suite 1308, Boston, MA 02109; Foreside Fund Services, LLC, Three Canal Plaza, Suite 100, Portland, ME 04101; and c/o Stacy L. Fuller, K&L Gates LLP, 1601 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or David J. Marcinkus, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Instruments''). Each Fund will disclose on its website the identities and quantities of the Portfolio Instruments that will form the basis for the Fund's calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in- kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Instruments and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services,

[1] Applicants request that the order apply to the new series of the Trust as well as to additional series of the Trust and any other open-end management investment company or series thereof that may be created in the future (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by FFCM or an entity controlling, controlled by, or under common control with FFCM (each such entity or any successor thereto an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[2] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27649 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[2] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32943; File No. 812–14582]

BlackRock Capital Investment Corporation, et al.

December 19, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and under rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a business development company (''BDC'') and certain closed end investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: BlackRock Capital Investment Corporation (''Company''), Middle Market Senior Fund, L.P. (''MMSF''), and BlackRock Capital Investment Advisors, LLC (''BlackRock Capital Advisor''), on behalf of itself and its successors.[1]

FILING DATES: The application was filed on November 19, 2015, and amended on February 24, 2016, June 8, 2016 and September 22, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE, Washington, DC 20549–1090. Applicants, 40 East 52nd Street, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Kaitlin C. Bottock, Senior Counsel, at (202) 551–8658, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company, a Delaware corporation, is organized as a closed-end management investment company that has elected to be regulated as a BDC under section 54(a) of the Act.[2] The Company's Objectives and Strategies[3] are to generate both current income and capital appreciation through debt and equity investments. The board of

[1] The term ''successor,'' as applied to each BlackRock Capital Advisor, means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

[2] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] ''Objectives and Strategies'' means a Regulated Fund's (defined below) investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act'') or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

directors of the Company (the ''Company Board'') is comprised of six directors. The Company Board and any board of directors of a Future Regulated Fund (defined below) (the ''Boards'' and each a ''Board'') will be comprised of directors, a majority of whom will not be ''interested persons,'' within the meaning of section 2(a)(19) of the Act (the ''Non-Interested Directors''), of the Company or any Future Regulated Fund.

2. MMSF is a Delaware limited partnership that is exempt from registration pursuant to section 3(c)(7) of the Act. MMSF's investment objective is to generate current income through senior debt investments.

3. BlackRock Capital Advisor, a Delaware limited liability company, intends to be registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). BlackRock Capital Advisor is an indirect wholly-owned subsidiary of BlackRock, Inc., a New York based global investment management firm. BlackRock Capital Advisor will serve as investment adviser to the Company and MMSF.

4. Applicants seek an order (''Order'') to permit one or more Regulated Funds [4] and/or one or more Affiliated Funds [5] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under either or both of sections 17(d) and 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which a BRC Advisor negotiates terms in addition to price; [6] and (b) making additional investments in securities, including loans, of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[7]

5. Applicants state that any of the Regulated Funds may, from time to time, form one or more Wholly-Owned Investment Subs.[8] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, the applicable BRC Advisor will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Fund. Before relying on the requested Order, the Board of each Regulated Fund, including the Non-Interested Directors, will have determined that it is in the best interests of the Regulated Fund to participate in the Co-Investment Transactions.[9]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the BRC Advisor will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'') [10] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any

[4] ''Regulated Fund'' means the Company and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser is a BRC Advisor, and (c) that intends to participate in the Co-Investment Program. The term ''BRC Advisor'' means (a) BlackRock Capital Advisor and (b) any future investment adviser that is controlled by BlackRock Capital Advisor and is registered as an investment adviser under the Advisers Act.

[5] ''Affiliated Fund'' means MMSF and any Future Affiliated Fund. ''Future Affiliated Fund'' means any entity (a) whose investment adviser is a BRC Advisor, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[6] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[7] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[8] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[9] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[10] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than through share ownership in one of the Regulated Funds.

10. Applicants also represent that if a BRC Advisor or its principals, or any person controlling, controlled by, or under common control with a BRC Advisor or its principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as required under condition 14.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time a BRC Advisor considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's BRC Advisor will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the BRC Advisor deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable BRC Advisor to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable BRC Advisor will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable BRC Advisor will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the participating Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; *provided that,* if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable BRC Advisor agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to

participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the BRC Advisors, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable BRC Advisor will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable BRC Advisors will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the BRC Advisor will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable BRC Advisors will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the BRC Advisor will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the BRC Advisor to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-

[11] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the BRC Advisors under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee [12] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by a BRC Advisor pending consummation of the transaction, the fee will be deposited into an account maintained by such BRC Advisor at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the BRC Advisors, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an BRC Advisor, investment advisory fees paid in accordance with the agreement between the BRC Advisor and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[12] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82350; File No. SR–NYSEArca–2017–139]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF Under NYSE Arca Rule 8.200–E, Commentary .02

December 19, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 4, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares of the following under NYSE Arca Rule 8.200–E, Commentary .02 (''Trust Issued Receipts''): The ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts: The ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF (each a ''Fund'' and, collectively, the ''Funds'').[4]

Each Fund is a series of the ProShares Trust II (the ''Trust''), a Delaware statutory trust.[5] The Trust and the Funds are managed and controlled by ProShare Capital Management LLC (the ''Sponsor''). The Sponsor is registered as a commodity pool operator (''CPO'') with the Commodity Futures Trading Commission (''CFTC'') and is a member of the National Futures Association (''NFA'').

In its capacity as the Custodian for the Funds, Brown Brothers Harriman & Co. (''BBH&Co.'' or the ''Custodian'') may hold the Funds' investment assets and cash and cash equivalents pursuant to a custodian agreement. The Custodian is also the transfer agent for the Funds. In addition, in its capacity as Administrator for the Funds, BBH&Co. (the ''Administrator'') prepares and files certain regulatory filings on behalf of the Funds.

SEI Investments Distribution Co. serves as the distributor of the Shares (the ''Distributor''). The Distributor is a broker-dealer registered with the Commission under the Securities Exchange Act of 1934 and a member of the Financial Industry Regulatory Authority (''FINRA''). The Trust will offer Shares of the Funds for sale through the Distributor in ''Creation Units'', as described below. The Distributor will also assist the Sponsor and Administrator with certain functions and duties relating to distribution and marketing.

Pro Shares Bitcoin ETF

According to the Registration Statement, the investment objective of the Fund is to seek, results (before fees and expenses) that, both for a single day and over time, correspond to the performance of lead month[6] bitcoin futures contracts[7] listed and traded on either the Cboe Futures Exchange (''CFE'') or the Chicago Mercantile Exchange (''CME'')[8] (the ''Benchmark Futures Contract'').[9] Specifically, the Fund will seek results that correspond to the last traded price of the Benchmark Futures Contract on its primary listing exchange prior to the Fund's NAV calculation time (typically 4:00 p.m. Eastern Time (''E.T.'') each Business Day. Although the Fund generally intends to invest substantially all of its assets in Benchmark Futures Contracts, the Fund may invest in other U.S. exchange listed bitcoin futures contracts (if available) in addition to Benchmark Futures Contracts (collectively, along with Benchmark Futures Contracts, the ''Bitcoin Futures Contracts''), as discussed herein.

The value of the Bitcoin Futures Contracts will be based on the expected value of bitcoin at a future point in time, specifically, the expiration date of such Bitcoin Futures Contracts. By being long Bitcoin Futures Contracts, the Fund seeks to benefit from daily increases in the price of the Bitcoin Futures Contracts. The Fund will not be benchmarked to the current price of bitcoin and will not invest directly in bitcoin. When the price of Bitcoin Futures Contracts held by the Fund declines, the Fund will lose value. As noted, the Fund will seek to achieve its investment objective both for a single day and over time.[10]

ProShares Short Bitcoin ETF

According to the Registration Statement, the investment objective of the Fund is to seek results, for a single day, that correspond (before fees and expenses) to the inverse (−1x) of the daily performance of the Benchmark Futures Contract. The Fund does not seek to achieve its investment objective over a period greater than a single day.[11]

The Fund generally intends to invest substantially all of its assets through investment in short positions in Benchmark Futures Contracts. However, the Fund may invest through short positions in Bitcoin Futures Contracts other than Benchmark Futures Contracts as described herein. In this manner, the Fund will seek to benefit from decreases in the price of the Bitcoin Futures Contracts. When the price of Bitcoin Futures Contracts increases, the Fund will lose value. The Fund will not be benchmarked to the current price of bitcoin and will not invest directly in bitcoin.

Investment Strategies of the Funds

In seeking to achieve the Funds' investment objectives, the Sponsor will utilize a mathematical approach to determine the type, quantity and mix of investment positions that the Sponsor believes, in combination, should produce daily returns consistent with the Funds' respective objectives. The Sponsor will rely on a pre-determined model to generate orders that result in repositioning the Funds' investments in accordance with their respective investment objectives.

Each Fund will seek to achieve its respective investment objective by

[4] Commentary .02 to NYSE Arca Rule 8.200–E applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Rule 8.200–E, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[5] The Trust is registered under the Securities Act of 1933. On September 27, 2017, the Trust filed with the Commission a registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act'') relating to the Funds (File No. 333–220680) (the ''Registration Statement''). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement.

[6] The ''lead month contracts'' are the monthly contracts with the earliest expiration date. As discussed below, each Fund will ''roll'' its Bitcoin Futures Contract (as defined below) to the next ''nearby'' Bitcoin Futures Contract prior to the expiration date of such contracts. The ''nearby'' contracts are those monthly contracts with the next closest expiration date. The Funds will incur the costs (or benefits) of continually rolling into the new lead month contracts.

[7] Futures contracts are standardized contracts traded on an exchange that call for the future delivery of a specified quantity and type of a particular underlying asset in exchange for payment at a specified time and place or for cash settlement based on a specified reference rate or settlement price. Bitcoin Futures Contracts will be cash settled.

[8] *See* ''CFTC Statement on Self-Certification of Bitcoin Products by CME, CFE and Cantor Exchange,'' dated December 1, 2017 (''CFTC Release''), available at *http://www.cftc.gov/PressRoom/PressReleases/pr7654-17*. The CME has announced that its bitcoin futures contracts are scheduled to begin trading on December 18, 2017. *See* ''CME Group Self-Certifies Bitcoin Futures to Launch Dec. 18,'' December 1, 2017, available at *http://www.cmegroup.com/media-room/press-releases/2017/12/01/cme_group_self-certifiesbitcoinfuturestolaunchdec18.html*. Cboe Global Markets, Inc. (''Cboe''), has announced that that [sic] CFE's bitcoin futures contracts are scheduled to begin trading on December 10, 2017. *See* ''Cboe Plans December 10 Launch of Bitcoin Futures Trading,'' December 4, 2017, available at *http://ir.cboe.com/press-releases/2017/12-04-2017*.

[9] CFE and CME are registered with the CFTC and seek to provide a neutral, regulated marketplace for the trading of derivatives contracts for commodities, such as futures, options and certain swaps. Both the CFE and CME are both members of the Intermarket Surveillance Group (''ISG''). *See* note 22, *infra*. The determination as to which futures contracts (*i.e.,* CFE or CME listed) will be utilized as each Fund's Benchmark Futures Contract will be made by the Sponsor prior to the launch of each Fund based on the Sponsor's assessment of the liquidity of such contracts.

[10] According to the Registration Statement, a single day is measured from the time a Fund calculates its net asset value (''NAV'') to the time of a Fund's next NAV calculation.

[11] According to the Registration Statement, the return of the Fund for a period longer than a single day will be the result of each day's returns compounded over the period, which will very likely differ from the inverse (−1x) of the return of the Benchmark Futures Contract for the same period.

investing, under normal market conditions,[12] substantially all of its assets in Benchmark Futures Contracts (or short positions in Benchmark Futures Contracts, as applicable).

Each Fund also may obtain exposure (or inverse exposure, as applicable) in whole or in part, through investments in Bitcoin Futures Contracts other than Benchmark Futures Contracts if the Sponsor believes doing so would be in the best interest of such Fund.[13] For example, each Fund could invest in Bitcoin Futures Contracts in the event that position, price or accountability limits are reached with respect to Benchmark Futures Contracts. In addition, in the event position, price or accountability limits are reached with respect to Bitcoin Futures Contracts, each Fund may invest in listed options on Bitcoin Futures Contracts (should such listed options become available) (''Options'') and over-the-counter (''OTC'') swap agreements referencing Bitcoin Futures Contracts (together, Options and swap agreements are referred to herein as ''Financial Instruments''). The Funds may also invest in Financial Instruments if the market for a specific Bitcoin Futures Contract experiences emergencies (*e.g.,* natural disaster, terrorist attack or an act of God) or disruptions (*e.g.,* a trading halt or a flash crash) that prevent or make it impractical for a Fund to obtain the appropriate amount of investment exposure using Bitcoin Futures Contracts.

Each Fund intends to enter into swap agreements only with major, global financial institutions that meet certain credit quality standards and monitoring policies. Each Fund will use various techniques to minimize credit risk including posting collateral daily that is marked to market, using different counterparties and limiting the net amount due from any individual counterparty.

The Funds' remaining net assets will be invested in cash or cash equivalents and/or U.S. Treasury securities or other high credit quality, short-term fixed-income or similar securities (such as money market funds and repurchase agreements) (collectively ''Money Market Instruments'') as collateral for, or pending investment in, Bitcoin Futures Contracts and Financial Instruments.[14]

The Funds do not intend to hold Bitcoin Futures Contracts through expiration, but instead intend to either close or ''roll'' their respective positions. When the market for these contracts is such that the prices are higher in the more distant delivery months than in the nearer delivery months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is lower than the price of the more nearby Bitcoin Futures Contracts would take place at a price that is lower than the price of the more distant Bitcoin Futures Contracts [sic]. This pattern of higher futures prices for longer expiration Bitcoin Futures Contracts is referred to as ''contango.'' Alternatively, when the market for certain Bitcoin Futures Contracts is such that the prices are higher in the nearer months than in the more distant months, the sale during the course of the ''rolling process'' of the more nearby Bitcoin Futures Contracts would take place at a price that is higher than the price of the more distant Bitcoin Futures Contracts. This pattern of higher future prices for shorter expiration Bitcoin Futures Contracts is referred to as ''backwardation.'' The presence of contango in the relevant Bitcoin Futures Contracts at the time of rolling would be expected to adversely affect the long positions held by the ProShares Bitcoin ETF, and positively affect the short positions held by the ProShares Short Bitcoin ETF. Similarly, the presence of backwardation in Bitcoin Futures Contracts at the time of rolling such Bitcoin Futures Contracts would be expected to adversely affect the short positions held by the ProShares Short Bitcoin ETF and positively affect the long positions held by the ProShares Bitcoin ETF.

According to the Registration Statement, many U.S. commodities exchanges limit the amount of fluctuation permitted in futures contract prices during a single trading day by regulations referred to as ''daily price fluctuation limits'' or ''daily limits.'' Once the daily limit has been reached in a particular contract, no trades may be made that day at a price beyond that limit or trading may be suspended for specified periods during the trading day. In addition, the CFTC and U.S. futures exchanges have established limits referred to as ''speculative position limits'' or ''accountability levels'' on the maximum net long or short futures positions that any person may hold or control in derivatives traded on such exchanges. These levels and position limits apply to the Bitcoin Futures Contracts that each Fund would invest in to meet its investment objective.

According to the Registration Statement, as of the NAV calculation time, the ProShares Bitcoin ETF will not have futures exposure greater than one times [sic] (1x) that Fund's assets. Similarly, the ProShares Short Bitcoin ETF will not have inverse futures exposure greater than one time (1x) the Fund's assets. Thus, the maximum margin held at an FCM would not exceed one times [sic] the margin requirement for the ProShares Bitcoin ETF or the margin requirement for the ProShares Short Bitcoin ETF.

Overview of Bitcoin

According to the Registration Statement, bitcoin is a digital asset based on the decentralized, open source protocol of the peer-to-peer bitcoin computer network (the ''Bitcoin Network''). Bitcoin is not issued by governments, banks or similar organizations. No single entity owns or operates the Bitcoin Network. The infrastructure of the Bitcoin Network is collectively maintained by a decentralized user base. The Bitcoin Network is accessed through software, and software governs bitcoin's creation, movement, and ownership.

The value of bitcoin is determined, in part, by the supply of, and demand for, bitcoin in the global exchange markets for the trading of bitcoin,[15] market expectations for the adoption of bitcoin by individuals, the number of merchants that accept bitcoin as a form of payment and the volume of private end-user-to-end-user transactions.

Bitcoin transaction and ownership records are reflected on the ''Bitcoin Blockchain,'' which is a digital public record or ledger. Copies of this ledger are stored in a decentralized manner on the computers of each Bitcoin Network user. Transaction data is permanently recorded in files called ''blocks,'' which

[12] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[13] Each Fund's investments in Bitcoin Futures Contracts will be subject to regulation under the Commodity Exchange Act and traded pursuant to CFTC and applicable exchange regulations. *See* 7 U.S.C. 1.

[14] Each Fund will generally deposit cash or U.S. Treasury securities with a Futures Commission Merchant (''FCM'') for open positions in Bitcoin Futures Contracts and cash or U.S. Treasury securities as collateral for open positions in Financial Instruments.

[15] According to the Registration Statement, a ''Bitcoin Exchange'' is an electronic marketplace where exchange participants may trade, buy and sell bitcoin based on bid-ask trading. Bitcoin Exchanges are typically web-based and trade on a 24-hour basis, publishing transaction price and volume data. A ''Bitcoin Exchange Market'' is the global bitcoin exchange market for the trading of bitcoin, which consists of transactions on Bitcoin Exchanges.

reflect transactions that have been recorded and authenticated by Bitcoin Network participants. The Bitcoin Network software source code includes protocols that govern the creation of bitcoin and the cryptographic system that secures and verifies Bitcoin transactions.

Overview of Bitcoin Futures Contracts

Bitcoin Futures Contracts are a new type of futures contract to be traded on the CFE and CME or other U.S. exchanges (if available). Unlike the established futures markets for traditional physical commodities, the market for Bitcoin Futures Contracts is in the development stage and has very limited trading and operational history. As such, the liquidity of the market for Bitcoin Futures Contracts will depend on, among other things, the supply and demand for Bitcoin Futures Contracts, the adoption of bitcoin and the commercial and speculative interest in the market for Bitcoin Futures Contracts and the potential ability to hedge against the price of bitcoin with exchange-traded Bitcoin Futures Contracts.

Additionally, if market participants executing trades in Bitcoin Futures Contracts face constraints, including capital constraints, security risks, or high execution costs, the price of Bitcoin Futures Contracts may fail to capture price movements in the underlying price of bitcoin. Moreover, it is not clear how changes to the Bitcoin Network, including changes that result in ''forks'' will impact the price of any Bitcoin Futures Contracts.

The CFTC has noted that the U.S. futures exchanges that will trade bitcoin futures have agreed to significant enhancements to protect customers and maintain orderly markets, and announced its expectation that futures exchanges that list and trade bitcoin futures contracts will, through information sharing agreements, monitor the trading activity on the relevant cash platforms for potential impacts on the price discovery process for bitcoin futures contracts, including potential market manipulation and market dislocations due to flash rallies and crashes and trading outages.[16]

Net Asset Value

According to the Registration Statement, a Fund's per Share NAV will be calculated by dividing the value of the net assets of such Fund (*i.e.,* the value of its total assets less total liabilities) by its total number of Shares outstanding. Each Fund's NAV will be calculated on each Business Day that the New York Stock Exchange LLC (''NYSE) is open. Each Fund will compute its NAVs as of 4:00 p.m. E.T. Each Fund's NAV will be calculated only once each trading day. Each Fund's daily NAV may be found at *www.ProShares.com.*

In calculating the NAV of a Fund, Bitcoin Futures Contracts will be valued using the last traded price on the primary listing exchange of such contract before the NAV calculation time of the Fund on such day. If Bitcoin Futures Contracts could not be liquidated on such day, due to the operation of daily limits or other rules of the exchange upon which that position is traded or otherwise, the Sponsor may determine a fair value price as the basis for determining the market value of such position for such day. Such fair value prices would generally be determined based on available inputs about the current value of the Bitcoin Futures Contracts and would be based on principles that the Sponsor deems fair and equitable so long as such principles are consistent with normal industry standards.

In calculating the NAV of a Fund, the settlement value of a Fund's non-exchange-traded Financial Instruments generally will be determined by applying the then-current disseminated levels for the Bitcoin Futures Contracts to the terms of such Fund's non-exchange-traded Financial Instruments. However, in the event that the Bitcoin Futures Contracts underlying the Financial Instruments are not trading due to the operation of daily limits or otherwise, the Sponsor may choose to fair value the Financial Instruments. Such fair value prices would generally be determined based on available inputs about the current value of the Bitcoin Futures Contracts and would be based on principles that the Sponsor deems fair and equitable so long as such principles are consistent with normal industry standards.

Money Market Investments will be valued on the basis of broker quotes, valuations provided by a third party pricing service or at amortized cost.

Indicative Fund Value

In order to provide updated information relating to the Funds for use by investors and market professionals, the Exchange will calculate an updated ''Indicative Fund Value'' (''IFV''). The IFV will be calculated by using the prior day's closing net assets of a Fund as a base and updating throughout the Exchange's Core Trading Session of 9:30 a.m. E.T. to 4:00 p.m. E.T. changes in the value of the Bitcoin Futures Contracts and Financial Instruments held by a Fund based on the most recently available prices for the Fund's investments.

The IFV will be disseminated on a per Share basis every 15 seconds during the Exchange's Core Trading Session and be widely disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session.[17] In addition, circumstances may arise in which the NYSE Arca Core Trading Session is in progress, but trading in the Bitcoin Futures Contracts is not occurring. Such circumstances may result from reasons including, but not limited to, a futures exchange having a separate holiday schedule than the NYSE Arca, a futures exchange closing prior to the close of the NYSE Arca, price fluctuation limits being reached in a Bitcoin Futures Contract, or a futures exchange, imposing any other suspension or limitation on trading in a Bitcoin Futures Contract. In such instances, for IFV calculation purposes, the price of the applicable Bitcoin Futures Contracts, as well as Financial Instruments whose price is derived from the Bitcoin Futures Contracts, would be static or priced by the Fund at the applicable early cut-off time of the exchange trading the applicable Bitcoin Futures Contract.

Creation and Redemption of Shares

According to the Registration Statement, each Fund intends to create and redeem Shares in one or more Creation Units. A Creation Unit is a block of 25,000 Shares of a Fund. Except when aggregated in Creation Units, the Shares are not redeemable securities.

A creation transaction generally takes place when an Authorized Participant deposits generally a specified amount of cash in exchange for a specified number of Creation Units. Similarly, Shares can be redeemed only in Creation Units for cash. The prices at which creations and redemptions occur would be based on the next calculation of the NAV after an order is received.

Only Authorized Participants may purchase and redeem Creation Units. An Authorized Participant is an entity that has entered into an Authorized Participant Agreement with the Trust and the Sponsor.

Creation Procedures

On any ''Business Day'', an Authorized Participant may place an order with the Distributor to create one or more Creation Units. For purposes of

[16] *See* CFTC Release, *supra,* note 8.

[17] Several major market data vendors display and/or make widely available IFVs taken from the CTA or other data feeds.

processing both purchase and redemption orders, a ''Business Day'' for each Fund means any day on which the NAV of such Fund is determined. Purchase and redemption orders must be placed by 3:30 p.m. E.T. or earlier if the Exchange or other exchange material to the valuation or operation of such Fund closes before the cut-off time.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Distributor to redeem one or more Creation Units.

The redemption procedures allow Authorized Participants to redeem Creation Units. Individual shareholders may not redeem directly from a Fund. By placing a redemption order, an Authorized Participant agrees to deliver the Creation Units to be redeemed through the Depository Trust Company's (''DTC'') book entry system to the applicable Fund not later than noon E.T. on the first Business Day immediately following the redemption order date (T+1). The Sponsor reserves the right to extend the deadline for a Fund to receive the Creation Units required for settlement up to the second Business Day following the redemption order date (T+2).

Availability of Information

The NAV for the Funds' Shares will be disseminated daily to all market participants at the same time. The intraday, closing prices, and settlement prices of the Bitcoin Futures Contracts will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors. The value of the Benchmark Futures Contract will be disseminated by one or more major market data vendors on at least a 15-second delayed basis during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. E.T.

Complete real-time data for the Benchmark Futures Contracts and Options on Bitcoin Futures will be available by subscription through on-line information services. CFE and CME will provide delayed futures and options on futures (once available) information on current and past trading sessions and market news free of charge on their respective websites. The specific contract specifications for Bitcoin Futures Contracts would also be available on such websites, as well as other financial informational sources. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA''). Quotation information for Money Market Investments and OTC swaps agreements may be obtained from brokers and dealers who make markets in such instruments. Quotation information for exchange-traded swaps will be available from the applicable exchange and major market vendors. The IFV will be available through on-line information services.

In addition, the Funds' website, *www.ProShares.com,* will display the applicable end of day closing NAV. The daily holdings of each Fund will be available on the Funds' website before 9:30 a.m. E.T. Each Fund's total portfolio composition will be disclosed each Business Day that NYSE Arca is open for trading, on the Funds' website. The Funds' website will also include a form of the prospectus for the Funds that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for each Fund. The Funds' website will include (1) the prior business day's trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the bid/ask spread at the time of NAV calculation (''Bid/Ask Price'') against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the name, quantity, value, expiration and strike price of Bitcoin Futures Contracts and Financial Instruments, (ii) the counterparty to and value of Financial Instruments, and (iii) the aggregate net value of the Money Market Investments held in each Fund's portfolio, if applicable. The Funds' website will be publicly available prior to the public offering of Shares and accessible at no charge.

The spot price of bitcoin also is available on a 24-hour basis from major market data vendors.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[18] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark Futures Contract occurs.[19] If the interruption to the dissemination of the IFV or the value of the Benchmark persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.200–E. The trading of the Shares will be subject to NYSE Arca Rule 8.200–E, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. The Exchange represents that, for initial and continued listing, each Fund will be in compliance with Rule 10A–3 [20] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares of each Fund will be outstanding at the

[18] *See* NYSE Arca Rule 7.12–E.

[19] A limit up/limit down condition in the futures market would not be considered an interruption requiring one or both Funds to be halted.

[20] 17 CFR 240.10A–3.

commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares of each Fund will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[21] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain Bitcoin Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Bitcoin Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Bitcoin Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA'').[22] The Exchange is also able to obtain information regarding trading in the Shares, the commodity underlying futures or options on futures through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market. The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions (including transactions in cash-settled Options) occurring on US futures exchanges, which are members of the ISG.

Not more than 10% of the net assets of a Fund in the aggregate invested in Bitcoin Futures Contracts shall consist of Bitcoin Futures Contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolios of the Funds or the Benchmark, (b) limitations on portfolio holdings, reference assets or the Benchmark, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Funds to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (3) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IFV is disseminated; (5) how information regarding portfolio holdings is disseminated; (6) that a static IFV will be disseminated, between the close of trading on the CFE and CME and the close of the NYSE Arca Core Trading Session; (7) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (8) trading information.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Rule 9.2–E(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such ETP Holder, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that ETP Holders must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such ETP Holder or registered representative in making recommendations to the customer.

Further, the Exchange states that FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged and inverse leveraged securities (which include the Shares) and options on such securities, as described in FINRA Regulatory Notices 09–31 (June 2009), 09–53 (August 2009), and 09–65 (November 2009) (collectively, ''FINRA Regulatory Notices''). ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in these notices. As noted above, the Funds will seek investment results that match or that are the inverse (–1x) of, respectively, the performance of the Benchmark. Over a period of time in excess of one day, the cumulative percentage increase or decrease in the NAV of the Shares of a Fund may diverge significantly from a multiple or inverse multiple of the cumulative percentage decrease or increase in the relevant benchmark due to a compounding effect.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to a Fund. The Information Bulletin will also discuss any

[21] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[22] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of a Fund may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that a Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Bitcoin Futures Contracts traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Funds' website.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [23] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.200–E.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, and certain Bitcoin Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Bitcoin Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Bitcoin Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. The Exchange is also able to obtain information regarding trading in the Shares, the commodity underlying futures or options on futures through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market.

The Exchange can obtain market surveillance information, including customer identity information, with respect to transactions (including transactions in cash-settled Options) occurring on U.S. futures exchanges, which are members of the ISG. Not more than 10% of the net assets of a Fund in the aggregate invested in Futures Contracts shall consist of Bitcoin Futures Contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA. The intraday, closing prices, and settlement prices of the Bitcoin Futures Contracts will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors website or on-line information services.

Complete real-time data for the Bitcoin Futures Contracts and Options on Bitcoin Futures will be available by subscription from on-line information services. CFE and CME will provide delayed futures information on current and past trading sessions and market news free of charge on their websites. The specific contract specifications for Bitcoin Futures Contracts would also be available on such websites, as well as other financial informational sources. Information regarding options will be available from the applicable exchanges or major market data vendors. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The Funds' website will also include a form of the prospectus for the Funds that may be downloaded. The website will include the Shares' ticker and CUSIP information, along with additional quantitative information updated on a daily basis for each Fund. The Funds' website will include (1) Daily trading volume, the prior business day's reported NAV and closing price, and a calculation of the premium and discount of the closing price or mid-point of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for at least each of the four previous calendar quarters. The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the name, quantity, value, expiration and strike price of Bitcoin Futures Contracts and Financial Instruments, (ii) the counterparty to and value of Financial Instruments, and (iii) the aggregate net value of the Money Market Investments held in each Fund's portfolio, if applicable. The Funds' website will be publicly available prior to the public offering of Shares and accessible at no charge.

Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares and of the suitability requirements of NYSE Arca Rule 9.2–E(a). The Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to a Fund. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that a Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Bitcoin Futures Contracts traded on U.S. markets. The Information Bulletin will also disclose the trading hours of the Shares and that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Funds' website.

Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of a new type of Trust Issued Receipt based on the price of Bitcoin Futures Contracts that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[23] 15 U.S.C. 78f(b)(5).

any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Trust Issued Receipt based on the price of Bitcoin Futures Contracts and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–139 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–139. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–139 and should be submitted on or before January 16, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27690 Filed 12–22–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82351; File No. SR–OCC–2017–020]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Concerning Enhanced and New Tools for Recovery Scenarios

December 19, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on December 18, 2017, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by the OCC would make certain revisions to OCC's Rules and By-Laws to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish new tools by which OCC could re-establish a matched book following a default. Each of the tools proposed herein is contemplated to be deployed by OCC in an extreme stress event that has placed OCC into a recovery or orderly wind-down scenario.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements. All terms with initial capitalization not defined here have the same meaning set forth in OCC's By-Laws and Rules.[3]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The purpose of this proposed rule change is to make certain revisions to OCC's Rules and By-Laws Laws that are designed to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish tools by which OCC could re-establish a matched book following a default. Each of the tools proposed herein is contemplated to be deployed by OCC in an extreme stress event that has placed OCC into a recovery or orderly wind-down scenario. Each of the proposed revisions also is designed to further OCC's compliance, in whole or in part, with the provisions of the Commission's rules identified immediately below.

On September 28, 2016, the Commission adopted amendments to

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *http://optionsclearing.com/about/publications/bylaws.jsp.*

Rule 17Ad–22 [4] and added new Rules 17Ad–22(e)(3)(ii), (e)(4)(viii), (e)(4)(ix), (e)(7)(ix), (e)(13), (e)(23)(i) and (e)(23)(ii) [5] pursuant to Section 17A of the Securities Exchange Act of 1934 [6] and the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'').[7] In relevant part, these new rules collectively require a covered clearing agency (''CCA''), as defined by Rule 17Ad–22(a)(5),[8] to establish, implement, maintain and enforce written policies and procedures reasonably designed to: (1) Maintain a risk management framework including plans for recovery and orderly wind-down necessitated by credit losses, liquidity shortfalls, general business risk losses or any other losses, (2) effectively identify, measure, monitor and manage its credit exposures to participants and those arising from its payment, clearing and settlement processes, including by addressing the allocation of credit losses a CCA might face if its collateral and other resources are insufficient to fully cover its credit exposures, (3) effectively identify, measure, monitor and manage credit exposures, including by describing the process to replenish any financial resource that a CCA may use following a default event or other event in which use of such resource is contemplated, (4) effectively identify, measure, monitor and manage liquidity risks that arises or is borne by the CCA by, at a minimum, describing the process for replenishing any liquid resource that a CCA may employ during a stress event, (5) ensure it has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations, (6) publicly disclose relevant rules and material procedures, including key aspects of its default rules and procedures, and (7) provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the CCA. The relevant portions of each of these new requirements is restated below:

- Rule 17Ad–22(e)(3)(ii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the [CCA], which . . . [i]ncludes plans for the recovery and orderly wind-down of the [CCA] necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.'' [9]
- Rule 17Ad–22(e)(4)(viii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [e]ffectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by . . . [a]ddressing allocation of credit losses the [CCA] may face if its collateral and other resources are insufficient to fully cover its credit exposures, including the repayment of any funds the [CCA] may borrow from liquidity providers.'' [10]
- Rule 17Ad–22(e)(4)(ix) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [e]ffectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by . . . [d]escribing the [CCA's] process to replenish any financial resources it may use following a default or other event in which use of such resources is contemplated.'' [11]
- Rule 17Ad–22(e)(7)(ix) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [e]ffectively measure, monitor, and manage the liquidity risk that arises in or is borne by the [CCA], including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the following . . . [d]escribing the [CCA's] process to replenish any liquid resources that the clearing agency may employ during a stress event.'' [12]
- Rule 17Ad–22(e)(13) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to. . . [e]nsure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations . . .'' [13]
- Rule 17Ad–22(e)(23)(i) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [p]ublicly disclos[e] all relevant rules and material procedures, including key aspects of its default rules and procedures.'' [14]
- Rule 17Ad–22(e)(23)(ii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [p]rovid[e] sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.'' [15]

OCC meets the definition of a CCA and is therefore subject to the requirements of the CCA rules, including new Rules 17Ad–22(e)(3)(ii), (e)(4)(viii), (e)(4)(ix), (e)(7)(ix), (e)(13), (e)(23)(i) and (e)(23)(ii).[16]

Proposed Changes

Summary of Proposed Changes

In order to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish new tools by which OCC could re-establish a matched book following a default, OCC is proposing to make the following revisions to its Rules and By-Laws:

(1) Revise the existing assessment powers in Section 6 of Article VIII of OCC's By-Laws, specifically to:

(a) Establish a rolling ''cooling-off period'' that would be triggered by the payment of a proportionate charge against the Clearing Fund (''triggering proportionate charge''), during which period the aggregate liability of a Clearing Member to replenish the Clearing Fund (inclusive of assessments) would be 200% of the Clearing Member's required contribution as of the time immediately preceding the triggering proportionate charge;

(b) Clarify that a Clearing Member that chooses to terminate its membership status during a cooling-off period will not be liable for replenishment of the Clearing Fund immediately following the expiration of such cooling-off period, provided that the withdrawing Clearing Member satisfies enumerated criteria, including providing notice of such termination by no later than the end of the cooling-off period and by closing-out and/or transferring of all its open positions with OCC by no later than the last day of the cooling-off period; and

[4] 17 CFR 240.17Ad–22.

[5] 17 CFR 240.17Ad–22(e)(3)(ii), (e)(4)(viii), (e)(4)(ix), (e)(7)(ix), (e)(13), (e)(23)(i) and (e)(23)(ii).

[6] 15 U.S.C. 78q–1.

[7] 12 U.S.C. 5461 et. seq.

[8] 17 CFR 240.17Ad–22(a)(5).

[9] 17 CFR 240.17Ad–22(e)(3)(ii).

[10] 17 CFR 240.17Ad–22(e)(v)(viii).

[11] 17 CFR 240.17Ad–22(e)(4)(ix).

[12] 17 CFR 240.17Ad–22(e)(7)(ix).

[13] 17 CFR 240.17Ad–22(e)(13).

[14] 17 CFR 240.17Ad–22(e)(23)(i).

[15] 17 CFR 240.17Ad–22(e)(23)(ii).

[16] 17 CFR 240.17Ad–22(e)(3)(ii), (e)(4)(viii), (e)(4)(ix) and (e)(7)(ix).

(c) Delineate between the obligation of a Clearing Member to replenish its contributions to the Clearing Fund and its obligations to meet additional ''assessments'' that may be levied following a proportionate charge to the Clearing Fund.

(2) Adopt a new Rule 1009 that would provide OCC with discretionary authority to call for voluntary payments from non-defaulting Clearing Members in a circumstance where one or more Clearing Members has already defaulted and OCC has determined that it may not have sufficient resources to satisfy its obligations and liabilities resulting from such default. Rule 1009 also would establish that OCC would prioritize compensation of Clearing Members that made voluntary payments from any amounts recovered from the defaulted Clearing Members.

(3) Adopt a new Rule 1111 that would provide authority to:

(a) Allow OCC to call for voluntary tear-ups (''Voluntary Tear-Up,'' as defined below) of non-defaulting Clearing Member and/or customer positions at any time following the suspension or default of a Clearing Member, with the scope of any such Voluntary Tear-Ups being determined by the Risk Committee of OCC's Board (''Risk Committee'');

(b) Allow OCC's Board to vote to tear-up the ''Remaining Open Positions'' (defined below) of a defaulted Clearing Member, as well as any ''Related Open Positions'' (defined below) in a circumstance where OCC has attempted one or more auctions of such defaulted Clearing Member's remaining open positions and OCC has determined that it may not have sufficient resources to satisfy its obligations and liabilities resulting from such default with the scope of any such tear-up (''Partial Tear-Up'') being determined by the Risk Committee; and

(c) Allow OCC's Board to vote to re-allocate losses, costs and fees imposed upon holders of positions extinguished in a Partial Tear-Up through a special charge levied against remaining non-defaulting Clearing Members.

(4) Revise the descriptions and authorizations in Article VIII of OCC's By-Laws concerning the use of the Clearing Fund to reflect the discretion of OCC to use remaining Clearing Fund contributions to re-allocate losses imposed on non-defaulting Clearing Members and customers from a Voluntary Tear-Up or a mandatory tear-up (''Partial Tear-Up,'' as defined below).

Discussion of Proposed Changes

Each of the proposed revisions to OCC's Rules and By-Laws is described in more detail in the following sub-sections:

1. Proposed Changes to OCC's Assessment Powers

a. Current Assessment Powers

OCC's current assessment powers are described in Section 6 of Article VIII of OCC's By-Laws. Section 6 establishes a general requirement for each Clearing Member to promptly make good any deficiency in its required contribution to the Clearing Fund whenever an amount is paid out of its Clearing Fund contribution (whether by proportionate charge or otherwise).[17] In this regard, a Clearing Member's obligation to replenish the Clearing Fund is not currently subject to any pre-determined limit. Notwithstanding the foregoing, a Clearing Member can limit the amount of its liability for replenishing the Clearing Fund (at an additional 100% of the amount of its then-required Clearing Fund contribution) by winding-down its clearing activities and terminating its status as a Clearing Member. Any Clearing Member seeking to so limit its liability for replenishing the Clearing Fund must: (i) Notify OCC in writing not later than the fifth business day after the proportionate charge that it is terminating its status as a Clearing Member, (ii) not initiate any opening purchase or opening writing transaction, and, if the Clearing Member is a Market Loan Clearing Member or a Hedge Clearing Member, not initiate any Stock Loan transaction, through any of its accounts, and (iii) close out or transfer all of its open positions as promptly as practicable after giving notice to OCC. Thus, withdrawal from clearing membership is the only means by which a Clearing Member currently can limit its liability for replenishing the Clearing Fund.

b. Proposed Changes to Assessment Powers

OCC proposes to amend Section 6 of Article VIII of OCC's By-Laws to make three primary modifications regarding its existing authority to assess proportionate charges against Clearing Members' contributions to the Clearing Fund. First, the proposal introduces an automatic minimum fifteen calendar day ''cooling-off'' period that begins when a proportionate charge is assessed by OCC against Clearing Members' Clearing Fund contributions. While the cooling-off period will continue for a minimum of fifteen consecutive calendar days, if one or more of the events described in clauses (i) through (iv) of Article VIII, Section 5(a) of OCC's By-Laws occur(s) during that fifteen calendar day period and result in one or more proportionate charges against the Clearing Fund, the cooling-off period shall be extended through either (i) the fifteenth calendar day from the date of the most recent proportionate charge resulting from the subsequent event, or (ii) the twentieth day from the date of the proportionate charge that initiated the cooling-off period, whichever is sooner.

During a cooling-off period, each Clearing Member would have its aggregate liability to replenish the Clearing Fund capped at 200% of the Clearing Member's then-required contribution to the Clearing Fund. Once the cooling-off period ends each remaining Clearing Member would be required to replenish the Clearing Fund in the amount necessary to meet its then-required contribution. Once the cooling-off period ends, any remaining losses or expenses suffered by OCC as a result of any event described in clauses (i) through (iv) of Article VIII, Section 5(a) of OCC's By-Laws that occurred during such cooling-off period could not be charged against the amounts Clearing Members have contributed to replenish the Clearing Fund upon the expiration of the cooling-off period.[18]

Second, in connection with the cooling-off period, the proposal would

[17] Under Article VIII, Section 6 of OCC's By-Laws, OCC currently has authority to assess proportionate charges against Clearing Members' contributions to the Clearing Fund in certain enumerated situations. For example, Section 6 generally provides that if the conditions regarding a Clearing Member default specified in subparagraphs (a)(i) through (vi) of Article VIII, Section 5 of OCC's By-Laws are satisfied, OCC will make good resulting losses or expenses that are suffered by OCC by applying the defaulting Clearing Member's Clearing Fund contribution after first applying other funds available to OCC in the accounts of the Clearing Member. If the sum of the obligations, however, exceeds the total Clearing Fund contribution and other funds of the defaulting Clearing Member available to OCC, then OCC will charge the amount of the remaining deficiency on a proportionate basis against all non-defaulting Clearing Members' required contributions to the Clearing Fund at the time. Section 5(b) of Article VIII of OCC's By-Laws similarly provides for proportionate charges against Clearing Members' contributions to the Clearing Fund when certain conditions are met that involve a failure by a bank or a securities or commodities clearing organization to perform obligations to OCC when they are due.

[18] After a cooling-off period has ended, the occurrence of any event described in clauses (i) through (iv) of Article VIII, Section 5(a) of OCC's By-Laws that results in a proportionate charge against the Clearing Fund would trigger a new cooling off period, and thusly, a cap of 200% of each Clearing Member's then-required contribution would again apply.

extend the time frame within which a Clearing Member may provide a termination notice to OCC to avoid liability for replenishment of the Clearing Fund after the cooling-off period and would modify the obligations of such a terminating Clearing Member for closing-out and transferring its remaining open positions. Specifically, to effectively terminate its status as a Clearing Member and not be liable for replenishing the Clearing Fund after the cooling-off period, a Clearing Member would be required to: (i) Notify OCC in writing of its intent to terminate not later than the last day of the cooling-off period, (ii) not initiate any opening purchase or opening writing transaction, and, if the Clearing Member is a Market Loan Clearing Member or a Hedge Clearing Member, not initiate any Stock Loan transaction, through any of its accounts, and (iii) close-out or transfer all of its open positions by no later than the last day of the cooling-off period. If a Clearing Member fails to satisfy all of these conditions by the end of a given cooling-off period, it would not have completed all of the requirements necessary to terminate its status as a Clearing Member under Article VIII, Section 6 of OCC's By-Laws and therefore it would remain subject to the obligation to replenish the Clearing Fund after the end of the cooling-off period.

Third, the proposal would clarify the distinction between ''replenishment'' of the Clearing Fund and a Clearing Member's obligation to answer ''assessments.'' In this context, the term ''replenish'' (and its variations) shall to refer to a Clearing Member's standing duty, following any proportionate charge against the Clearing Fund, to return its Clearing Fund contribution to the amount required from such Clearing Member for the month in question.[19] The term ''assessment'' (and its variations) shall refer to the amount, during any cooling-off period, that a Clearing Member would be required to contribute to the Clearing Fund in excess of the amount of the Clearing Member's pre-funded required Clearing Fund contribution.

Proposed Addition of Ability To Request Voluntary Payments

OCC proposes to add new Rule 1009, which will provide a framework by which OCC could receive voluntary payments in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211,[20] OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default. Under new Rule 1009, OCC will initiate a call for voluntary payments by issuing a ''Voluntary Payment Notice'' inviting all non-defaulting Clearing Members to make payments to the Clearing Fund in addition to any amounts they are otherwise required to contribute pursuant to Rule 1001. The Voluntary Payment Notice would specify the terms applicable to any voluntary payment, including but not limited to, that any voluntary payment may not be withdrawn once made, that no Clearing Member shall be obligated to make a voluntary payment and that OCC shall retain full discretion to accept or reject any voluntary payment. Rule 1009 specifies that if OCC subsequently recovers from the defaulted Clearing Member or the estate(s) of the defaulted Clearing Member(s), OCC would seek to compensate first from such recovery all non-defaulting Clearing Members that made voluntary payments (and if the amount recovered from the defaulted Clearing Member(s) is less than the aggregate amount of voluntary payments, non-defaulting Clearing Members that made voluntary payments each would receive a percentage of the recovery that corresponds to that Clearing Member's percentage of the total amount of voluntary payments received).

Proposed Addition of Ability To Conduct Voluntary Tear-Ups

OCC proposes to add new Rule 1111, which, in relevant part, will establish a framework by which non-defaulting Clearing Members and non-defaulting customers of Clearing Members could be given an opportunity to voluntarily extinguish (*i.e.,* voluntarily tear-up) their open positions at OCC in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default.

While Risk Committee approval is not needed to commence a voluntary tear-up, the Risk Committee would be responsible for determining the appropriate scope of each voluntary tear-up. To ensure OCC retains sufficient flexibility to effectively deploy this tool in an extreme stress event, proposed Rule 1111(c) is drafted to provide the Risk Committee with discretion to determine the appropriate scope of each voluntary tear-up.[21] New Rule 1111(c) also would impose standards designed to circumscribe the Risk Committee's discretion, requiring that any determination regarding the scope of a voluntary tear-up shall (i) be based on then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants.

Once the Risk Committee has determined the scope of the Voluntary Tear-Up, OCC will initiate the call for voluntary tear-ups by issuing a ''Voluntary Tear-Up Notice.'' The Voluntary Tear-Up Notice shall inform all non-defaulting Clearing Members of the opportunity to participate in a Voluntary Tear-Up.[22] The Voluntary Tear-Up Notice would specify the terms applicable to any voluntary tear-up, including but not limited to, that no Clearing Member or customers of a Clearing Member shall be obligated to participate in a voluntary tear-up and that OCC shall retain full discretion to accept or reject any voluntary tear-up.

OCC is not proposing a tear-up process that would require the imposition of ''gains haircutting'' (*i.e.,* the reduction of unpaid gains) on a portion of OCC's cleared contracts.[23]

[19] This assumes that the proportionate charge resulted in the Clearing Member's actual Clearing Fund contribution dropping below the amount of its required contribution (*i.e.,* that the Clearing Member did not have excess above its required contribution that was sufficient to cover the amount of the proportionate charge allocated to such Clearing Member).

[20] Rule 707 addresses the treatment of funds in a Clearing Member's X–M accounts. Rule 1001 addresses the size of OCC's Clearing Fund and the amount of a Clearing Member's contribution. Rules 1104 through 1107 concern the treatment of the portfolio of a defaulted Clearing Member. Rules 2210 and 2211 concern the treatment of Stock Loan positions of a defaulted Clearing Member.

[21] Notwithstanding the discretion that would be afforded by the text of proposed Rule 1111(c), OCC anticipates that the scope of voluntary tear-ups likely would be dictated by the cleared contracts remaining in the portfolio(s) of the defaulted Clearing Member(s).

[22] Since OCC does not know the identities of Clearing Members' customers, OCC would depend on each Clearing Member to notify its customers with positions in scope of the Voluntary Tear-Up of the opportunity to participate in such tear-up.

[23] In general, forced gains haircutting is a tool that can be more easily applied to products whose gains are settled at least daily, like futures through an exchange of variation margin, and by central counterparties with comparatively large daily settlement flows. Listed options, which constitute the vast majority of the contracts cleared by OCC,

Instead, OCC has determined that its tear-up process—for both Voluntary Tear-Ups as well as Partial Tear-Ups—should be initiated on a date sufficiently in advance of the exhaustion of OCC's financial resources such that OCC would be expected to have adequate remaining resources to cover the amount it must pay to extinguish the positions of Clearing Members and customers without haircutting gains.[24]

In OCC's proposed tear-up process, the holders of torn-up positions would be assigned a Tear-Up Price and OCC would draw on its remaining financial resources in order to extinguish the torn-up positions at the assigned Tear-Up Price without forcing a reduction in the amount unpaid gains on such positions. The proposed changes would provide OCC with two separate and non-exclusive means of equitably re-allocating the losses, costs or expenses imposed upon the holders of torn-up positions as a result of the tear-up(s). First, the proposed changes to Article VIII would provide OCC discretion to use remaining Clearing Fund contributions to re-allocate losses imposed on non-defaulting Clearing Members and customers from such tear-up(s). Second, Rule 1111(a) would provide that if OCC subsequently recovers from the defaulted Clearing Member or the estate(s) of the defaulted Clearing Member(s) and the amount of such recovery exceeds the amount OCC received in voluntary payments, then non-defaulting Clearing Members and non-defaulting customers that voluntarily tore-up open positions and incurred losses from such tear-ups would be repaid from the amount of the recovery in excess of the amount OCC received in voluntary payments.[25] If the amount recovered is less than the aggregate amount of Voluntary Tear-Up, each non-defaulting Clearing Member and non-defaulting customer that incurred losses from voluntarily torn-up positions would be repaid in an amount proportionate to the percentage of its total amount of losses, costs and fees imposed on Clearing Members or customers as a result of the Voluntary Tear-Ups.

With respect to Voluntary Tear-Ups, new Rule 1111(h) would clarify that no action or omission by OCC pursuant to and in accordance with Rule 1111 shall constitute a default by OCC.

Proposed Addition of Ability To Conduct Partial Tear-Ups

OCC proposes to add new Rule 1111, which, in relevant part, will provide the Board with discretion to extinguish the remaining open positions of any defaulted Clearing Member or customer of such defaulted Clearing Member(s) (such positions, ''Remaining Open Positions''), as well as any related open positions as necessary to mitigate further disruptions to the markets affected by the Remaining Open Positions (such positions, ''Related Open Positions''), in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default (such tear-ups hereinafter collectively referred to as ''Partial Tear-Ups''). Like the determination for Voluntary Tear-Ups, the Risk Committee shall determine the appropriate scope of each Partial Tear-Up and such determination shall (i) be based on then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. Once the Risk Committee has determined the scope of the Partial Tear-Up, OCC will initiate the Partial Tear-Up process by issuing a ''Partial Tear-Up Notice.'' The Partial Tear-Up Notice shall (i) identify the Remaining Open Positions and Related Open Positions designated for tear-up, (ii) identify the open positions of non-defaulting Clearing Members and non-defaulting customers that will be subject to Partial Tear-Up (such positions, ''Tear-Up Positions''), (iii) specify the termination price (''Partial Tear-Up Price'') for each position to be torn-up, and (iv) list the date and time as of which the Partial Tear-Up will occur.[26] With regard to the date and time of a Partial Tear-Up, Rule 1111(d) specifies that the Risk Committee shall set the date and time. With regard to the Partial Tear-Up Price, OCC anticipates that it is likely to use the last established end-of-day settlement price, in accordance with its existing practices concerning pricing and valuation. However, given that it is not possible to know in advance the precise circumstances that would cause OCC to conduct a tear-up, Rule 1111(f) has been drafted to allow OCC to exercise reasonable discretion, if necessary, in establishing the Partial Tear-Up Price by some means other than its existing practices concerning pricing and valuation. Specifically, Rule 1111(f) would require that OCC, in exercising any such discretion, would act in good faith and in a commercially reasonable manner to adopt methods of valuation expected to produce reasonably accurate substitutes for the values that would have been obtained from the relevant market if it were operating normally, including but not limited to the use of pricing models that use the market price of the underlying interest or the market prices of its components. Rule 1111(f) further specifies that OCC may consider the same information set forth in subpart (c) of Section 27, Article VI of OCC's By-Laws.[27]

The scope of any Partial Tear-Up will be determined in accordance with Rule 1111(e). With respect to the extinguishment of Remaining Open Positions, OCC will designate Tear-Up Positions in identical Cleared Contracts and Cleared Securities on the opposite side of the market and in an aggregate amount equal to that of the Remaining

do not have daily settlement flows and any attempt to reduce the ''unrealized gains'' of a listed options contract would require the reduction of the option premium that is embedded within the required margin (such a process would effectively require haircutting the listed option's initial margin).

[24] OCC anticipates that it would determine the date on which to initiate Partial Tear-Ups by monitoring its remaining financial resources against the potential exposure of the remaining unauctioned positions from the portfolio(s) of the defaulted Clearing Member(s).

[25] In order to effect re-allocation of the losses, costs or expenses imposed upon the holders of torn-up positions, OCC expects that after it has completed its tear-up process and re-established a matched book, holders of both voluntarily torn-up and mandatorily torn-up positions would be provided with a limited opportunity to re-establish positions in the contracts that were voluntarily or mandatorily extinguished. After the expiration of such period, OCC would seek to collect the information on the losses, costs or expenses that had been imposed on the holders of torn-up positions. Based on the information collected, OCC would determine whether it can reasonably determine the losses, costs and expenses sufficiently to re-allocate such amounts.

[26] Since OCC does not know the identities of Clearing Members' customers, OCC would depend on each Clearing Member to notify its customers with positions in scope of the Partial Tear-Up of the possibility of tear-up.

[27] In relevant part, subpart (c) reads as follows: ''In determining a close-out amount, the Corporation may consider any information that it deems relevant, including, but not limited to, any of the following: (1) Prices for underlying interests in recent transactions, as reported by the market or markets for such interests; (2) quotations from leading dealers in the underlying interest, setting forth the price (which may be a dealing price or an indicative price) that the quoting dealer would charge or pay for a specified quantity of the underlying interest; (3) relevant historical and current market data for the relevant market, provided by reputable outside sources or generated internally; and (4) values derived from theoretical pricing models using available prices for the underlying interest or a related interest and other relevant data. Amounts stated in a currency other than U.S. Dollars shall be converted to U.S. Dollars at the current rate of exchange, as determined by the Corporation. A position having a positive close-out value shall be an 'asset position' and a position having a negative close-out value shall be a 'liability position.' ''

Open Positions. OCC will only designate Tear-Up Positions in the accounts of non-defaulting Clearing Members (inclusive of such Clearing Members' customer accounts) with an open position in the applicable Cleared Contract or Cleared Security and of non-defaulted customers of a defaulted Clearing Member. Tear-Up Positions shall be designated and applied by OCC on a pro rata basis across all the identical positions in Cleared Contracts and Cleared Securities on the opposite side of the market in the accounts of non-defaulted Clearing Members and non-defaulted customers (including the non-defaulted customers of defaulted Clearing Members).

Rule 1111(e)(iii) provides that every Partial Tear-Up position is automatically terminated upon and with effect from the Partial Tear-Up Time, without the need for any further step by any party to such Cleared Contract or Cleared Security, and that upon termination, either OCC or the relevant Clearing Member (as the case may be) shall be obligated to pay the other the applicable Partial Tear-Up Price. Rule 1111(e)(iii) further provides that the corresponding open position shall be deemed terminated at the Partial Tear-Up Price.

Rule 1111(g) provides that to the extent losses imposed upon non-defaulting Clearing Members and non-defaulting customers resulting from a Partial Tear-Up can reasonably be determined, the Board may elect to re-allocate such losses among all non-defaulting Clearing Members through a special charge to all non-defaulting Clearing Members in an amount corresponding to each such non-defaulting Clearing Member's proportionate share of the variable amount of the Clearing Fund at the time such Partial Tear-Up is conducted.[28]

With respect to Partial Tear-Ups, new Rule 1111(h) would clarify that no action or omission by OCC pursuant to and in accordance with Rule 1111 shall constitute a default by OCC.

2. Statutory Basis

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (''Act''),[29] requires, among other things, that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest. OCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[30] and the rules thereunder applicable to OCC for the reasons set forth below.

As stated above, each of the changes is designed to provide OCC with tools to address the risks OCC might confront in a recovery and orderly wind-down scenario. In this regard, the proposed changes are designed to further address the risks of liquidity shortfalls and credit losses resulting from a Clearing Member default or certain other loss events and to establish tools to enable OCC to re-establish a matched book and limit OCC's potential exposure to losses from a Clearing Member default, in each case as might result from an unprecedented loss scenario that exceeds OCC's standard risk management and default management procedures. OCC's process in crafting the proposed changes was informed by published guidance from OCC's primary regulators (the Commission and the Commodity Futures Trading Commission), the publications of key international organizations (including the Bank for International Settlements, the International Organization of Securities Commissions and the Financial Stability Board) and the publications of key industry trade organizations. OCC's proposal was further informed by conversations with, among others, OCC's Board, OCC's Risk Committee, Clearing Members and market participants.

Informed by these perspectives, OCC has crafted the proposed changes with the aim of enhancing its ability to address an unprecedented loss event but also, to the extent possible, providing a reasonable amount of certainty to Clearing Members, customers and other stakeholders about the potential consequences of such an event and the resources and tools that would be expected to be available to OCC in support of its clearing operations.[31] Accordingly, the proposed changes should leave Clearing Members, customers and other stakeholders in a position to better evaluate the risks and benefits of clearing in order to facilitate their own risk management, and to the extent applicable, their own regulatory and capital considerations. The proposed changes also seek to avoid a result that would force only particular clearing participants to shoulder certain losses in an extreme stress scenario (*i.e.,* holders of positions extinguished in Partial Tear-Ups),[32] and instead leaves OCC and its Board with discretionary tools that could provide a more equitable method of allocating the losses from such an event more broadly, consistent with the general principle of mutualized loss upon which central clearing rests. In this regard, OCC believes the proposed changes foster cooperation and coordination with participants in the clearing system, consistent with Section 17A(b)(3)(F) of the Act.[33]

As stated above, the proposed changes are designed to enable OCC to further address the risks of liquidity shortfalls and credit losses resulting from a Clearing Member default or certain other loss events and to re-establish a matched book and limit OCC's potential exposure to losses from a Clearing Member default, in each case as might result from an unprecedented loss scenario that exceeds OCC's standard risk management and default management procedures. OCC believes that the proposed changes will facilitate its ability to fully allocate, and ultimately extinguish, the loss so that it has a better opportunity of withstanding an extreme stress scenario without sacrificing its viability as a going concern or its ability to continue to provide its critical clearing services. In this regard, OCC believes that the proposed changes remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[34]

The proposed changes are designed to enhance the stability of the clearing system generally and are aimed at ensuring that OCC has adequate tools and resources to better protect market participants from the risks of extreme stress scenarios and unprecedented loss events. In this regard, OCC believes that the proposed changes are reasonably designed to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[35]

[28] For the avoidance of doubt, the special charge would be distinct and separate from a Clearing Member's obligation to satisfy Clearing Fund assessments, and therefore, would not be subject to the aforementioned assessment cap in the amount of 200% of a Clearing Member's then-required contribution to the Clearing Fund.

[29] 15 U.S.C. 78q–1(b)(3)(F).

[30] *Id.*

[31] OCC notes that the very nature of an extreme stress and unprecedented loss event means that its impact is difficult to predict and quantify in advance.

[32] Absent a means of re-allocating the potential losses, costs and fees imposed upon holders of positions extinguished during tear-ups, the holders of such positions would be left to individually address such losses, costs and fees.

[33] 15 U.S.C. 78q–1(b)(3)(F).

[34] *Id.*

[35] *Id.*

The proposed changes also are designed to further OCC's compliance, in whole or in part, with the provisions of the Commission's rules discussed immediately below:

Recovery and Orderly Wind-Down

In relevant part, Rule 17Ad–22(e)(3)(ii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . plan[ ] for the recovery and orderly wind-down of the [CCA] necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.'' [36] As stated above, each of the proposed changes is designed to provide OCC with tools to address the risks OCC might confront in a recovery and orderly wind-down scenario.[37] Consistent with the requirements of Rule 17Ad–22(e)(3)(ii), the proposed tools would enable OCC to better address the risks of liquidity shortfalls and credit losses resulting from a Clearing Member default or certain other loss events and, if necessary, to ultimately re-establish a matched book in a recovery or orderly wind-down scenario.[38] In this context, the proposed changes serve as a critical component of OCC's recovery and orderly wind-down plan. As a result, in OCC's view, the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(3)(ii) as to the recovery and orderly wind-down plan.[39]

Allocation of Credit Losses Above Available Resources

In relevant part, Rule 17Ad–22(e)(4)(viii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [a]ddress[ ] allocation of credit losses the [CCA] may face if its collateral and other resources are insufficient to fully cover its credit exposures . . .'' [40] The proposed changes would provide OCC with three distinct tools that could be used to allocate any credit losses OCC may face in excess of collateral and other resources available to OCC. First, new Rule 1009 would provide a framework by which OCC could receive voluntary payments in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211,[41] OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default. Second, new Rule 1111 would establish a framework by which non-defaulting Clearing Members and non-defaulting customers of Clearing Members could be given an opportunity to participate in Voluntarily Tear-Ups in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default. Finally, new Rule 1111 also would provide the Board with discretion to mandatorily tear-up Remaining Open Positions and Related Open Positions, in a circumstance where a Clearing Member has defaulted and OCC has determined that, notwithstanding the availability of any remaining resources under OCC Rules 707, 1001, 1104 through 1107, 2210 and 2211, OCC may not have sufficient resources to satisfy its obligations and liabilities resulting from such default.[42] In OCC's view, each of these tools could be deployed by OCC, if necessary, to allocate credit losses in excess of the collateral and other resources available to OCC, in accordance with Rule 17Ad–22(e)(4)(viii).[43]

Replenishment of Financial Resources Following a Default

In relevant part, Rule 17Ad–22(e)(4)(ix) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [d]escrib[e] the [CCA's] process to replenish any financial resources it may use following a default or other event in which use of such resources is contemplated.'' [44] OCC's Clearing Members have a standing obligation to replenish the Clearing Fund following any proportionate charge. The proposed changes would establish a rolling cooling-off period, triggered by the payment of a proportionate charge against the Clearing Fund, during which period the aggregate liability of a Clearing Member to replenish the Clearing Fund (inclusive of assessments) would be 200% of the Clearing Member's required contribution as of the time immediately preceding the triggering proportionate charge. Compared to the current requirement under which a Clearing Member may cap its liability to proportionate charges at an additional 100% of its then-required contribution, a Clearing Member would instead be permitted to cap its liability for proportionate charges at an additional 200% of its then-required Clearing Fund contribution.

OCC believes that the proposed approach improves predictability for OCC and for Clearing Members regarding the size of Clearing Fund contributions that are likely to be subject to assessments for proportionate charges. Additionally, replacing the five business day withdrawal period with the withdrawal period commensurate with the cooling-off period (which, as proposed would be a minimum of fifteen calendar days) would give Clearing Members a more reasonable period in which to meet the wind-down and termination requirements necessary to cap their liability. OCC believes that this would afford them greater certainty regarding their maximum liability with respect to the Clearing Fund during extreme stress events, which in turn, facilitates Clearing Members' management of their own risk management, and to the extent applicable, regulatory capital considerations. And OCC believes this increased predictability would also be beneficial to OCC by helping it to more reliably understand the amount of Clearing Fund contributions that will likely be available to it after a proportionate charge is assessed.[45]

OCC believes that the relative certainty provided by the proposed cooling-off period and 200% cap on assessments ultimately could reduce the risks of successive or ''cascading'' defaults, in which the financial demands on remaining non-defaulting Clearing Members to continually replenish OCC's Clearing Fund (and similar guaranty funds at other CCPs to

[36] 17 CFR 240.17Ad–22(e)(3)(ii).

[37] Indeed, the OCC's separately filed recovery and orderly wind-down plan identifies OCC's assessment powers, ability to call for voluntary payments, ability to call for Voluntary Tear-Ups and ability to impose Partial Tear-Ups among its ''Recovery Tools.'' OCC has filed a proposed rule change with the Commission in connection with this proposal. *See* SR–OCC–2017–021.

[38] 17 CFR 240.17Ad–22(e)(3)(ii).

[39] 17 CFR 240.17Ad–22(e)(3)(ii).

[40] 17 CFR 240.17Ad–22(e)(v)(viii).

[41] Rule 707 addresses the treatment of funds in a Clearing Member's X–M accounts. Rule 1001 addresses the size of OCC's Clearing Fund and the amount of a Clearing Member's contribution. Rules 1104 through 1107 concern the treatment of the portfolio of a defaulted Clearing Member. Rules 2210 and 2211 concern the treatment of Stock Loan positions of a defaulted Clearing Member.

[42] Rule 1111(g), which would provide the Board authority to equitably re-allocate losses, costs and fees directly imposed as a result of a Partial Tear-Up among all non-defaulting Clearing Members through a special charge, would serve as a discretionary tool to redistribute the credit losses allocated through Partial Tear-Up.

[43] 17 CFR 240.17Ad–22(e)(v)(viii).

[44] 17 CFR 240.17Ad–22(e)(4)(ix).

[45] Under the existing approach, it is less certain from OCC's standpoint regarding whether Clearing Members would reasonably be able to cap their liability to proportionate charges within five business days.

which such Clearing Members might belong) have the effect of further weakening such Clearing Members to the point of default. In this regard, the proposed changes are designed to provide OCC, Clearing Members and other stakeholders with sufficient time to manage the ongoing default(s) without further aggravating the extreme stresses facing market participants.

OCC recognizes that the proposed changes would limit the maximum amount of Clearing Fund resources that could be available to OCC in an extreme stress scenario, which introduces the possibility, however remote, that the proposed 200% cap ultimately could be reached. If during any cooling-off period the amount of aggregate proportionate charges against the Clearing Fund approaches the 200% cap, the amount remaining in the Clearing Fund may no longer be sufficient to comply with the applicable minimum regulatory financial resources requirements in the CCAs. In any such event, OCC's existing authority under Rule 603 would permit OCC to call on participants for additional initial margin, which could ensure that OCC's minimum financial resources remain in excess of applicable CCA requirements.[46] OCC recognizes that the imposition of increased margin requirements could have an immediate pro-cyclical impact on participants (and consequential impacts on the broader financial system) that is potentially greater than the impact of replenishing the Clearing Fund. These risks would be limited to a specific extreme stress event and could be mitigated by certain factors. First, OCC, in coordination with its regulators, would carefully evaluate any potential increase in the context of then-existing facts and circumstances. Second, during the cooling-off period, Clearing Members and their customers will have the opportunity to reduce or rebalance their respective portfolios in order to mitigate their exposures to stress losses and initial margin increases. Finally, since initial margin is not designed to be subject to mutualized loss, the risk of loss faced by Clearing Members for amounts posted as additional margin would be substantially less than for replenishments of the Clearing Fund.

Given the products cleared by OCC and the composition of its clearing membership, OCC has determined that a minimum 15-calendar day cooling-off period, rolling up to a maximum of 20 calendar days, is likely to be a sufficient amount of time for OCC to manage the ongoing default(s) and take necessary steps in furtherance of stabilizing the clearing system. Further, through conversations with Clearing Members, OCC believes that the proposed cooling-off period is likely to be a sufficient amount for Clearing Members (and their customers) to orderly reduce or rebalance their positions, in an attempt to mitigate stress losses and exposure to potential initial margin increases as they navigate the stress event. Through conversations with Clearing Members, OCC also believes that the proposed cooling-off period is likely to be a sufficient amount for certain Clearing Members to orderly close-out their positions and transfer customer positions as they withdraw from clearing membership. OCC believes the proposed cooling-off period, coupled with the other proposed changes to OCC's assessment powers, is likely to provide Clearing Members with an adequate measure of stability and predictability as to the potential use of Clearing Fund resources, which OCC believes removes the existing incentive for Clearing Members to withdraw following a proportionate charge.[47]

In light of the foregoing, OCC believes that the proposed changes would enhance and strengthen its process to replenish the Clearing Fund following a default or other event in which use of the Clearing Fund is contemplated, in accordance with Rule 17Ad–22(e)(4)(ix).[48]

Replenishment of Liquid Resources

In relevant part, Rule 17Ad–22(e)(7)(ix) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [d]escrib[e] the [CCA's] process to replenish any liquid resources that the clearing agency may employ during a stress event.''[49] Since the use any part of the cash portion of OCC's Clearing Fund would constitute a depletion of one of OCC's liquid resources, OCC's assessment power, discussed above, is the primary means of replenishing the Clearing Fund cash that OCC used to address the stress event. For the same reasons stated above, OCC believes that the proposed changes enhance and strengthen its process to replenish the Clearing Fund, as necessary, following a default or other stress event in which the Clearing Fund is used, and therefore, OCC views the proposed changes as consistent with Rule 17Ad–22(e)(7)(ix).[50]

Timely Action To Contain Losses

In relevant part, Rule 17Ad–22(e)(13) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [e]nsure the [CCA] has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations . . .''[51] The proposed changes would provide OCC with the authority to call for Voluntary Tear-Ups and OCC's Board with the discretion to impose Partial Tear-Ups, which would provide OCC with authority necessary to extinguish certain losses (and attendant liquidity demands) thereby potentially enabling OCC to continue to meet its remaining obligations to participants. As designed, Voluntary Tear-Ups and Partial Tear-Ups would be initiated on a date sufficiently in advance of the exhaustion of OCC's financial resources such that OCC is expected to have adequate resources remaining to cover the amount it must pay to extinguish the positions of Clearing Members and customers without haircutting gains. Accordingly, OCC believes that its authority and capacity to conduct a Partial Tear-Up should be timely, relative to the adequacy of OCC's remaining financial resources. Finally, OCC believes it has the operational and systems capacity sufficient to support the proposed changes, and OCC's policies and procedures will be updated accordingly to reflect the existence of these new tools. As a result, OCC believes that the proposed changes conform to the relevant requirements in Rule 17Ad–22(e)(13).[52]

Public Disclosure of Key Aspects of Default Rules

In relevant part, Rule 17Ad–22(e)(23)(i) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [p]ublicly disclos[e] all relevant rules and material procedures, including key aspects of its default rules and procedures.''[53] As

[46] Rule 603 provides that ''[t]he Risk Committee may, from time to time, increase the amount of margin which may be required in respect of a cleared contract, open short position or exercised contract if, in its discretion, it determines that such increase is advisable for the protection of [OCC], the Clearing Members or the general public.''

[47] OCC initially considered a fixed 15-calendar day cooling-off period; however, OCC concluded that a fixed 15-calendar day cooling-off period may increase the risks of successive or cascading Clearing Member defaults and may perversely incentivize Clearing Members to seek to withdraw from clearing membership. Through conversations with Clearing Members, OCC believes that these potentially disruptive consequences are mitigated by the proposed rolling cooling-off period.

[48] 17 CFR 240.17Ad–22(e)(4)(ix).

[49] 17 CFR 240.17Ad–22(e)(7)(ix).

[50] 17 CFR 240.17Ad–22(e)(7)(ix).

[51] 17 CFR 240.17Ad–22(e)(13).

[52] 17 CFR 240.17Ad–22(e)(13).

[53] 17 CFR 240.17Ad–22(e)(23)(i).

stated above, each of the tools discussed herein are contemplated to be deployed by OCC if an extreme stress event has placed OCC into a recovery or orderly wind-down scenario, and therefore, the tools discussed herein constitute key aspects of OCC's default rules. By incorporating the proposed changes into OCC's Rules and By-Laws, as further supplemented by the discussion in OCC's public rule filing, OCC believes that proposed changes would conform to the relevant requirements in Rule 17Ad–22(e)(23)(i).[54]

Sufficient Information Regarding the Risks, Fees and Costs of Clearing

In relevant part, Rule 17Ad–22(e)(23)(ii) requires that each CCA ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [p]rovid[e] sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.'' [55] The proposed changes would clearly explain to Clearing Members and market participants that an extreme stress scenario could result in the use—and theoretically the exhaustion—of OCC's financial resources, inclusive of OCC's proposed assessment powers. Proposed changes to Section 6, Article VIII of OCC's By-Laws would explain Clearing Members' replenishment obligation and liability for assessments. The proposed changes also would clearly explain, through proposed Rules 1009 and 1111, that as OCC nears the exhaustion of its assessment powers, Clearing Members may be asked for voluntary payments and, if necessary, Clearing Members and customers may be asked to participate in a Voluntary Tear-Up and/or subject to a Partial Tear-Up. Proposed Rules 1009(b) and 1111(a)(ii) also would make clear that Clearing Members that made voluntary payments and Clearing Members and customers whose tendered positions were extinguished in the Voluntary Tear-Up would be prioritized in the distribution of any recovery from the defaulted Clearing Member(s). Proposed changes to Article VIII would clarify that the Clearing Fund contributions remaining after OCC has conducted a Voluntary Tear-Up or Partial Tear-Up could be used to compensate the non-defaulting Clearing Members and non-defaulting customers for the losses, costs or fees imposed upon them as a result of such Voluntary Tear-Up or Partial Tear-Up. Proposed Rule 1111(g) would make clear that, following a Partial Tear-Up, OCC's Board may seek to equitably re-allocate losses, costs and fees directly imposed as a result of a Partial Tear-Up among all non-defaulting Clearing Members through a special charge. By incorporating the proposed changes into OCC's Rules and By-Laws, as further supplemented by the discussion in OCC's public rule filing, OCC believes that is has provided sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they could incur by participating OCC, consistent with the requirements in Rule 17Ad–22(e)(23)(ii).[56]

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [57] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe the proposed rule change would have any impact or impose any burden on competition. The primary purpose of the proposed changes is to make certain revisions to OCC's Rules and By-Laws Laws that are designed to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish tools by which OCC could re-establish a matched book following a default. As explained above, each of the tools proposed herein is contemplated to be deployed by OCC in an extreme stress event that has placed OCC into a recovery or orderly wind-down scenario. The proposed rule change is intended to provide Clearing Members, market participants and other stakeholders with greater certainty as to their liabilities and potential exposure to OCC in the event of an unprecedented loss scenario. OCC does not believe that the proposed changes would discriminatorily impact any Clearing Member's access to OCC's services or unnecessarily disadvantage or favor any particular user in relationship to another user. OCC recognizes that the nature of a Partial Tear-Up means that only particular Clearing Members and market participants holding certain positions may be impacted; however, the risk of Partial Tear-Ups is extremely remote, and even then, the proposed changes seek to provide means of equitably re-allocating the losses, costs and fees imposed by Voluntary Tear-Up or Partial Tear-Up. Therefore, OCC believes that the proposed changes would not have any impact or impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2017–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2017–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[54] 17 CFR 240.17Ad–22(e)(13).

[55] 17 CFR 240.17Ad–22(e)(23)(ii).

[56] 17 CFR 240.17Ad–22(e)(23)(ii).

[57] 15 U.S.C. 78q–1(b)(3)(I).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_020.pdf.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal or identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2017–020 and should be submitted on or before January 16, 2018.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[58]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27691 Filed 12–22–17; 8:45 am]

BILLING CODE 8011–01–P

[58] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10237]

Request for Information for the 2018 Trafficking in Persons Report

SUMMARY: The Department of State (''the Department'') requests written information to assist in reporting on the degree to which the United States and foreign governments meet the minimum standards for the elimination of trafficking in persons (''minimum standards'') that are prescribed by the Trafficking Victims Protection Act of 2000, as amended (''TVPA''). This information will assist in the preparation of the *Trafficking in Persons Report* (''*TIP Report*'') that the Department submits annually to the U.S. Congress on government efforts to meet the minimum standards. Foreign governments that do not meet the minimum standards and are not making significant efforts to do so may be subject to restrictions on nonhumanitarian, nontrade-related foreign assistance from the United States, as defined by the TVPA. Submissions must be made in writing to the Office to Monitor and Combat Trafficking in Persons at the Department of State by January 31, 2018. Please refer to the *Addresses, Scope of Interest,* and *Information Sought* sections of this Notice for additional instructions on submission requirements.

DATES: Submissions must be received by 5 p.m. on January 31, 2018.

ADDRESSES: Written submissions and supporting documentation may be submitted by the following methods:

Email (preferred): tipreport@state.gov for submissions related to foreign governments and *tipreportUS@state.gov* for submissions related to the United States.

- *Facsimile (fax):* 202–312–9637.
- *Mail, Express Delivery, Hand Delivery and Messenger Service:* U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (J/TIP), 1800 G Street NW, Suite 2201, Washington, DC 20520. Please note that materials submitted by mail may be delayed due to security screenings and processing.

Scope of Interest: The Department requests information relevant to assessing the United States' and foreign governments' efforts to meet the minimum standards for the elimination of trafficking in persons during the reporting period (April 1, 2017–March 31, 2018). The minimum standards are listed in the *Background* section. Submissions must include information relevant to efforts to meet the minimum standards and should include, but need not be limited to, answering the questions in the *Information Sought* section. Only those questions for which the submitter has direct professional experience should be answered and that experience should be noted. For any critique or deficiency described, please provide a recommendation to remedy it. Note the country or countries that are the focus of the submission.

Submissions may include written narratives that answer the questions presented in this Notice, research, studies, statistics, fieldwork, training materials, evaluations, assessments, and other relevant evidence of local, state/provincial, and federal/central government efforts. To the extent possible, precise dates and numbers of officials or citizens affected should be included.

Where applicable, written narratives providing factual information should provide citations of sources, and copies of the source material should be provided. If possible, send electronic copies of the entire submission, including source material. If primary sources are used, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, provide details on the research or data-gathering methodology. The Department does not include in the *TIP Report,* and is therefore not seeking, information on prostitution, migrant smuggling, visa fraud, or child abuse, unless such conduct occurs in the context of trafficking in persons as defined in the TVPA.

Confidentiality: Please provide the name, phone number, and email address of a single point of contact for any submission. It is Department practice not to identify in the *TIP Report* information concerning sources to safeguard those sources. Please note, however, that any information submitted to the Department may be releasable pursuant to the provisions of the Freedom of Information Act or other applicable law. When applicable, portions of submissions relevant to efforts by other U.S. government agencies will be shared with those agencies.

Response: This is a request for information only; there will be no response to submissions.

SUPPLEMENTARY INFORMATION:

I. Background

The TIP Report: The *TIP Report* is the most comprehensive worldwide report on governments' efforts to combat trafficking in persons. It represents an annually updated, global look at the nature and scope of trafficking in persons and the broad range of government actions to confront and eliminate it. The U.S. government uses the *Report* to engage in diplomacy, to encourage partnership in creating and implementing laws and policies to combat trafficking, and to target resources on prevention, protection, and prosecution programs. Worldwide, the *Report* is used by international organizations, foreign governments, and nongovernmental organizations as a tool to examine where resources are most needed. Prosecuting traffickers, protecting victims, and preventing trafficking are the ultimate goals of the *Report* and of the U.S government's anti-trafficking policy.

The Department prepares the *TIP Report* using information from across the U.S. government, foreign government officials, nongovernmental and international organizations, published reports, and research trips to every region. The *Report* focuses on concrete actions that governments take to fight trafficking in persons, including prosecutions, convictions, and sentences for traffickers, as well as

victim protection measures and prevention efforts. Each *Report* narrative also includes recommendations for each country. These recommendations are used to assist the Department in measuring governments' progress from one year to the next and determining whether governments meet the minimum standards for the elimination of trafficking in persons or are making significant efforts to do so.

The TVPA creates a four-tier ranking system. Tier placement is based principally on the extent of government action to combat trafficking. The Department first evaluates whether the government fully meets the TVPA's minimum standards for the elimination of trafficking. Governments that do so are placed on Tier 1. For other governments, the Department considers the extent of such efforts. Governments that are making significant efforts to meet the minimum standards are placed on Tier 2. Governments that do not fully meet the minimum standards and are not making significant efforts to do so are placed on Tier 3. Finally, the Department considers Special Watch List criteria and, when applicable, places countries on Tier 2 Watch List. For more information, the 2017 *TIP Report* can be found at *http://www.state.gov/j/tip/rls/tiprpt/2017/index.htm.*

Since the inception of the *TIP Report* in 2001, the number of countries included and ranked has more than doubled; the 2017 *TIP Report* included 187 countries and territories. Around the world, the *TIP Report* and the promising practices reflected therein have inspired legislation, national action plans, policy implementation, program funding, protection mechanisms that complement prosecution efforts, and a stronger global understanding of this crime.

Since 2003, the primary reporting on the United States' anti-trafficking activities has been through the annual Attorney General's Report to Congress and Assessment of U.S. Government Activities to Combat Human Trafficking (''AG Report'') mandated by section 105 of the TVPA (22 U.S.C. 7103(d)(7)). Since 2010, the *TIP Report,* through a collaborative interagency process, has included an analysis of U.S. government anti-trafficking efforts in light of the minimum standards to eliminate trafficking in persons set forth by the TVPA.

II. Minimum Standards for the Elimination of Trafficking in Persons

The TVPA sets forth the minimum standards for the elimination of trafficking in persons as follows:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

The following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered as an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, a transparent system for remediating or punishing such public officials as a deterrent, measures to prevent the use of forced labor or child labor in violation of international standards, effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a

party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking. A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data consistent with its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9) Whether the government has entered into effective, transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with

(A) domestic civil society organizations, private sector entities, or international nongovernmental organizations, or into multilateral or regional arrangements or agreements, to assist the government's efforts to prevent trafficking, protect victims, and punish traffickers; or

(B) the United States toward agreed goals and objectives in the collective fight against trafficking.

(10) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(11) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

(12) Whether the government of the country has made serious and sustained efforts to reduce the demand for

(A) commercial sex acts; and

(B) participation in international sex tourism by nationals of the country.

III. Information Sought Relevant to the Minimum Standards

Submissions should include, but need not be limited to, answers to relevant questions below for which the submitter has direct professional experience. Citations to source material should also be provided. Note the country or countries that are the focus of the submission. Please see the *Scope of Interest* section for detailed information regarding submission requirements.

1. How have trafficking methods changed in the past 12 months? For example, are there victims from new countries of origin? Have new vulnerable groups at risk of human trafficking emerged? Is internal trafficking or child trafficking increasing? Has sex trafficking changed, for example from brothels to private apartments? Is labor trafficking now occurring in additional types of industries or agricultural operations? Have new methods of traffickers emerged? Is forced begging a problem? Does child sex tourism occur in the country or involve its nationals abroad, and if so, what are their destination countries?

2. What were the government's major accomplishments in addressing human trafficking?

3. What were the greatest deficiencies in the government's anti-trafficking efforts? What were the limitations on the government's ability to address human trafficking problems in practice?

4. In what ways has the government's efforts to combat trafficking in persons changed in the past year? What new laws, regulations, policies, and implementation strategies exist (*e.g.,* substantive criminal laws and procedures, mechanisms for civil remedies, and victim-witness security, generally and in relation to court proceedings)?

5. Please provide observations regarding the implementation of existing laws and procedures. Are there laws criminalizing those who knowingly solicit or patronize a trafficking victim to perform a commercial sex act and what are the prescribed penalties?

6. Are the anti-trafficking laws and sentences strict enough to reflect the nature of the crime (*e.g.,* commensurate with crimes such as rape or kidnapping)?

7. Please provide observations on overall anti-trafficking law enforcement efforts and the efforts of police and prosecutors to pursue trafficking cases. Were any trafficking cases investigated and/or prosecuted, and any traffickers convicted during the reporting period? Is the government equally vigorous in pursuing labor trafficking and sex trafficking? Please note any efforts to investigate and prosecute suspects for knowingly soliciting or patronizing a sex trafficking victim to perform a commercial sex act.

8. Do government officials understand the nature of trafficking? If not, please provide examples of misconceptions or misunderstandings.

9. Do judges appear appropriately knowledgeable and sensitized to trafficking cases? What sentences have courts imposed upon traffickers? How common are suspended sentences and prison time of less than one year for convicted traffickers?

10. What was the extent of official complicity in trafficking crimes? Were officials operating as traffickers (whether subjecting persons to forced labor and/or sex trafficking offenses) or taking actions that may facilitate trafficking (including accepting bribes to allow undocumented border crossings or suspending active investigations of suspected traffickers, etc.)? Were there examples of trafficking occurring in state institutions (*e.g.,* prisons, child foster homes, institutions for mentally or physically disabled persons)? What proactive measures did the government take to prevent official complicity in trafficking in persons crimes? How did the government respond to reports of complicity that arose during the reporting period? Has the government

made efforts to prosecute, convict, and sentence complicit officials?

11. Has the government vigorously investigated, prosecuted, convicted, and sentenced nationals of the country deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate trafficking, including domestic servitude?

12. Has the government investigated, prosecuted, convicted, and sentenced members of organized crime groups that are involved in trafficking?

13. Please provide observations regarding government efforts to address the issue of unlawful child soldiering. Describe the government's efforts to disarm and demobilize child soldiers, to reintegrate former child soldiers, and to monitor the wellbeing of such children after reintegration.

14. Did the government make a coordinated, proactive effort to identify victims of all forms of trafficking? Did officials effectively coordinate among one another and with relevant nongovernmental organizations to refer victims to care? Is there any screening conducted before deportation or when detaining migrants, including unaccompanied minors, to determine whether individuals were subjected to trafficking? Does the government also partner with nongovernmental organizations to conduct screenings?

15. What victim services are provided (legal, medical, food, shelter, interpretation, mental health care, employment, training, etc.)? Who provides these services? If nongovernment organizations provide the services, does the government support their work either financially or otherwise?

16. What was the overall quality of victim care? How could victim services be improved? Was government funding for trafficking victim protection and assistance adequate? Are there gaps in access to victim services?

17. Are services provided adequately to victims of both labor and sex trafficking? Adults and children, including men and boys? Citizens and noncitizens? LGBTI persons? Persons with disabilities? Were such benefits linked to whether a victim assisted law enforcement or participated in a trial, or whether a trafficker was convicted? Could adult victims leave shelters at will? Could victims seek employment and work while receiving assistance?

18. Do service providers and law enforcement work together cooperatively, for instance to share information about trafficking trends or to plan for services after a raid? What is the level of cooperation, communication, and trust between service providers and law enforcement?

19. Were there means by which victims could obtain restitution from the government or file civil suits against traffickers for restitution, and did this happen in practice? Did prosecutors request restitution for victims?

20. How did the government encourage victims to assist in the investigation and prosecution of trafficking? How did the government protect victims during the trial process? If a victim was a material witness in a court case, was the victim permitted to obtain employment, move freely about the country, or leave the country pending trial proceedings? How did the government work to ensure victims were not re-traumatized during participation in trial proceedings? Can victims provide testimony via video or written statements? Were victims' identities kept confidential as part of such proceedings?

21. Did the government provide, through a formal policy or otherwise, temporary or permanent residency status, or other relief from deportation, for foreign victims of human trafficking who may face retribution or hardship in the countries to which they would be deported? Were victims given the opportunity to seek legal employment while in this temporary or permanent residency? Were such benefits linked to whether a victim assisted law enforcement, participated in a trial or whether there was a successful prosecution? Does the government repatriate victims who wish to return home? Does the government assist with third country resettlement? Are victims awaiting repatriation or third country resettlement offered services? Are victims indeed repatriated or are they deported?

22. Does the government effectively assist its nationals exploited abroad? Does the government work to ensure victims receive adequate assistance and support for their repatriation while in destination countries? Does the government provide adequate assistance to repatriated victims after their return to their countries of origin, and if so, what forms of assistance?

23. Does the government inappropriately detain or imprison identified trafficking victims? Does the government punish, penalize, or detain trafficking victims for unlawful acts committed as a result of being subjected to trafficking, such as forgery of documents, illegal immigration, unauthorized employment, prostitution, theft, or drug production or transport? Does law enforcement screen for trafficking victims when arresting individuals in prostitution?

24. What efforts has the government made to prevent human trafficking? Are there laws prohibiting employers or labor agents from confiscating workers' passports or travel documents, switching contracts without the workers' consent, or withholding payment of salaries as a means of keeping workers in a state of compelled service? Are these laws implemented to hold violators accountable and/or are such crimes investigated by law enforcement as potential indicators of trafficking? Do authorities conduct criminal investigations when indicators of trafficking are identified in the context of labor inspections?

25. Does the government operate a hotline for potential victims? If so, how many calls did the hotline receive? What are the hours of operation? What languages are spoken? How many victims were identified as a result of calls to the hotline? Were any investigations initiated as a result of calls to the hotline?

26. Has the government entered into effective bilateral, multilateral, or regional information-sharing and cooperation arrangements that have resulted in concrete and measureable outcomes?

27. Did the government provide assistance to other governments in combating trafficking in persons through trainings or other assistance programs?

28. Does the country have effective policies or laws regulating foreign labor recruiters? What efforts did the government make to punish labor recruiters or brokers involved in the recruitment of workers through knowingly fraudulent offers of employment and/or excessive fees for migration or job placement? What steps did the government take to minimize the trafficking risks faced by migrant workers departing from or arriving in the country and to raise awareness among potential labor migrants about limits on recruitment fees or their rights while abroad?

29. What measures has the government taken to reduce the participation by nationals of the country in international and domestic child sex tourism? If any of the country's nationals are perpetrators of child sex tourism, do the country's child sexual abuse laws allow the prosecution of suspected sex tourists for crimes committed abroad?

30. What measures did the government take to establish the identity of local populations, including birth registration and issuance of

documentation, citizenship, and nationality?

31. Did the government fund any anti-trafficking information, education, or awareness campaigns? Were these campaigns targeting potential trafficking victims and/or the demand for commercial sex or goods produced with forced labor? Does the government provide financial support to nongovernment organizations working to promote public awareness?

32. What efforts did the government make to ensure that its policies, regulations, and agreements relating to migration, labor, trade, and investment did not facilitate forced labor?

33. Please provide additional recommendations to improve the government's anti-trafficking efforts.

34. Please highlight effective strategies and practices that other governments could consider adopting.

Kari Johnstone,

Acting Director, Office to Monitor and Combat Trafficking in Persons, Department of State.

[FR Doc. 2017–27647 Filed 12–22–17; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at North Central West Virginia Airport (CKB), Clarksburg, WV

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice and request for comment.

SUMMARY: The FAA is requesting public comment for a land release and sale of 5.5 acres of federally obligated airport property at North Central West Virginia Airport (CKB), Clarksburg, WV, to accommodate the construction of two (2) storage buildings and an 80 space parking lot. This acreage was originally purchased with federal financial assistance through the AIP program under Grant Agreements 3–54–0005–16–1996, and 3–54–0005–10–1993. In accordance with federal regulations, this notice is required to be published in the **Federal Register** 30 days before releasing the grant assurances that require the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before January 25, 2018.

ADDRESSES: Comments on this application may be mailed or delivered to the following address:

Mr. Rick Rock, Airport Director, North Central West Virginia Regional Airport, 2000 Aviation Way, Bridgeport, West Virginia 26330, (304) 842–3400 and at the FAA Beckley Airports Field Office:

Matthew DiGiulian, Manager, Beckley Airports Field Office, 176 Airport Circle, Room 101, Beaver, WV 25813, (304) 252–6216

FOR FURTHER INFORMATION CONTACT: Connie Boley-Lilly, Airports Program Specialist, Beckley Airports Field Office, location listed above. (304) 252–6216 ext. 125.

The land release request for the sale and disposal of 5.5 acres of federally obligated airport property at North Central West Virginia Airport, Clarksburg, WV may be reviewed in person at the Beckley Airports Field Office located at 176 Airport Circle, Room 101 Beaver, WV 25813.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the request:

The Benedum Airport Authority has submitted a land release request seeking FAA approval for the sale and disposal of approximately 5.5 acres of federally obligated airport property, to the City of Bridgeport. The purpose of the project is for the airport to sell excess property that does not have an aeronautical use to the City. The City will use the property to construct additional needed storage for city equipment, storage of road salt, and a car wash for maintaining city vehicles. The sporting complex, which is adjacent to the airport, is in need of additional off road parking. This property will provide 80 additional parking spots.

The parcel for this project is known as Tax Map 290 Parcel 9. This property consists of 5.5 Acres with seven (7) structures. The City of Bridgeport's proposed redevelopment includes demolishing (6) six of the seven (7) structures, construction of one (1) 60′ × 160′ four (4) bay building, one (1) 156′ × 30′ twelve (12) bay garage, renovation of one (1) extant building into a car wash, and construction of an 80 space parking lot.

The 5.5 acres of land to be released was originally purchased with federal financial assistance through the AIP program under Grant Agreements 3–54–0005–16–1996 and 3–54–0005–10–1993. Therefore, the portion of the proceeds of the sale of this acreage, which is proportionate to the United States' share of the cost of acquisition of such land, will be used consistent with the requirements of 49 U.S.C. 47107(c). The remaining portion of the proceeds of the sale, is considered airport revenue, and will be used in accordance with 49 U.S.C. 47107(b) and the FAA's Policy and Procedures Concerning the Use of Airport Revenue published in the **Federal Register** on February 16, 1999.

The 5.5 acres to be released are part of previous purchases totaling approximately 120 acres for reasons associated with Runway Extension. The subject area to be released is located between the taxiway and West Virginia State Route 131, north of airport terminal, however, is located approximately 200 feet lower in elevation that the active runway. It is also completely segregated from the terminal area and the facilities that serve airport users, such as Terminal Parking and Fixed Base Operator (FBO) services. The elevation difference and location of the property make if unusable for aeronautical purposes. The property is not located within the RPZ, will not result in any obstructions to part 77 surfaces, and has not been identified as needed for current or future airport development in the current Airport Master Plan or ALP.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment. All comments will be considered by the FAA to the extent practicable.

Issued in Beaver, West Virginia.

Dated: December 14, 2017.

Matthew DiGiulian,

Manager, Beckley Airports Field Office.

[FR Doc. 2017–27675 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0123]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 27, 2017, the Canadian National Railway (CN) petitioned the Federal Railroad Administration (FRA) for relief from the requirements of 49 CFR 236.23, *Aspects and indications,* to allow CN to display a dark aspect as a ''stop.'' FRA assigned the petition Docket Number FRA–2017–0123.

The regulation requires that a red signal aspect must be displayed for a ''stop'' indication. In its petition, CN requests relief from this requirement, and explains that with the use of advanced processor technology in the railway signaling field, failsafe checks that have never before been incorporated into the wayside signal system can now economically be provided. In CN's particular case, the

solid-state electronics have the ability to monitor lamp driver circuits for foreign and/or undesired voltage. CN explains that if the lamp driver monitoring circuits detect foreign or undesirable voltage, all voltage produced by the lamp driver is switched off by the central processing unit as defined by the executive software. CN states that this relief would allow a continuing and industry-wide practice that ensures absolute safety under undesirable conditions. These conditions include but are not limited to, component failures on lamp driver modules, grounds, incorrect9*/wiring and cross connections.

CN's position is that it is far safer to remove all operating voltage to affected lamps, versus running the risk of having an undesired aspect displayed. The relief is sought for all current solid-state applications and all future solid-state applications on CN Southern Region, inclusive of all United States properties.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 9, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Safety Chief Safety Officer.

[FR Doc. 2017–27777 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–27868]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 16, 2017, the Durbin & Greenbrier Valley Railroad, Inc. (DGVR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA assigned the petition Docket Number FRA–2007–27868.

Specifically, DGVR seeks to renew its waiver of compliance from the glazing regulations in 49 CFR 223.11, *Requirements for existing locomotives,* for one locomotive, identified as DGVR Locomotive Number 82. The locomotive is a 1,500 horsepower diesel electric locomotive, model BL–2, built by Electro Motive Division of General Motors in 1948 and still has the original glazing intact. The locomotive was originally built strictly for branch line service and continues to be used exclusively in this manner. The locomotive is housed in Belington, West Virginia, and is used sporadically on track leased by a subsidiary division of DGVR, the West Virginia Central Division. DGVR states that DGVR Locomotive Number 82 is used in a limited manner for freight and excursion service along 89 miles of rural and wilderness track. The maximum authorized speed over this track does not exceed Class 2 track speeds. DGVR states that there are only two overpasses over the track, both of which are patrolled by local law enforcement officials on a regular basis, and that there is no history of vandalism along this track. DGVR believes that this locomotive can be safely operated throughout the rural area with the current non-compliant safety-type glazing. The cost to DGVR for installation of all new window frames and compliant FRA Type I & II glazing is significant, with only a marginal increase in safety due to the low speed. A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 9, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual

submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–27776 Filed 12–22–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Amended Basic Permit Under the Federal Alcohol Administration Act

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before January 25, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Quintana by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax & Trade Bureau (TTB)

Title: Application for Amended Basic Permit under the Federal Alcohol Administration Act.

OMB Control Number: 1513–0019.

Type of Review: Extension without change of a currently approved collection.

Abstract: The FAA Act, at 27 U.S.C. 203, requires that a person apply for and receive a permit, known as a ''basic permit,'' to engage in the business of importing distilled spirits, wine, or malt beverages into the United States; to engage in the business of distilling spirits or producing wine, rectifying or blending distilled spirits or wine, or bottling and/or warehousing distilled spirits; or to engage in the business of purchasing for resale at wholesale, distilled spirits, wine, or malt beverages. The FAA Act, at 27 U.S.C. 204, also imposes certain requirements for basic permits and authorizes the Secretary of the Treasury to prescribe the manner and form of all applications for basic permits. Under that authority, the TTB regulations in 27 CFR part 1 require basic permit holders to apply for an amended permit using form TTB F 5100.18 when changes occur in the name, trade name, or address of the permitted business. The regulations also require that a permittee immediately notify TTB of any change in ownership, management, or control of the permitted business, which may be done using TTB F 5100.18. (Such applications and notifications also may be submitted via TTB's electronic Permits Online (PONL) system.) The collected information assists TTB in determining whether an applicant for an amended basic permit meets the criteria for eligibility for such a permit under the FAA Act.

Form: TTB F 5100.18.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,170.

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

Dated: December 19, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017–27667 Filed 12–22–17; 8:45 am]

BILLING CODE 4810–31–P

FEDERAL REGISTER

Vol. 82 Tuesday,

No. 246 December 26, 2017

Part II

The President

Memorandum of December 4, 2017—Delegation of Authority Under Sections 506(a)(2)(A) and 652 of the Foreign Assistance Act of 1961

Presidential Determination No. 2018–02 of December 6, 2017—Suspension of Limitations Under the Jerusalem Embassy Act

Federal Register
Vol. 82, No. 246
Tuesday, December 26, 2017

Presidential Documents

Title 3—

The President

Memorandum of December 4, 2017

Delegation of Authority Under Sections 506(a)(2)(A) and 652 of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

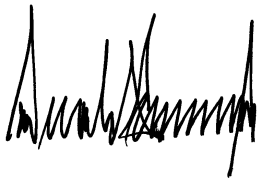
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, subject to the fulfillment of the requirements of section 652 of the Foreign Assistance Act of 1961 (Public Law 87–195) (the ''Act''), and in order to provide assistance to Iraq, I hereby delegate to the Secretary of State:

(a) the authority under section 506(a)(2)(A)(i)(II) of the Act to direct the drawdown, for the purposes and under the authorities of Chapter 9 of part I of the Act, of up to a total of $22 million in articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense;

(b) the authority to make the determination required under section 506(a)(2)(A) of the Act to direct such drawdown; and

(c) the authority under section 652 of the Act to make, before any such drawdown, the required notifications to the Congress.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, December 4, 2017

[FR Doc. 2017–28026
Filed 12–22–17; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2018–02 of December 6, 2017

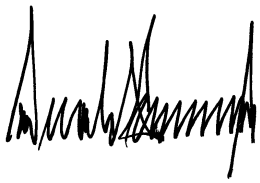
Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary, in order to protect the national security interests of the United States, to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act.

You are authorized and directed to transmit this determination, accompanied by a report in accordance with section 7(a) of the Act, to the Congress and to publish this determination in the *Federal Register.*

The suspension set forth in this determination shall take effect after you transmit this determination and the accompanying report to the Congress.



THE WHITE HOUSE,
Washington, December 6, 2017

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S. 1266/P.L. 115–95

Enhancing Veteran Care Act (Dec. 20, 2017; 131 Stat. 2042)

H.R. 1370/P.L. 115–96

To amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to issue Department of Homeland Security-wide guidance and develop training programs as part of the Department of Homeland Security Blue Campaign, and for other purposes. (Dec. 22, 2017; 131 Stat. 2044)

H.R. 1/P.L. 115–97

To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018. (Dec. 22, 2017; 131 Stat. 2054)

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