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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS–NOP–15–0012; NOP–15–06]

RIN 0581–AD74

National Organic Program (NOP); Organic Livestock and Poultry Practices

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; delay of effective date.

SUMMARY: The United States Department of Agriculture's Agricultural Marketing Service (AMS) is delaying the effective date of the Organic Livestock and Poultry Practices final rule published in the **Federal Register** on January 19, 2017 (OLPP final rule), until May 14, 2018.

DATES: As of November 9, 2017, the effective date of the final rule published on January 19, 2017 (82 FR 7042), delayed on February 9, 2017 (82 FR 9967), further delayed on May 10, 2017 (82 FR 21677), is further delayed until May 14, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Ph.D., Director, Standards Division. Telephone: (202) 720–3252; Fax: (202) 260–9151.

SUPPLEMENTARY INFORMATION: The OLPP final rule amends the organic livestock and poultry production requirements of the USDA organic regulations by adding new provisions for livestock handling and transport for slaughter and avian living conditions; and expands and clarifies existing requirements covering livestock care and production practices and mammalian living conditions. The rule finalized a proposed rule that AMS published in the **Federal Register** on April 13, 2016 (81 FR 21955). The OLPP final rule was scheduled to become effective on March 20, 2017. Consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the Assistant to the President and Chief of Staff, entitled, ''Regulatory Freeze Pending Review,'' on February 9, 2017, AMS delayed the effective date of the OLPP final rule until May 19, 2017.

Because significant policy and legal issues addressed within the final rule warranted further review by USDA, AMS delayed the effective date by an additional 180 days from May 19, 2017 to November 14, 2017. In addition, AMS published a notice of proposed rulemaking (NPRM) that solicited public comments on the direction that USDA should take with respect to the rule. The NPRM presented four options for agency action: ''Option 1: Implement,'' allowing the Organic Livestock and Poultry Practices final rule to take effect on November 14, 2017; ''Option 2: Suspend,'' suspending the Organic Livestock and Poultry Practices final rule indefinitely; ''Option 3: Delay,'' delaying the Organic Livestock and Poultry Practices final rule's effective date beyond November 14, 2017; and ''Option 4: Withdraw,'' withdrawing the Organic Livestock and Poultry Practices final rule. The 30-day public comment period closed on June 9, 2017.

AMS received over 47,000 comments on the four options for agency action. Over 40,000 of commenters, including over 34,600 submitted as form letters, supported ''Option 1: Implement''; twenty-eight other commenters supported ''Option 4: Withdraw''; a few chose ''Option 2: Suspend''; and only one chose ''Option 3: Delay.'' The remaining commenters did not indicate a clear preference.

Most commenters supporting ''Option 1: Implement'' expressed concern animals would be harmed if USDA did otherwise. Some said consumers expect animal welfare to be a part of organic certification and consumers are concerned about humane transport and slaughter procedures. Noting the inclusive nature of the rule development process, these commenters advocated for clear, consistent standards so that organic farmers would be on a ''level playing field.'' Others said they believed ''Option 1: Implement'' would strengthen USDA's organic seal broadly and benefit organic farmers.

Commenters supporting ''Option 2: Suspend'' included veterinarians and farmers, and commenters supporting ''Option 4: Withdraw'' included organic producers and trade associations. These commenters gave similar reasons for their positions, including the economic costs and regulatory compliance burdens; increased consumer prices and reduced availability of organic eggs; biosecurity and food safety risks; and potentially higher avian mortality rates. Some commenters stated that the Organic Livestock and Poultry Practices final rule is unnecessary because current regulations are sufficient and the final rule is outside the scope of the NOP's authority and role. Others noted the significant investment costs in land and facilities that would be required to implement the poultry space and outdoor access requirements, making business unsustainable for many organic farmers. This final rule adopts Option 3: Delay, so that important questions regarding USDA's statutory authority to promulgate the OLPP rule and the likely costs and benefits of that rule, can be more fully assessed through the notice and comment process prior to AMS making a final decision on whether the OLPP final rule should take effect.

The Organic Livestock and Poultry Practices final rule consisted, in large part, of rules clarifying how producers and handlers participating in the National Organic Program must treat livestock and poultry to ensure their wellbeing. (82 FR 7042.) Although animal welfare is an important USDA priority, AMS believes that OFPA's reference to additional regulatory standards ''for the care'' of organically produced livestock is limited to health care practices similar to those specified by Congress in the statute, rather than as reflecting a stand-alone concern for animal welfare. AMS intends to seek public comment on this interpretation.

AMS also is concerned that the Organic Livestock and Poultry Practices final rule is not consistent with USDA regulatory policy principles, including those expressed in Executive Orders 12866 and 13563, because the requirements in that rule may not represent the most innovative and least burdensome tools for achieving regulatory ends; may impose costs that are not justified by the potential benefits; and may not reasonably be tethered to OFPA's statutory text, nature, and purpose. AMS intends to seek public comment on these questions. Of note, during the course of

reviewing the rulemaking record for the OLPP final rule, AMS discovered a significant, material error in the mathematical calculation of the benefits estimates. With the material error, the regulatory impact analysis presented costs and benefits in a table that could be reasonably interpreted to conclude that benefits were likely to exceed the costs. (82 FR 7083–82 FR 7084.) However, AMS believes that the regulatory impact analysis' calculation of benefits was flawed because the incorrect calculation was applied for the 3 percent and 7 percent discount rates. Re-analysis using the correct mathematical calculations suggests that this error was material. It is not appropriate for AMS to allow a final rule to become effective based on a record containing such a material error. AMS intends to seek public comment on the revised calculation of benefits.

Due to these significant concerns regarding statutory authority for, and costs and benefits of, the OLPP rule, including the question whether the OLPP final rule was based on a mathematically flawed assessment of benefits, AMS is selecting Option 3: Delay. AMS is issuing this final rule to further delay the effective date for until May 14, 2018 to allow for AMS to issue another notice of proposed rulemaking to receive comments on USDA statutory authority under the OFPA to regulate animal welfare; the likely costs and benefits of the OLPP rule viewed in terms of the statutory objectives of the OPFA, as interpreted above; whether the OLPP rule's requirements represent the most innovate and least burdensome way to achieve regulatory ends; and the revised calculations and analysis of the benefits of the OLPP rule. This delay will provide additional time for AMS to solicit comment on these important issues and review all the comments prior to making a final decision on the direction of the OLPP final rule.

To preserve the status quo rather than allow an expansive set of new requirements to become effective only to be delayed, suspended, or withdrawn a short time later and to allow AMS to receive and consider comments on the issues discussed above, this final rule action is effective upon publication because AMS believes that the 30-day delay is impracticable, unnecessary, and contrary to the public interest. When agencies establish good cause for an immediate effective date, Congress intended that, combined with unavoidable time limitations, ''the primary consideration was to be the 'convenience or necessity of the people affected.' '' *United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (citing S.Rep.No.752, 79th Cong., 1st Sess. 15 (1946); H.R.Rep.No.1980, 79th Cong., 2d Sess. 25 (1946)). Ordinarily, the thirty-day waiting period gives stakeholders and the public a reasonable time to adjust behavior. *Omnipoint Corp.* v. *F.C.C.,* 78 F.3d 620, 630 (D.C. Cir. 1996). In this case, however, a thirty-day waiting period would require stakeholders to begin changing their behavior to comply with the OLPP final rule, when that rule may be delayed, suspended, or withdrawn after the agency has completed review of comments in response to an notice of proposed rulemaking that will present the issues discussed above. It is also contrary to the public interest to allow a final rule that is based on a flawed record to become effective. Thus, and for the reasons stated above, waiting for thirty days to delay the effective date of the OLPP final rule is not warranted by ''convenience'' and would be unnecessary and contrary to the public interest.

Dated: November 8, 2017.

Sonia N. Jimenez,

Acting Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2017–24675 Filed 11–9–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0712; Product Identifier 2017–NM–014–AD; Amendment 39–19095; AD 2017–23–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–13–14, which applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. AD 2016–13–14 required an inspection to determine if certain left and right main landing gear (MLG) retract actuator rod ends were installed, repetitive liquid penetrant inspections (LPIs) of affected left and right MLG retract actuator rod ends, and corrective actions if necessary. This new AD retains the actions specified in AD 2016–13–14 and also requires replacement of the left and right MLG retract actuator rod ends. This AD was prompted by a report of a cracked MLG retract actuator rod end. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 19, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 20, 2016 (81 FR 43481, July 5, 2016).

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone: 416–375–4000; fax: 416–375–4539; email: *thd.qseries@aero.bombardier.com;* Internet: *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0712.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0712; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7329; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–13–14, Amendment 39–18579 (81 FR 43481, July 5, 2016) (''AD 2016–13–14''). AD 2016–13–14 applied to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on July 28, 2017

(82 FR 35127). The NPRM was prompted by a report of a cracked MLG retract actuator rod end. The NPRM proposed to continue to require the actions specified in AD 2016–13–14. The NPRM also proposed to require replacement of the left and right MLG retract actuator rod ends. We are issuing this AD to detect and correct fatigue cracking of the left and right MLG retract actuator rod ends, which could lead to left or right MLG collapse.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2016–16R1, dated June 27, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–400 series airplanes. The MCAI states:

> There has been a single reported case of a cracked MLG retract actuator rod end in service. A supplier disclosure letter and subsequent Bombardier analysis indicate that the MLG retract actuator rod end P/N [part number] P3A2750 and P3A2750–1 may develop fatigue cracking. This condition, if not corrected, could lead to left hand (LH) or right hand (RH) MLG collapse.
>
> This [Canadian] AD mandates the inspection [to determine if certain left and right main landing gear MLG retract actuator rod ends are installed, repetitive LPIs of affected left and right MLG retract actuator rod ends, and corrective actions if necessary], and replacement of the LH and RH MLG retract actuator rod ends P/N P3A2750 and P3A2750–1 [which is terminating action for the repetitive LPIs].
>
> This [Canadian] AD was revised to clarify paragraph B. and C. [of this Canadian AD], which specifies when the Liquid Penetrant Inspections (LPI) should begin.

Corrective actions include replacing cracked MLG retract actuator rod ends. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0712.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued Bombardier Service Bulletin 84–32–142, dated May 4, 2016. This service information describes procedures for an inspection to determine if certain left and right MLG retract actuator rod ends are installed, repetitive LPIs of the left and right MLG retract actuator rod ends, and replacement of left and right MLG retract actuator rod ends. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 52 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

The actions required by AD 2016–13–14, and retained in this AD, take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the inspection that is required by AD 2016–13–14 is $85 per product.

We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $2,019 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $118,248, or $2,274 per product.

In addition, we estimate that any necessary follow-on actions will take about 3 work-hours and require parts costing $2,019, for a cost of $2,274 per product. We have no way of determining the number of aircraft that might need these actions.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–13–14, Amendment 39–18579 (81 FR 43481, July 5, 2016), and adding the following new AD:

2017–23–01 Bombardier, Inc.: Amendment 39–19095; Docket No. FAA–2017–0712; Product Identifier 2017–NM–014–AD.

(a) Effective Date

This AD is effective December 19, 2017.

(b) Affected ADs

This AD replaces AD 2016–13–14, Amendment 39–18579 (81 FR 43481, July 5, 2016) (''AD 2016–13–14'').

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, –401 and –402 airplanes, certificated in any category, serial numbers 4001, and 4003 through 4325 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report of a cracked main landing gear (MLG) retract actuator rod end. We are issuing this AD to detect and correct fatigue cracking of the left and right MLG retract actuator rod ends, which could lead to left or right MLG collapse.

(f) Compliance

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

(g) Retained Part Number Inspection, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–13–14, with no changes. Within 100 flight cycles after July 20, 2016 (the effective date of AD 2016–13–14), inspect the left and right MLG retract actuator rod ends to determine if part number (P/N) P3A2750 or P3A2750–1 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number can be conclusively determined from that review.

(h) Retained Repetitive Liquid Penetrant Inspections (LPIs), With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–13–14, with no changes. For each left or right MLG retract actuator rod end having P/N P3A2750 or P3A2750–1: At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, do an LPI to detect cracks of the MLG retract actuator rod end, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–142, dated May 4, 2016, except as required by paragraph (k) of this AD. Thereafter, repeat the LPI at intervals not to exceed 600 flight cycles.

(1) If the MLG retract actuator rod end has accumulated more than 6,000 flight cycles as of July 20, 2016 (the effective date of AD 2016–13–14): Inspect within 100 flight cycles after July 20, 2016.

(2) If the MLG retract actuator rod end has accumulated 6,000 flight cycles or fewer as of July 20, 2016 (the effective date of AD 2016–13–14): Inspect within 600 flight cycles after July 20, 2016.

(i) Retained Corrective Action, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2016–13–14, with no changes. If any crack is found during any inspection required by paragraph (h) of this AD, before further flight, replace the cracked MLG retract actuator rod end, P/N P3A2750 or P3A2750–1, with a MLG retract actuator rod end, P/N P3A6460, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–142, dated May 4, 2016, except as required by paragraph (k) of this AD.

(j) Retained Optional Replacement, With No Changes

This paragraph restates the optional replacement specified in paragraph (j) of AD 2016–13–14, with no changes. Replacement of the left and right side MLG retract actuator rod ends, P/N P3A2750 or P3A2750–1, with left and right MLG retract actuator rod ends, P/N P3A6460, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–142, dated May 4, 2016, except as required by paragraph (k) of this AD, constitutes terminating action for the actions required by paragraphs (g) and (h) of this AD for that airplane.

(k) Retained Exception, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2016–13–14, with no changes. If it is not possible to complete all the instructions in Bombardier Service Bulletin 84–32–142, dated May 4, 2016, because of the configuration of the airplane: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(l) Retained Parts Installation Prohibition, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2016–13–14, with no changes. As of July 20, 2016 (the effective date of AD 2016–13–14), no person may install a left or right MLG retract actuator rod end, P/N P3A2750 or P3A2750–1, on any airplane.

(m) New Requirement of This AD: Replacement

Within 1,800 flight cycles after accomplishing the initial inspection required by paragraph (g) of this AD, replace the left and right side MLG retract actuator rod ends having P/N P3A2750 or P3A2750–1, with left and right MLG retract actuator rod ends having P/N P3A6460, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–142, dated May 4, 2016, except as required by paragraph (k) of this AD. Accomplishing this replacement terminates the requirements of paragraphs (g) and (h) of this AD for that airplane.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2016–16R1, dated June 27, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0712.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7329; fax: 516–794–5531.

(p) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on July 20, 2016 (81 FR 43481, July 5, 2016).

(i) Bombardier Service Bulletin 84–32–142, dated May 4, 2016.

(ii) Reserved.

(4) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone: 416–375–4000; fax: 416–375–4539; email: *thd.qseries@aero.bombardier.com;* Internet: *http://www.bombardier.com.*

(5) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on October 30, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–24166 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–13–P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Privacy Act Regulations; Correction

Correction

In rule document 2017–24300, appearing on pages 51757–51758 in the issue of Wednesday, November 8, 2017, make the following correction:

■ On page 51757 in the second column, remove Amendatory instruction 2.

Dates: This correction is effective on November 8, 2017.

[FR Doc. C1–2017–24300 Filed 11–9–17; 4:15 pm]

BILLING CODE 1301–00–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2017–N–5881]

Medical Devices; Immunology and Microbiology Devices; Classification of the Automated Indirect Immunofluorescence Microscope and Software-Assisted System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the automated indirect immunofluorescence microscope and software-assisted system into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the automated indirect immunofluorescence microscope and software-assisted system'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 November 14, 2017. The classification was applicable on April 9, 2015.

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

SUPPLEMENTARY INFORMATION:

I. Background

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

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

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (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 is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically 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 (PMA) in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

For this device, FDA issued an order on November 14, 2014, finding the NOVA View® Automated Fluorescence Microscope not substantially equivalent to a predicate not subject to PMA. Thus, the device remained in class III in accordance with section 513(f)(1) of the FD&C Act when we issued the order.

On December 11, 2014, Inova Diagnostics, Inc. submitted a request for De Novo classification of the NOVA

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

Therefore, on April 9, 2015, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 866.4750. We have named the generic type of device automated indirect immunofluorescence microscope and software-assisted system, and it is identified as a device that acquires, analyzes, stores, and displays digital images of indirect immunofluorescent slides. It is intended to be used as an aid in the determination of antibody status in clinical samples. The device may include a fluorescence microscope with light source, a motorized microscope stage, dedicated instrument controls, a camera, a computer, a sample processor, or other hardware components. The software may include fluorescent signal acquisition and processing software, data storage and transferring mechanisms, or assay specific algorithms to suggest results. A trained operator must confirm results generated with the device.

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

TABLE 1—AUTOMATED INDIRECT IMMUNOFLUORESCENCE MICROSCOPE AND SOFTWARE-ASSISTED SYSTEM RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures/21 CFR section
Inaccurate test results that provide false positive or false negative results.	Special controls (1), (2), and (3) (21 CFR 866.4750(b)(1); 21 CFR 866.4750(b)(2); and 21 CFR 866.4750(b)(3)).
Failure to correctly interpret test results can lead to false positive or false negative results.	Special controls (1), (2)(i), (2)(ii)(A), (2)(ii)(B), (2)(iii), and (3) (21 CFR 866.4750(b)(1); 21 CFR 866.4750(b)(2)(i); 21 CFR 866.4750(b)(2)(ii)(A); 21 CFR 866.4750(b)(2)(ii)(B); 21 CFR 866.4750(b)(2)(iii); and 21 CFR 866.4750(b)(3)).

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

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

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

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

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

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

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

■ 2. Add § 866.4750 to subpart E to read as follows:

§ 866.4750 Automated indirect immunofluorescence microscope and software-assisted system.

(a) *Identification.* An automated indirect immunofluorescence microscope and software-assisted system is a device that acquires, analyzes, stores, and displays digital images of indirect immunofluorescent slides. It is intended to be used as an aid in the determination of antibody status in clinical samples. The device may include a fluorescence microscope with light source, a motorized microscope stage, dedicated instrument controls, a camera, a computer, a sample processor, or other hardware components. The software may include fluorescent signal acquisition and processing software, data storage and transferring mechanisms, or assay specific algorithms to suggest results. A trained operator must confirm results generated with the device.

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

(1) The labeling for the device must reference legally marketed assays intended for use with the device.

(2) Premarket notification submissions must include the following information:

(i) A detailed description of the device that includes:

(A) A detailed description of instrumentation and equipment, and illustrations or photographs of non-standard equipment or methods, if applicable;

(B) Detailed documentation of the software, including, but not limited to, stand-alone software applications and hardware-based devices that incorporate software, if applicable;

(C) A detailed description of appropriate internal and external

quality controls that are recommended or provided. The description must identify those control elements that are incorporated into the recommended testing procedures;

(D) Detailed description and specifications for sample preparation, processing, and storage, if applicable;

(E) Methodology and protocols for detecting fluorescence and visualizing results; and

(F) Detailed specification of the criteria for test results interpretation and reporting.

(ii) Data demonstrating the performance characteristics of the device, which must include:

(A) A comparison study of the results obtained with the conventional manual method (*i.e.,* reference standard), the device, and the reading of the digital image without aid of the software, using the same set of patient samples for each. The study must use a legally marketed assay intended for use with the device. Patient samples must be from the assay-specific intended use population and differential diagnosis population. Samples must also cover the assay measuring range, if applicable;

(B) Device clinical performance established by comparing device results at multiple U.S. sites to the clinical diagnostic standard used in the United States, using patient samples from the assay-specific intended use population and the differential diagnosis population. For all samples, the diagnostic clinical criteria and the demographic information must be collected and provided. Clinical validation must be based on the determination of clinical sensitivity and clinical specificity using the test results (*e.g.,* antibody status based on fluorescence to include pattern and titer, if applicable) compared to the clinical diagnosis of the subject from whom the clinical sample was obtained. The data must be summarized in tabular format comparing the result generated by automated, manual, and digital only interpretation to the disease status;

(C) Device precision/reproducibility data generated from within-run, between-run, between-day, between-lot, between-operator, between-instruments, between-site, and total precision for multiple nonconsecutive days (as applicable) using multiple operators, multiple instruments and at multiple sites. A well-characterized panel of patient samples or pools from the associated assay specific intended use population must be used;

(D) Device linearity data generated from patient samples covering the assay measuring range, if applicable;

(E) Device analytical sensitivity data, including limit of blank, limit of detection, and limit of quantitation, if applicable;

(F) Device assay specific cutoff, if applicable;

(G) Device analytical specificity data, including interference by endogenous and exogenous substances, if applicable;

(H) Device instrument carryover data, if applicable;

(I) Device stability data including real-time stability under various storage times and temperatures, if applicable; and

(J) Information on traceability to a reference material and description of value assignment of calibrators and controls, if applicable.

(iii) Identification of risk mitigation elements used by the device, including description of all additional procedures, methods, and practices, incorporated into the directions for use that mitigate risks associated with testing.

(3) Your 21 CFR 809.10 compliant labeling must include:

(i) A warning statement that reads ''The device is for use by a trained operator in a clinical laboratory setting'';

(ii) A warning statement that reads ''All software-aided results must be confirmed by the trained operator'';

(iii) A warning statement that reads ''This device is only for use with reagents that are indicated for use with the device''; and

(iv) A description of the protocol and performance studies performed in accordance with paragraph (b)(2)(ii) of this section and a summary of the results, if applicable.

Dated: November 7, 2017.

Lauren Silvis,

Chief of Staff.

[FR Doc. 2017–24585 Filed 11–13–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2017–N–6289]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Prostatic Artery Embolization Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the prostatic artery embolization device 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 prostatic artery embolization device'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 November 14, 2017. The classification was applicable on June 21, 2017.

FOR FURTHER INFORMATION CONTACT: Benjamin Fisher, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G108, Silver Spring, MD 20993–0002, 301–796–0245, *Benjamin.Fisher@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the prostatic artery embolization device 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 to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). We determine whether a new device is substantially equivalent to a predicate by means of the procedures

for premarket notification under section 510(k) of the FD&C Act and part 807 (21 U.S.C. 360(k) and 21 CFR part 807, respectively).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (21 U.S.C. 360c(f)(2)). Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

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

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

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

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or pre-market approval 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 5, 2016, BioSphere Medical, S.A., submitted a request for De Novo classification of the Embosphere® Microspheres. FDA reviewed the request 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 generals 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 June 21, 2017, 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 876.5550. We have named the generic type of device prostatic artery embolization device, and it is identified as an intravascular implant intended to occlude the prostatic arteries to prevent blood flow to the targeted area of the prostate, resulting in a reduction of lower urinary tract symptoms related to benign prostatic hyperplasia. This does not include cyanoacrylates and other embolic agents which act by in situ polymerization or precipitation, or embolization devices used in neurovascular applications (see 21 CFR 882.5950).

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—PROSTATIC ARTERY EMBOLIZATION DEVICE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation.
Infection	Sterilization validation, Shelf-life validation, Non-clinical performance testing, and Labeling.
Non-target ischemia	Clinical data, Non-clinical performance testing, and Labeling.
Urinary retention	Labeling.
Post-prostatic artery embolization syndrome (nausea, vomiting, regional pain, non-infectious fever, minor hematuria, or hematochezia).	Labeling.

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

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 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 part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 876

Medical devices.

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

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

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

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

■ 2. Add § 876.5550 to subpart F to read as follows:

§ 876.5550 Prostatic artery embolization device.

(a) *Identification.* A prostatic artery embolization device is an intravascular implant intended to occlude the prostatic arteries to prevent blood flow to the targeted area of the prostate, resulting in a reduction of lower urinary tract symptoms related to benign prostatic hyperplasia. This does not include cyanoacrylates and other embolic agents which act by in situ polymerization or precipitation, or embolization devices used in neurovascular applications (see 21 CFR 882.5950).

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

(1) The device must be demonstrated to be biocompatible.

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

(i) Evaluation of suitability for injection through catheters intended for use in embolization; and

(ii) Evaluation of the size distribution of the device.

(3) Performance data must support the sterility and pyrogenicity of the device.

(4) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the identified shelf life.

(5) Clinical data must evaluate post-embolization damage due to non-target embolization under anticipated use conditions.

(6) The labeling must include:

(i) Specific instructions on safe device preparation and use;

(ii) The device shelf life;

(iii) Data regarding urinary retention; and

(iv) Data regarding post-prostatic artery embolization syndrome.

Dated: November 7, 2017.

Lauren Silvis,

Chief of Staff.

[FR Doc. 2017–24586 Filed 11–13–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0369; FRL–9970–70–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standard; District of Columbia, Maryland, and Virginia; Washington, DC-MD-VA Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Washington, DC–MD–VA marginal ozone nonattainment area (the Washington Area) attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Washington Area for the 2013–2015 monitoring period. The effect of this determination of attainment is that the Washington Area will not be bumped up or reclassified as a moderate nonattainment area. This determination of attainment is not equivalent to a redesignation, and the states in the Washington Area and the District of Columbia must meet the statutory requirements for redesignation in order to be redesignated to attainment. This determination is also not a clean data determination. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on December 14, 2017.

ADDRESSES: EPA established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0369. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the docket 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section below for additional availability information.

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

SUPPLEMENTARY INFORMATION:

I. Background

On April 25, 2017 (82 FR 19011), EPA published a notice of proposed rulemaking (NPR) for the Washington Area. The Washington Area consists of the Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's in Maryland; the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia; and the entirety of the District of Columbia. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone National Ambient Air Quality Standards (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

II. EPA's Evaluation

Section 181(b)(2)(A) of the CAA requires that EPA determine whether an area has attained the NAAQS by its attainment date based on complete and certified air quality data from the three full calendar years preceding an area's attainment date. The 2008 ozone NAAQS level is 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Consistent with the requirements contained in 40 CFR part 50, appendix P, EPA reviewed the ozone ambient air quality monitoring data for each monitoring site within the Washington Area for the monitoring period from 2013 through 2015, as recorded in the Air Quality System (AQS) database. Federal, state, and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that all the Washington Area monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Therefore, based on 2013–2015 certified air quality

data, EPA concludes that the Washington Area has attained the 2008 ozone NAAQS.

The specific requirements of this determination of attainment by the attainment date and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received comments that are addressed in Section III of this rulemaking action.

III. Public Comments and EPA's Responses

EPA received adverse comments from one commenter, the Center for Biological Diversity (hereinafter referred to as the ''Commenter''). The Commenter expressed general concern about the ''increasing trend in ozone levels'' and the lack of data at monitoring stations. The Commenter's specific concerns are summarized and addressed in this section. EPA also received non-adverse comments.

Comment 1: The Commenter notes that ''the 2013–2015 design values show 3 year averages below 70 ppm,'' but that ''there are many exceedances of 70 ppm on an annual basis and an increasing trend of values above 70 ppm from 2013–2015.''

Response 1: The 2008 ozone NAAQS is the relevant standard for this determination of attainment by the attainment date, and the level of that NAAQS is 0.075 ppm and not 0.070 ppm. Therefore, the Commenter's statements as to the Washington Area's design value in relation to 0.070 ppm are not relevant. As stated in the NPR, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality concentration, which is quality assured and certified, is less than or equal to 0.075 ppm. *See* 82 FR 19011, 19012.

Design values are the metrics (*i.e.,* statistics) that are compared to the NAAQS levels to determine compliance with the standard. *See* 40 CFR part 50, appendix P, section 1(b). The 8-hour, concentration-based ozone NAAQS was designed so that the ''public health risks associated with exposure to a pollutant without a clear, discernable threshold can be appropriately addressed through a standard that allows for multiple exceedances to provide increased stability, but that also significantly limits the number of days on which the level may be exceeded and the magnitude of such exceedances.'' *See* 73 FR 16435. As of its July 20, 2016 attainment date, the Washington Area's three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality concentration is less than or equal to the 0.075 ppm standard.

Comment 2: The Commenter states that the proposed rule failed to address the 2016 data from monitoring stations and whether that data achieves the 2008 ozone NAAQS.

Response 2: To determine whether an area attained by the 2008 ozone NAAQS attainment date of July 20, 2016, EPA is required to rely on the three previous full years of data, which are 2013–2015. CAA section 181(b)(2)(A); 40 CFR part 50, appendix P, section 2.3(b). Any data occurring in calendar year 2016 cannot be used in this determination because July 20, 2016 is in the middle of the 2016 ozone season and would produce only incomplete, non-quality assured, and uncertified data as of the July 20, 2016 attainment date. The statutory provision governing the type of determination of attainment EPA is finalizing today is very clear: ''the Administrator shall determine, *based on the area's design value (as of the attainment date),* whether the area attained the standard by that date.'' CAA section 181(b)(2)(A) (emphasis added). When making determinations of attainment by the attainment deadline, EPA has consistently applied this unambiguous language as restricting its analysis to the years of data that constitute the basis for an area's design value as of the specific attainment deadline. EPA's regulations at 40 CFR part 50, appendix P further clarify that the design value be derived from ''three consecutive, *complete calendar years* of air quality monitoring data.'' 40 CFR part 50, appendix P, section 2.3(b) (emphasis added). Taken together with the language of section 181(b)(2), for an attainment date of July 20, 2016, EPA is required to rely on the three previous, complete calendar years of data, which would be 2013–2015. The Commenter's request that EPA use calendar year 2016 data for this section 181(b)(2)(A) determination of attainment is not permitted under the statute and regulations.

Comment 3: The Commenter is concerned with EPA's data substitution analysis because EPA does not have complete data to make its determination. Pursuant to 40 CFR part 50, appendix P, section 2.3(b), attainment demonstrations must be based upon ''three consecutive, complete calendar years of air quality monitoring data.''

Response 3: The Commenter is correct that appendix P of 40 CFR part 50 sets minimum data completeness requirements for quality assured monitoring data that must be met in order to make a determination of attainment for the ozone NAAQS; however, appendix P also permits adding missing days assumed less than the level of the standard where appropriate in order to meet the completeness requirements. 40 CFR part 50, appendix P, section 2.3(b) states that: ''meteorological or ambient data may be sufficient to demonstrate that meteorological conditions on missing days were not conducive to concentrations above the level of the standard. Missing days assumed less than the level of the standard are counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator.'' As discussed in this rulemaking action, EPA and the District of Columbia Department of Energy and Environment (DC DOEE) provided analyses that showed the strong probability that the missing days would not have shown an exceedance of the 2008 ozone NAAQS, in accordance with appendix P, and was approved by the Region 3 Regional Administrator on December 12, 2016.

Comment 4: The Commenter states that ''the data substitution analysis performed by the Takoma Recreation Center monitoring station (Site ID 110010050) and lack of data at Site ID 110010041 is incomplete and contradictory.'' The Commenter points out that the proposed rule states that data substitution analyses were performed using ''an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements'' and that ''EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis.'' 82 FR 19013. However, the document, the ''District of Columbia—Submittal Letter for Data Substitution Analysis'' (Docket ID EPA–R03–OAR–2016–0369–0008) fails to disclose or provide the regression analysis, and implies that the only analysis that was conducted was based on ''meteorological and ambient monitoring data.''

Response 4: First, EPA notes that the document entitled ''Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station (AQS Site ID 11–001–0050)'' was created by DC DOEE (Docket Number EPA–OAR–2016–0369–0007), and not the Takoma Recreation Center, as stated in the comment.

Second, for the River Terrace monitor (AQS ID #11–001–0041), EPA did not conduct any data substitution analysis. As explained in the NPR, the reason for the lack of 2014 and 2015 data at the

River Terrace monitor was a planned temporary monitor shutdown due to site renovation and construction that EPA approved into DC DOEE's annual network monitoring plan. Therefore, EPA would not look for a valid design value at this monitor, because three years of complete data was not available. *See* 82 FR 19013. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan, and the remaining monitors in the Washington Area's network are sufficient to support a valid design value. *See* 40 CFR 58.10(a)(2). The Washington-Arlington-Alexandria, DC-VA-MD-WV metropolitan statistical area (MSA) is only required to have three ozone monitoring sites, but the area has a robust monitoring network with sixteen ozone monitoring sites spread across three states. Therefore, data from the River Terrace monitor (AQS ID #11–001–0041) was not used in this determination of attainment by the attainment date.

Third, as to the Commenter's concerns about what type of analysis was performed to achieve data completeness at the Takoma Recreation Center monitor, EPA's preamble in the NPR incorrectly stated that ''EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis.'' *See* 82 FR 19013. The DC DOEE analysis for the Takoma Recreation Center monitor did not in fact include a separate substitution analysis as a check on the validity of the temperature analysis or the regression analysis—rather, DC DOEE's analysis as a whole was comprised of both a temperature analysis and a regression analysis.[1] The Technical Support Document for the Takoma Recreation Center monitor, which was included in the docket with the proposed action, reflects the correct analysis for that monitor, which used both a temperature analysis and a regression analysis to achieve minimum data completeness. However, the preamble's misstatement does not invalidate the analyses or the choice of days assumed to be less than the ozone standard in the analyses. As noted in this rulemaking action, appendix P of 40 CFR part 50 allows missing days to be added to the site completeness using meteorological or ambient data, and that missing days assumed less than the level of the standard can be counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator. The Takoma Recreation Center analysis generated valid missing days that can be counted for the purpose of meeting the data completeness requirement in 40 CFR part 50, appendix P.

Contrary to the Commenter's suggestion, the regression analysis was included in the docket with the proposed action. The submittal letter from the DC DOEE cited in the comment (Docket EPA–R03–OAR–2016–0369–0008) included a 21-page document entitled ''Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station'' (Docket EPA–R03–OAR–2016–0369–0007). The document makes it clear that DC DOEE compared seven years of temperature data from 2009 through 2015 from Reagan International Airport with actual measured ozone concentrations from 2009 through 2015 at eight nearby ozone ambient monitors to determine whether there was a measured temperature below which none of those monitors recorded an exceedance of the 0.075 ppm ozone standard. Docket EPA–R03–OAR–2016–0369–0007, pp. 5–7. This analysis determined that during this seven-year period, none of these monitors exceeded the 0.075 ppm ozone standard when the temperature was below 84 degrees Fahrenheit. Based on this finding, DC DOEE concluded that any ozone season day during 2013 (the year with missing data) for which the high temperature did not exceed 84 degrees Fahrenheit would likely measure below the 0.075 ppm ozone standard. Based on this assumption, DC DOEE flagged 68 days during the 2013 ozone season in the Takoma Recreation Center monitor's data as ''BG,'' meaning ''missing ozone data [but] not likely to exceed the level of the standard.'' Docket EPA–R03–OAR–2016–0369–0007, pp. 5–7. Adding these 68 days in 2013 determined to be days below the ozone standard to the existing data set did not result in enough data points to meet the minimum yearly 75% completeness standard for ozone at this monitor. Therefore, the DC DOEE's analysis then used a regression analysis to determine whether additional ozone season days with missing data could be assumed to be below the ozone standard at the Takoma Recreation Center monitor. Docket EPA–R03–OAR–2016–0369–0007, p. 7. Using this regression analysis, measured ozone values at the nearby McMillan ozone monitor were found to correlate strongly with measured ozone values at the Takoma Recreation Center monitor, such that an equation could be developed to predict missing ozone values at the Takoma Recreation Center monitor by using actual measured values from the McMillan monitor in the equation for those missing days. The regression equation identified a number of days in 2013 at the Takoma Recreation Center monitor where the temperature exceeded 85 degrees but the predicted ozone values did not exceed 0.075 ppm. Using this method, DC DOEE added 4 days in September 2013 with temperatures above 85 degrees and 5 days in October 2013 with temperatures exceeding 85 degrees to the 2013 ozone data for the Takoma Recreation Center monitor, also using the ''BG'' flag. In total, 77 days were added to the Takoma Recreation Center monitoring station.

Comment 5: The Commenter noted that EPA relies upon the ''null code'' submission for 77 days for the Takoma Recreation Center monitoring station. A null qualifier is required when submitting a null (*i.e.,* nothing was collected) sample measurement. The Commenter stated there is no analysis to demonstrate that the data collected on those 77 days was below the 2008 ozone NAAQS. Furthermore, the inclusion of a lack of data, instead of modeled data projections, fails to meet the data completeness requirements.

Response 5: The analysis showing that 77 days at the Takoma Recreation Center monitor meets the minimum data completeness requirement is contained in the DC DOEE's ''Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station'' (Docket Number EPA–R03–OAR–2016–0369–0007). Also, see the response to Comment 4.

The lack of data, as represented by a ''BG'' or other null code, for those days when the Takoma Recreation Center monitor did not measure valid ozone readings, does not automatically mean a failure to meet the data completeness requirements of 40 CFR part 50, appendix P. Nor does appendix P require ''modeled data projections.'' Rather, when there is a lack of data represented by a null code, section 2.3(b) of appendix P provides that those missing days may be used if they are reasonably assumed to be less than the level of the standard. The detailed temperature and regression analyses approved by the Regional Administrator, and included in the docket, establish the basis for EPA's conclusion that certain missing days at the Takoma Recreation Center monitor can be assumed to be less than the level of the NAAQS and therefore may be

[1] As discussed in Comment 6, the EPA Clean Air Markets Division (CAMD) analysis for the Beltsville CASTNET monitor also did not perform a substitution analysis.

counted towards the data completeness requirement.

Comment 6: It is also unclear whether the CAMD—Data Substitution Analysis (Docket ID: EPA–R03–OAR–2016–0369–0006) for the CASTNET ozone monitor at the Beltsville, Maryland site provides the meteorological and substitution analysis as stated in the proposed rule and as required by the CAA. 40 CFR part 50, appendix P, section 2.3(b).

Response 6: As noted in response to Comment 4, the preamble to the NPR incorrectly stated that a meteorological analysis, regression analysis, and a data substitution analysis were performed for both monitors. As shown in the analysis for the Beltsville CASTNET monitor (AQS ID #24–033–9991) (Docket Number: EPA–R03–OAR–2016–0369–0006), the EPA CAMD analysis was a linear regression analysis only. The regression analysis uses ambient data from a nearby monitor that closely correlates to readings from the monitor with the missing days. In accordance with appendix P, where the regression analysis projects that monitored values on the missing days would be less than the level of the NAAQS, EPA includes those in its completeness calculations.

Comment 7: The Commenter stated that the proposed rule is clear that it fails to include the data for Site ID 110010041 for all of 2014 and 2015 and fails to achieve the data completeness standards as required by 40 CFR part 50, appendix P.

Response 7: As discussed in Response 4, EPA explained in the NPR that the reason for lack of 2014 and 2015 data at the River Terrace monitor (AQS ID #11–001–0041) was a planned monitor shutdown approved into DC DOEE's annual network monitoring plan. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan. *See* 40 CFR 58.10(a)(2). Therefore, this monitor was not relied on for this determination of attainment by the attainment date. *See* 82 FR 19013. The data completeness requirements of appendix P do not apply to this monitor.

Comment 8: EPA also received comments and an inquiry from a student supporting the environment and seeking more information regarding how air monitoring is performed and why the 2008 ozone standard is still discussed even though it is no longer 2008.

Response 8: More information regarding the ozone NAAQS and air monitoring standards is available at *www.epa.gov.* For the Washington Area, the area had to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. As stated in the NPR, in a final rulemaking action published on May 4, 2016, EPA determined that the Washington Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012–2014 monitoring period. In that same action, EPA determined that the Washington Area qualified for a 1-year extension of its attainment date. *See* 81 FR 26697. This ruling determines that the Washington Area attained the 2008 ozone NAAQS by this extended attainment date, using the required 2013–2015 air quality data.

Comment 9: EPA also received comments that were not germane to this final ruling but referred generally to air quality standards and regulations. The comments included support of keeping EPA regulations in place to protect human health and the environment.

Response 9: EPA appreciates the supportive comments, and notes that ozone air quality monitoring will continue and existing air quality standards and regulations will remain in place. These include all standards and regulations that apply to the Washington Area marginal nonattainment area, which include those pertaining to its membership in the ozone transport region (OTR). This determination of attainment by the attainment date does not reduce or revoke any existing ozone monitoring or control requirements.

IV. Final Action

EPA is making a final determination, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone NAAQS (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment or a clean data determination.

V. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action finalizes a determination of attainment by the attainment date for the 2008 ozone NAAQS based on air quality data and does not impose additional requirements. For that reason, this determination of attainment:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the Washington Area marginal nonattainment area does not include any Indian country located in these states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 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 determining that the Washington Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 27, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart J—District of Columbia

■ 2. In § 52.475, paragraph (c) is added to read as follows:

§ 52.475 Determinations of attainment.

* * * * *

(c) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart V—Maryland

■ 3. In § 52.1082, paragraph (k) is added to read as follows:

§ 52.1082 Determinations of attainment.

* * * * *

(k) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart VV—Virginia

■ 4. In § 52.2430, paragraph (c) is added to read as follows:

§ 52.2430 Determinations of attainment.

* * * * *

(c) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2017–24537 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0436; FRL–9970–66–Region 1]

Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions include regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Rhode Island. The revised program includes a test and repair network consisting of on-board diagnostic (OBD2) testing for model year 1996 and newer vehicles and tailpipe exhaust test, using a dynamometer, for model year 1995 and older vehicles. The intended effect of this action is to approve the revised program into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective January 16, 2018, unless EPA receives adverse comments by December 14, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2009–0436 at *www.regulations.gov,* or via email to *garcia.ariel@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA Region 1 Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number: (617) 918–1660, email: *garcia.ariel@epa.gov*.

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

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I. Background and Purpose

On January 28, 2009, the State of Rhode Island submitted a formal revision to its State Implementation Plan (SIP). This SIP revision included regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Rhode Island. Rhode Island submitted a supplement to this 2009 SIP revision on February 17, 2017; this supplement included the emissions modeling and I/M SIP narrative required by EPA's I/M regulations. EPA is approving Rhode Island's revised I/M program because it is consistent with the CAA's I/M requirements and EPA's I/M regulations, and will strengthen the SIP. Specifically, the SIP revisions include amendments to the Rhode Island Department of Environmental Management's (DEM's) Air Pollution Control Regulation (APCR) No. 34, ''Rhode Island Motor Vehicle Inspection/Maintenance Program,'' and the Rhode Island Division of Motor Vehicles' (DMV's) regulation ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1,'' and other administrative and technical documentation required in a SIP submittal to address the requirements for the implementation of the motor vehicle I/M program in Rhode Island. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. What are the Clean Air Act requirements for I/M programs?

The CAA, 42 U.S.C. 7401 *et seq.,* requires certain states to implement an enhanced I/M program to detect gasoline-fueled motor vehicles which emit excessive amounts of certain air pollutants. The enhanced I/M program is intended to help states meet federal health-based national ambient air quality standards (NAAQS) for ozone and carbon monoxide by requiring vehicles with excess emissions to have their emissions control systems repaired. Section 182 of the CAA requires I/M programs in those areas of the nation that are most impacted by carbon monoxide and ozone pollution. Section 184 of the CAA also created an ''Ozone Transport Region'' (OTR), and includes I/M requirements for that region. The OTR geographically extends from northern Virginia to Maine, including the entire state of Rhode Island. In addition, EPA promulgated I/M regulations at 40 CFR part 51, subpart S. Depending on the severity of an area's nonattainment classification and/or geographic location within the OTR, EPA's regulation under 40 CFR 51.350 outlines the appropriate motor vehicle I/M requirements.

As a result of having areas designated nonattainment for the 1997 8-hour ozone NAAQS (see 40 CFR 81.340 for Rhode Island), and by virtue of its inclusion in the OTR, Rhode Island has implemented an enhanced vehicle emissions testing program throughout the entire State. Rhode Island began implementing an I/M program in January 2000. The Rhode Island I/M program was first approved into the SIP on February 9, 2001(66 FR 9661), and Rhode Island's SIP submittal included all of the elements required of an I/M program as specified in 40 CFR part 51, subpart S. Since that time, the program has been modified in a number of ways. Most notably it has been changed to a test and repair network, and now also includes on-board diagnostic (OBD2) testing of model year 1996 and newer vehicles.

III. What are the OBD2 requirements and how does Rhode Island's program address these requirements?

On April 5, 2001 (66 FR 18156), EPA published in the **Federal Register** ''Amendments to Vehicle Inspection and Maintenance Program Requirements Incorporating the On-Board Diagnostics Check.'' EPA's revised I/M rule requires that electronic checks of the On-Board Diagnostics (OBD2) system on model year 1996 and newer OBD2-equipped motor vehicles be conducted as part of states' motor vehicle I/M programs. OBD2 is part of the sophisticated vehicle powertrain management system and is designed to detect engine and transmission problems that might cause vehicle emissions to exceed allowable limits. OBD2 requirements are a key part of this rulemaking action.

The OBD2 system monitors the status of up to 11 emission control related subsystems by performing either continuous or periodic functional tests of specific components and vehicle conditions. The first three testing categories: Misfire; fuel trim; and comprehensive components, are continuous, while the remaining eight only run after a certain set of conditions has been met. The algorithms for running these eight periodic monitors are unique to each manufacturer and involve such things as ambient temperature as well as driving conditions. Most vehicles will have at least five of the eight remaining monitors (catalyst, evaporative system, oxygen sensor, heated oxygen sensor, and exhaust gas recirculation or EGR system) while the remaining three (air conditioning, secondary air, and heated catalyst) are not necessarily applicable to all vehicles. When a vehicle is scanned at an OBD2–I/M test site, these monitors can appear as either ''Ready'' (meaning the monitor in question has

been evaluated, also interchangeably appears as ''Complete'' on some vehicles), ''Not Ready'' (meaning the monitor has not yet been evaluated, also interchangeably appears as ''Not Complete'' on some vehicles), or ''Unsupported'' (meaning the vehicle is not equipped with the component monitor in question and the monitor is not applicable). The monitors that are available in a certain vehicle's emission control design are referred to as being ''Supported,'' and only supported monitors need to be evaluated by the vehicle's computer to ultimately receive a ''Ready'' or ''Not Ready'' designation.

The OBD2 system is also designed to fully evaluate the vehicle's emissions control system. If the OBD2 system detects a problem that may cause vehicle emissions to exceed 1.5 times the Federal Test Procedure (FTP) standards, then the Malfunction Indicator Light (MIL) is illuminated. By turning on the MIL, the OBD2 system notifies the vehicle operator that an emissions-related fault has been detected and the vehicle should be repaired as soon as possible, thus reducing the harmful emissions contributed by the vehicle.

EPA's revised OBD2 I/M rule applies to those areas that are required to implement I/M programs under the CAA, which includes Rhode Island. The revised I/M program submitted by Rhode Island on January 28, 2009, and supplemented on February 17, 2017, includes OBD2 testing for model year 1996 and newer vehicles, and continues to require that 1995 and older vehicles (up to 25 years old) continue to receive a tailpipe emissions test using a dynamometer to meet the previously SIP-approved exhaust emissions standards,[1] or a two-speed idle test for vehicles with drive configurations that prevents a dynamometer test. Rhode Island's motor vehicle I/M program conducts OBD2 tests on gasoline and diesel powered light-duty vehicles; light-duty vehicles being those vehicles with a gross vehicle weight rating (GVWR) of up to and including 8,500 pounds.

EPA's OBD2 program requires scan tool equipment to read the vehicle's built-in computer sensors in model year 1996 and newer vehicles. The OBD2–I/M check consists of two types of examination: A visual check of the dashboard display function and status; and an electronic examination of the OBD2 computer itself. The failure criteria for OBD2 testing is any Diagnostic Trouble Code (DTC) or combination of DTCs that result in the MIL to be commanded on. A DTC is a code that indicates a malfunction in an emission control system or component which may cause emissions to increase to 1.5 times the limit due to the malfunction. Rhode Island has incorporated these OBD2 program elements into its program.

If the OBD2 scan reveals DTCs that have not commanded the MIL on, the motorist should be advised of the issue, but the vehicle should not be failed unless other non-DTC based failure criteria have been met. Vehicles may fail an inspection if the vehicle connector is missing, tampered with or otherwise inoperable, if the MIL is commanded and is not visually illuminated, and if the MIL is commanded on for one or more DTCs as defined in the Society of Automotive Engineering (SAE) J2012 guidance document, and EPA regulations.

Vehicles are rejected from testing if the scan of the OBD2 system reveals a ''Not Ready'' code for any OBD2 component. EPA's Final Implementation Guidance (''Performing Onboard Diagnostic System Checks as part of a Vehicle Inspection and Maintenance Program,'' EPA 420–R–01–015, June 2001) allows states the flexibility to permit model year 1996 to 2000 vehicles with two or fewer unset readiness codes, and model year 2001 and newer vehicles with one unset readiness code to complete an OBD2–I/M inspection without being rejected. Vehicles would still fail if the MIL was commanded on or if other failure criteria were met, or be rejected from inspection if three or more unset readiness codes were encountered. If the MIL is not commanded to be illuminated the vehicle would pass the OBD2 inspection even if DTCs are present. Rhode Island's testing program is consistent with the EPA recommended readiness failure criteria. Rhode Island DEM's APCR No. 34 requires that the program meet the OBD2 testing requirements and procedures set forth in 40 CFR 85.2222.[2]

EPA believes that for an OBD2–I/M test program to be most effective, it should be designed to allow for: (1) Real-time data link connections to a centralized testing database; (2) quality-controlled input of vehicles and owner identification information; and (3) automated generation of test reports. Rhode Island has incorporated these OBD2 program elements into the State's I/M program.

IV. What are all the other I/M regulatory requirements and how does Rhode Island's I/M program satisfy these requirements?

A. Applicability

As previously stated above, Section 182 of the CAA requires I/M programs in those areas of the nation that are most impacted by carbon monoxide and ozone pollution. Rhode Island has had varying nonattainment designations and classifications for the ozone NAAQS.[3] Nonetheless, Section 184 of the CAA requires areas in the OTR (such as Rhode Island), to implement enhanced vehicle I/M programs.

The SIP describes in detail the areas subject to the enhanced I/M program and, consistent with 40 CFR 51.372, includes the legal authority necessary to establish program boundaries. The Rhode Island I/M regulations (RI DEM's APCR No. 34 ''Rhode Island Motor Vehicle Inspection/Maintenance Program,'' and RI DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1'') and authorizing legislation (Rhode Island General Laws at Title 31, Chapter 31–47.1) ensure that the enhanced I/M program be implemented statewide.

B. Enhanced I/M Performance Standard

Today's rulemaking discusses the I/M program designed, in part, to meet the enhanced I/M performance standard for ozone precursors in Rhode Island. EPA's performance standard establishes an emission reduction target that must be met by an I/M program in order for the SIP to be approvable. The program, as documented in the SIP, must meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The emissions modeling conducted as part of the performance standard evaluation in the I/M SIP submittal illustrates that the revised Rhode Island I/M program, contained in the January 28, 2009 and February 17, 2017 SIP revisions, is more stringent than the federally-required performance

[1] Rhode Island's previous I/M SIP submittal was approved on February 9, 2001 (66 FR 9661). Although Rhode Island only requires compliance with the emissions testing program of vehicles up to 25 model years old, Rhode Island does conduct an advisory-only emissions test on all vehicles regardless of age, in conjunction with the safety inspection conducted on those older vehicles.

[2] Rhode Island's Air Pollution Control Regulation No. 34, at subsection 34.5, directly cites, and therefore incorporates by reference, the federal regulation at 40 CFR 85.2222. For purposes of the federal SIP, EPA interprets Rhode Island's regulation as incorporating by reference the version of 40 CFR 85.2222 as amended on April 5, 2001 (66 FR 18156), rather than prospectively incorporating any future changes to 40 CFR 85.2222.

[3] See Nonattainment Areas for Criteria Pollutants at *www.epa.gov/green-book*.

standard, and more stringent than Rhode Island's preceding I/M program approved into the SIP on February 9, 2001 (66 FR 9661). Thus, these Rhode Island SIP revisions satisfy the requirements of the CAA Section 110(l) because the SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA.

Included in Rhode Island's February 17, 2017 submittal is the appropriate vehicle emission modeling demonstration, using EPA's MOtor Vehicle Emissions Simulator Model (MOVES), considering the required performance standards and the actual Rhode Island program as it is currently being implemented statewide, as well as a comparison to the preceding I/M program approved on February 9, 2001 (66 FR 9661), that the State is no longer implementing. The modeling runs considered evaluations with 2015, 2016, and 2017 compliance dates. Rhode Island has demonstrated that reductions from its updated program are greater than those achieved by the preceding I/M program, and the EPA performance standard. The MOVES modeling performed reflects the fact that Rhode Island tests all gasoline-powered vehicles that are less than 25 years old. Model year 1996 and newer vehicles are tested with OBD2, and pre-1996 vehicles (*i.e.,* they are not equipped with OBD2 technology) are tested using an exhaust dynamometer test. Vehicles are tested every other year, and vehicles up to 2 years old that have driven less than 24,000 miles are not tested. Vehicle testing requirements are included in APCR No. 34, and details of meeting the performance standard are included in section 2 of the SIP narrative.

C. Network Type and Program Evaluation

Under the CAA and EPA's I/M rule, the SIP must include a description of the network to be employed and the required legal authority. Also, for enhanced I/M areas, the SIP needs to include a description of the evaluation schedule and protocol, the sampling methodology, the data collection and analysis system, the resources and personnel for evaluation and related details of the evaluation program, as well as the legal authority establishing the evaluation program.

Rhode Island has maintained its decentralized test and repair I/M network program design utilizing contractors to manage and oversee the inspection portion of the program. Rhode Island's decentralized infrastructure meets all the federal I/M requirements. Rhode Island has implemented a continuous ongoing evaluation program consistent with the federal I/M rule. Rhode Island commits to developing and submitting the annual and biennial reports described by 40 CFR 51.366 and the results of the evaluation programs are included in the annual and biennial reports. In addition, the ongoing evaluation program consists of conducting on-road testing, as required by 40 CFR 51.371, by using remote sensing to test the emissions performance of the required amount of vehicles in the State's motor vehicle fleet. The remote sensing data collected by Rhode Island continually supports that the Rhode Island I/M program is efficiently reducing emissions. Rhode Island has sufficient legal authority to implement this contractor managed program in concert with local inspection stations and to conduct the program evaluation, as necessary to implement I/M consistent with federal requirements. Details of the network type and program evaluation are included in section 3 of the SIP narrative.

D. Adequate Tools and Resources

Under the CAA and EPA's I/M rule, the SIP must include a description of the resources that will be used for program operation and must discuss how the performance standard will be met, including: (1) A detailed budget plan describing the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment (such as vehicles for undercover audits), and for other requirements discussed throughout the I/M rule; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions, and the training attendant to each function.

Rhode Island operates a self-funded I/M program, in which, revenue from the inspection fee charged to motorists is used for all expenses associated with the administration, implementation, and enforcement of the enhanced I/M program. The Rhode Island DEM provides additional support to the I/M program by providing a full-time ''Air Quality Specialist'' that devotes 100% of staff time to serving as a DEM to the Rhode Island DMV's operation of the Rhode Island I/M program. Rhode Island has adequate staff dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary program functions. Section 4 of the State's SIP narrative, and the appendices to the SIP narrative, describe the budget, staffing support, and equipment needed to implement the program.

E. Test Frequency and Convenience

Under EPA's I/M rule, the SIP must include a detailed test schedule, including the test year selection scheme if testing is other than annual. The SIP must also include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process. In addition, in enhanced I/M programs, the SIP needs to demonstrate that the network of stations providing testing services is sufficient to ensure customer convenience by providing short waiting times for a test, and short driving distances to the test center.

The Rhode Island SIP revision requires biennial inspections for all subject motor vehicles that are at least two years old, or newer vehicles that have driven at least 24,000 miles. The inspections are conducted based on when the vehicle is initially purchased. To provide motorist's convenience, Rhode Island has set geographic criteria ensuring that at least one testing facility is located in each city or town in the State. Section 5 of the SIP narrative and the contract with the I/M program vendor includes additional information for ensuring convenient testing wait times and convenient testing locations. The authority for enforcing the testing frequency is contained in the Rhode Island DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1,'' covering the emissions testing of light-duty vehicles in Rhode Island.

F. Vehicle Coverage

Under EPA's I/M rule, the SIP must include a detailed description of the number and types of vehicles to be covered by the program, and a plan for identifying subject vehicles, including vehicles that are routinely operated in the area but may not be registered in the area. Also, the SIP must include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of vehicles granted such exemptions. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include legal authority necessary to implement and enforce the vehicle coverage requirement.

The Rhode Island I/M program covers all light-duty vehicles and light-duty trucks, rated up to and including 8,500 pounds GVWR, operating on all fuel

types, as required by the federal I/M rule for enhanced programs. Rhode Island requires biennial testing of vehicles, which are less than 25 years old, except any new motor vehicle until twenty-four months after its date of initial purchase or 24,000 miles, whichever occurs first. In addition, Rhode Island's enhanced I/M program covers any motor vehicle fleets, including all federal, state, and municipal fleets; as well as any motor vehicle operating on the highways of Rhode Island with a dealer registration, loan agreement, or being operated as a demonstration vehicle.

Rhode Island exempts special classes of vehicles from the emissions testing program being approved in today's Direct Final Rulemaking, including: Vehicles older than 25 model years old;[4] new vehicles until 24 months after its date of initial purchase or until such new vehicle has been driven for 24,000 miles, whichever occurs first; tactical military vehicles; electric vehicles; competition and off-road vehicles used solely for off-highway activities; motorized wheelchairs; motorcycles; farm tractors; and special mobile equipment. Rhode Island's I/M program also provides a temporary exemption from the emissions testing requirement for vehicles that may be temporarily out of State, but the operator of such a vehicle must obtain an emissions inspection within five days of returning to the State. In addition, vehicles owned or controlled by a dealer are granted a temporary exemption for the first five days after the vehicle is owned or controlled by the dealer. Based on information provided in the SIP submittal, Rhode Island has shown that such exemptions will not prevent the program from achieving the EPA-required performance standard. Additional detail supporting this conclusion was included in section 6 of the SIP narrative. Legal authority for the vehicle coverage requirements are contained in the Rhode Island I/M regulations (RI DEM's APCR No. 34 ''Rhode Island Motor Vehicle Inspection/Maintenance Program,'' and RI DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1''), and the authorizing legislation (Rhode Island General Laws at Title 31, Chapter 31–47.1).

G. Test Procedures and Standards

Under EPA's I/M rule, the SIP must include a description of each test procedure used. The SIP also must include the rule, ordinance, or law describing and establishing the test procedures. Rhode Island's enhanced I/M program requires that all vehicles, equipped with OBD2 technology, be subjected to an OBD2 inspection. Rhode Island gasoline-powered vehicles are tested using one of three methods: (1) OBD2 testing, (2) a dynamometer test to test tailpipe exhaust emissions, or (3) a two-speed idle test. Rhode Island diesel-powered vehicles are tested using one of two methods: (1) An OBD2 test on OBD2-equipped diesel vehicles, or (2) a dynamometer opacity test. The Rhode Island I/M SIP revision and associated regulations obligate the State to perform OBD2 testing on all model year 1996 and newer vehicles, in accordance with EPA procedures. All model year 1995 and older covered vehicles, excluding full time four-wheel-drive vehicles, continue to receive a tailpipe emissions test using a dynamometer to meet the previously SIP-approved exhaust emissions standards for gasoline-powered vehicles or opacity emission standards for diesel-powered vehicles. A gasoline-powered vehicle which cannot be tested using either OBD2 or the dynamometer test, will be given a two-speed idle test.[5] Rhode Island's OBD2 testing procedures are based on the testing procedures established by EPA for light-duty vehicles in 40 CFR 85.2222. Details of the test procedures and standards are included in Rhode Island's I/M regulations and in section 7 of the SIP narrative.

H. Test Equipment

Under EPA's I/M rule, the SIP must include written technical specifications for all test equipment used in the program and address each of the requirements set forth at 40 CFR 51.358. The specifications must describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

Rhode Island's SIP submittal provides written equipment specifications as contained in EPA's Final Implementation Guidance and the appendices of EPA's I/M rule. The Rhode Island SIP submission and its appendices address the requirements in 40 CFR 51.358 and include descriptions of performance features and functional characteristics of the computerized test systems. The SIP submittal references 40 CFR part 51 and Part 85, and are consistent with the procedures outlined in 40 CFR 85.2222 and EPA's June 2001 Final Implementation Guidance. The necessary test equipment, required features, and acceptance testing criteria are discussed in section 8 of the Rhode Island SIP narrative.

I. Quality Control

Under EPA's I/M rule, the SIP must include a description of quality control and recordkeeping procedures. The SIP also must include the procedures manual, rule, and ordinance or law describing and establishing quality control procedures and requirements.

The Rhode Island I/M SIP narrative and contract contain descriptions and requirements establishing the quality control procedures in accordance with the federal I/M rule and EPA's Final Implementation Guidance. These requirements will help ensure that equipment calibrations are properly performed and recorded and that the necessary compliance document security is maintained. As described in section 9 of the SIP narrative, the Rhode Island SIP complies with all specifications for quality control set forth in Section 51.359 and Appendix A of the federal I/M rule, and EPA's Final Implementation Guidance.

J. Waivers and Compliance via Diagnostic Inspection

Under EPA's I/M rule, the SIP must include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate is used for estimating emission reduction benefits in the modeling analysis. Corrective action must be taken if the waiver rate exceeds that estimated in the SIP, or a state must revise its SIP and claim emission reductions accordingly. The SIP also must describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP must include the necessary legal authority, ordinance(s), or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

Cost limits for the minimum expenditure waivers must be in accordance with the CAA and the federal I/M rule. According to federal requirements, expenditures of at least $450 for actual, non-tampering related repairs, must be spent in order to

[4] Section 1.3.1 of the Rhode Island DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1'' states that Rhode Island exempts ''any model year vehicle 25 years old or older from the requirement to obtain repairs in order to comply, but such vehicles must undergo an emissions inspection.''

[5] Gasoline and diesel powered vehicles with known issues with readiness monitors, or lack of electronic communication, cannot be tested using OBD2. Full time four-wheel-drive vehicles cannot be tested on a dynamometer. Diesel-powered vehicles that cannot be tested on a dynamometer will not be subjected to an emissions test.

qualify for a waiver in an enhanced I/M program; this amount shall be adjusted annually according to changes in the Consumer Price Index as specified in 40 CFR 51.360(a)(7). Rhode Island DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1'' at section 1.9.1(d) allows for waivers to be issued which meet minimum repair expenditures in accordance with the federal I/M rule. Section 10 of Rhode Island's SIP narrative describes that expenditure waivers are allowed to be issued if a motorist makes an expenditure of at least $700 on actual, non-tampering related repairs on a vehicle that still does not pass the required emissions test. Rhode Island intends to annually update the cost to receive a waiver from the emissions testing program in accordance with federal requirements. In addition, Rhode Island allows for an economic hardship time extension as allowed under EPA's rule. Rhode Island has demonstrated that it can meet the enhanced I/M performance standard testing with the I/M program as it is described in the SIP submittal.

The Rhode Island I/M program commits to a waiver rate of one percent per inspection cycle, that is, a maximum of 1% of initially failed vehicles are allowed to receive a waiver in a given two-year period. The 1% waiver rate is used in the performance standard modeling demonstration discussed in Section IV.B., ''*Enhanced I/M Performance Standard,*'' of today's rulemaking. The 1% waiver rate is incorporated into the performance standard modeling demonstration in accordance with EPA's modeling guidance, ''Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model'' (EPA–420–B–14–006, January 2014). Rhode Island's SIP narrative describes the types of waivers that will be allowed: Minimum expenditure waivers; economic hardship time extensions; and/or a diagnostic waiver.[6] These issues are dealt with in a manner consistent with the federal I/M rule. The proper criteria, procedures, quality assurance and administration regarding the issuance of waivers, consistent with EPA's I/M rule, will be ensured by Rhode Island and the State's I/M program contractor and are detailed in section 10 of the SIP narrative and in the State's I/M regulations.

K. Motorist Compliance Enforcement

Under EPA's I/M rule, the SIP must provide information concerning motorist enforcement, including: (1) A description of the existing compliance mechanism if it will continue to be used for the program, and the demonstration that it is as effective, or more effective, than registration denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of, and accounting for, all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, and any other special classes of subject vehicles, such as those operated (but not necessarily registered) in the program area. Also, a SIP must include a determination of the current compliance rate based on a study of the system including an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism must be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP must include a commitment to an enforcement level and minimum compliance level used for modeling purposes and to be maintained, at a minimum, in practice.

The State of Rhode Island has chosen to use a program of denying registration to anyone who fails to meet emissions testing requirements. The motorist compliance enforcement program will be implemented primarily by the Rhode Island DMV. However, State police and local law enforcement can provide citations for vehicles not complying with the I/M program. The enforcement strategy is described in the Rhode Island SIP submittal. The enforcement strategy is designed to ensure a high rate of compliance. Any motorist who operates their vehicle on the highways in Rhode Island that is not in compliance with the I/M program will face fines and suspension of their registration. Those not receiving the emissions test as scheduled will be subject to fines and late penalties, and will also be denied registration when their registration expires. Rhode Island presently has over a 96% compliance rate with the emissions inspection program. The legal authority to implement and enforce the program is included in Rhode Island's I/M regulations and the State's General Laws. Additional detail of the motorist compliance enforcement program is included in section 11 of the SIP narrative.

L. Motorist Compliance Enforcement Program Oversight

Under EPA's I/M rule, the SIP must include a description of enforcement program oversight and information management activities.

The Rhode Island I/M SIP revision provides for regular auditing of its enforcement program and adherence to effective management practices, including adjustments to improve the program when necessary. These program oversight and information management activities are described in the SIP narrative, and include a description of the emissions testing database and how this system interfaces with registration records. If a vehicle is out of compliance with the emissions testing requirement, registration is denied. This is done through computer matching and is directly available to law enforcement. The SIP describes the procedures to be followed in identifying noncomplying vehicles, along with appropriate follow-up and program documentation audits in section 12 of the SIP narrative.

M. Quality Assurance

Under EPA's I/M rule, the SIP must include a description of the quality assurance program, and written procedure manuals covering both overt and covert performance audits, record audits, and equipment audits.

The Rhode Island SIP submittal includes a description of the quality assurance program. The quality assurance program will include overt and covert performance audits, digital audits on station and inspector performance, and equipment audits. Rhode Island covers all of its program's inspection stations with the implemented quality assurance plan and conducts overt and/or covert audits, both in response to customer complaints and as targeted follow-up. Detailed quality assurance/quality control (QA/QC) procedures are included in the SIP submittal at section 13 of the SIP narrative and in the inspection program service agreement contract.

N. Enforcement Against Contractors, Stations, and Inspectors

Under EPA's I/M rule, the SIP must include a penalty schedule and legal authority for establishing and imposing penalties, civil fines, station and inspector license suspension, and

[6] A diagnostic waiver applies to vehicle owners of a vehicle that has failed an emissions inspection, and subsequent re-inspection, and after undergoing a complete, documented physical and functional diagnosis and inspection conducted by the Rhode Island Division of Motor Vehicles, it is determined that the vehicle has all emission control devices in place and operating properly and no additional repairs are reasonably possible or because a vehicle is unable to get repaired because the necessary emission parts are no longer available or no longer manufactured.

revocations. In the case of state constitutional impediments precluding immediate authority to suspend licenses, the State Attorney General shall furnish an official opinion within the SIP explaining the constitutional impediment as well as relevant case law. The SIP also must describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including the agencies, courts, and jurisdictions involved; personnel to prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to the enforcement function, and the source of those funds. In states that are without immediate suspension authority, the SIP must demonstrate that sufficient resources, personnel, and systems are in place to meet the three-day case management requirement for violations that directly affect emission reductions.

The Rhode Island I/M SIP revision includes specific penalties in its enforcement against contractors, stations and inspectors in accordance with the federal I/M rule. Based on the Rhode Island SIP submittal, dated January 28, 2009 and supplemented on February 17, 2017, the State's enforcement procedures can be pursued through contractual or regulatory action. The State, through the contract that it has been authorized to enter into and directly under Rhode Island General Laws at Title 31, Chapter 31–47.1, has the authority to immediately suspend a station inspector for violations that directly affect emission reduction benefits and a variety of other violations of procedures. Details on enforcement against contractors, stations, and inspectors are found in section 14 of the SIP submittal narrative.

O. Data Collection, Analysis, and Reporting

Under EPA's I/M rule, the SIP must describe the types of data to be collected. EPA's I/M rule also requires that the SIP describe the procedures for data analysis and reporting to allow for monitoring and evaluation of the program.

The Rhode Island I/M SIP revision provides for collecting test data to link specific test results to specific vehicles, I/M program registrants, test sites, and inspectors. The test data and quality control data which will be collected are described in section 15 of the SIP narrative and the inspection program service agreement contract. The data will be used to generate reports concerning test data, quality assurance, quality control, enforcement, as well as necessary changes and identified weaknesses in the I/M program. Rhode Island has also committed to collecting all data necessary for quality assurance and enforcement reports, as required by section 51.366 of the federal I/M rule. Details on data analysis and reporting are found in section 16 of Rhode Island's SIP narrative.

P. Inspector Training and Licensing or Certification

Under EPA's I/M rule, the SIP must include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Rhode Island I/M SIP submittal provides details on the inspector training program. The Rhode Island I/M SIP provides for implementation of training, licensing, and refresher programs for emission inspectors. The SIP and the inspection contract describe the inspector training program and curriculum including written and hands-on testing. All inspectors will be required to be certified to inspect vehicles in the Rhode Island I/M program. Further details of the inspector training program are included in section 17 of the SIP narrative and Appendix I of the SIP revision.

Q. Public Information and Consumer Protection

Under EPA's I/M rule, the SIP must include a plan for consumer protection and informing the public, on an ongoing basis, of the air quality problems, the need for and benefits of a motor vehicle inspection program, and how to find a qualified repair technician, amongst other information related to the requirements of the I/M program.

Rhode Island has implemented a Web site for the State's I/M program.[7] The Web site is designed to provide information to motorists, the general public, inspectors, and repair technicians regarding the State's I/M program. Rhode Island has the ability to take in general questions and concerns, both via a telephone hotline and electronically via the Web site, and has established a mechanism by which a vehicle owner can contest the results of an inspection. Further details of the public information and consumer protection plan are included in the inspection program service agreement contract and in section 18 of the SIP narrative.

R. Improving Repair Effectiveness

Under EPA's I/M rule, the SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

In the SIP submittal, Rhode Island provided additional detail and a description of the technical assistance, performance monitoring and repair technician training programs to be implemented. The SIP revision, as detailed in section 19 of the SIP narrative, provides for regularly informing repair facilities about changes to the inspection program, training course schedules, common problems, and potential solutions for particular engine families, diagnostic tips, repairs, and other assistance issues. As described in the SIP submittal, the State has also ensured that repair technicians may utilize the telephone hotline, or the electronic inquiry system on the program Web site, with any repair questions or concerns. Performance monitoring statistics of repair facilities will be provided to motorists whose vehicles fail the I/M test, as required in enhanced I/M areas. The State has committed to ensure that adequate repair technician training exists by establishing training courses at technical schools in the area.

S. Compliance With Recall Notices

Under EPA's I/M rule, the SIP must describe, for enhanced I/M programs, the procedures used to incorporate the vehicle recall lists provided into the inspection or registration database, the quality control methods used to insure that recall repairs are properly documented and tracked, and the method (inspection failure or registration denial) used to enforce the recall requirements. EPA, through a private contractor, has established the National On-Board Diagnostics Clearinghouse which serves, amongst other functions, as a computerized database listing all emissions-related vehicle recalls.[8]

The Rhode Island I/M SIP will ensure that vehicles subject to the enhanced I/M program, that are included in either a voluntary emission recall or a remedial plan determination pursuant to the CAA, have had the appropriate repairs made prior to inspection. Section 1.4.5 of the Rhode Island DMV's

[7] State of Rhode Island, Division of Motor Vehicles, Safety and Emissions program Web site: *www.dmv.ri.gov/inspections.*

[8] National On-Board Diagnostics Clearinghouse Web site: *www.obdclearinghouse.com.*

''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1'' requires inspectors to verify whether a vehicle presented for inspection is in need of repairs as a result of a recall notice; if such repairs are required, motorists with unresolved recall notices will be required to show proof of compliance or will be denied the opportunity for inspection. As described in section 20 of the SIP narrative, Rhode Island inspectors have access to the National On-Board Diagnostics Clearinghouse.

T. On-Road Testing

Under the CAA and EPA's I/M rule, the SIP must include a detailed description of the on-road testing program required in enhanced I/M areas, including the types of testing, test limits and criteria, the number of vehicles (the percentage of the fleet) to be tested, the number of employees to be dedicated to the on-road testing effort, the methods for collecting, analyzing, utilizing, and reporting the results of on-road testing, and the portion of the program budget to be dedicated to on-road testing. Also, the SIP must include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements. In addition, emission reduction credit for on-road testing programs can only be granted for a program designed to obtain significant emission reductions over and above those predicted to be achieved by other aspects of the I/M program. The SIP needs to include technical support for the claimed additional emission reductions.

The I/M SIP submitted by Rhode Island on January 28, 2009, and supplemented on February 17, 2017, includes a description of the status of an on-road testing program in section 21 of the SIP narrative. Rhode Island's SIP highlights that the on-road testing program implemented consists of testing using remote sensing technology. Rhode Island conducts on-road tests using remote sensing on the appropriate number of vehicles required by the federal I/M rule. Since Rhode Island has not included additional modeling credit for the on-road portion of the State's inspection program when demonstrating that EPA's performance standard was met, the State's approach is acceptable.

U. Concluding Statement

A more detailed analysis of the SIP submittal and how Rhode Island meets the federal requirements is contained in EPA's technical support document (TSD) prepared for this action. The TSD is available from the EPA Regional Office listed above and in the docket for this action. The criteria used to review the submitted SIP revisions are based on the requirements set forth in Section 182 of the CAA and in the federal I/M regulations, 40 CFR part 51, subpart S. Based on these requirements, EPA developed a detailed I/M approvability checklist to be used nationally to determine if I/M programs meet the requirements of the CAA and the federal I/M rule. The checklist states the federal requirements, referenced by section of the rule, and whether the Rhode Island program meets such requirements. This checklist, the CAA, and the federal I/M regulation formed the basis for EPA's technical review. EPA has reviewed the Rhode Island I/M SIP revisions using the criteria stated above. The Rhode Island I/M regulations and accompanying materials contained in the SIP submittal represent an acceptable plan to comply with the I/M requirements and meet all the criteria required for EPA to approve the SIP submittal. EPA's review of the materials submitted indicates that Rhode Island has revised its I/M program in accordance with the requirements of the CAA, 40 CFR part 51, and all of EPA's technical requirements for approvable vehicle inspection and maintenance programs, including OBD2. EPA's detailed I/M approvability checklist serves as the TSD for this action.

V. Final Action

EPA is approving the SIP revisions submitted by the State of Rhode Island on January 28, 2009, and supplemented with a SIP revision on February 17, 2017. These SIP revisions contain the State's revised vehicle inspection and maintenance program. Specifically, EPA is approving the Rhode Island DEM Air Pollution Control Regulation No. 34 entitled ''Rhode Island Motor Vehicle Inspection/Maintenance Program'' (effective January 5, 2009), and the Rhode Island DMV's ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1'' (effective January 28, 2009), and incorporating these rules into the Rhode Island SIP. EPA is approving Rhode Island's revised I/M program because it is consistent with the CAA and EPA's I/M regulations and it will strengthen the Rhode Island SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 16, 2018 without further notice unless the Agency receives relevant adverse comments by December 14, 2017.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 16, 2018 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Rhode Island's regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under

Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

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

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

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: October 24, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart OO—Rhode Island

■ 2. In § 52.2070:

■ a. The table in paragraph (c) is amended by revising the entries ''Air Pollution Control Regulation 34'' and ''Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1''.

■ b. The table in paragraph (e) is amended by adding the entry ''I/M SIP Narrative'' at the end of the table.

The addition and revisions read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*		*	*
Air Pollution Control Regulation 34.	Rhode Island Motor Vehicle Inspection/Maintenance Program.	1/5/2009	11/14/2017, [insert **Federal Register** citation].	Department of Environmental Management regulation containing I/M standards. Approving all sections except Section 34.9.3 ''Application'' which was excluded from the SIP submittal.
*	*		*	*
Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1.	Rhode Island Motor Vehicle Inspection/Maintenance Program.	1/28/2009	11/14/2017, [insert **Federal Register** citation].	Division of Motor Vehicles regulation for the light-duty vehicle I/M program. Approving all sections except Section 1.12.2 ''Penalties'' and Section 1.13 ''Proceedings for Enforcement'' which were excluded from the SIP submittal.

EPA-APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*

* * * * * (e) * * *

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
*	*	*	*	*
I/M SIP Narrative	Statewide	Submitted 2/17/2017.	11/14/2017, [insert **Federal Register** citation].	Narrative describing how the Rhode Island I/M program meets the requirements in the federal I/M rule.

[FR Doc. 2017–24541 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0266; FRL–9970–64–Region 1]

Air Plan Approval; NH; Approval of Recordkeeping and Reporting Requirements and Single Source Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. The revisions establish recordkeeping and reporting obligations for sources of air pollution. Additionally, we are approving an order limiting emissions of volatile organic compounds from a facility in the State. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule is effective January 16, 2018, unless EPA receives adverse comments by December 14, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0266 at *https://www.regulations.gov,* or via email to *mcconnell.robert@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, 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) 918–1046; *mcconnell.robert@epa.gov.*

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

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I. Background and Purpose

On February 10, 2017, NH DES submitted a single source order limiting emissions of volatile organic compounds (VOCs) from Sturm Ruger & Company as a SIP revision request. On May 11, 2017, NH DES submitted a state regulation identified as Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as a SIP revision request. A description of these submittals and our evaluation of them appears below in Section II of this preamble. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of these rules or on the VOC Order, and if that provision may be severed from the remainder of the rule or Order, EPA may adopt as final those provisions of the rule or Order that are not the subject of an adverse comment.

II. Description and Evaluation of State's Submittals

a. Env-A 900: Owner or Operator Recordkeeping and Reporting Obligations.

On May 11, 2017, NH DES submitted a state regulation identified as Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as a SIP revision request. New Hampshire provided additional material supporting this request to EPA by letter dated September 14, 2017. EPA previously approved a prior version of Env-A 900 within a direct final rule published on November 5, 2012. 77 FR 66388. Since

then, the following changes have been made to Env-A 900.

New Hampshire amended Env-A 907.01 by including specific language outlining the types of general information that should be reported, such as facility name, physical location, mailing address, and operating time covered by the report. The State also added a requirement that the source indicate whether the report is a revision to a previously submitted report.

New Hampshire revised sections Env-A 907.02 and .03 in a number of ways affecting non-SIP pollutants, such as hazardous air pollutants and carbon dioxide, and so only portions of the revisions are being incorporated into the New Hampshire SIP. New Hampshire clarified which portions of Env-A 900 are to be made part of the SIP within their September 14, 2017 correspondence to EPA. Of relevance to criteria pollutant reporting which is subject to SIP approval, within revised Env-A 907.02, the State clarified the definition of ''emissions unit,'' and also provided clarification of which sources are subject to the annual reporting requirement, and which sources are exempt. The State also specifies which pollutant emissions must be reported, and lists what information must be reported. The provisions of revised Env-A 907.03 now address annual compliance certifications for Title V permittees, which is not required to be part of the SIP and was therefore withdrawn by New Hampshire's September 14, 2017 letter mentioned above.

New Hampshire made a minor revision to Env-A 907.04 which identifies recordkeeping requirements for unclassifiable processes, and made a minor change to the form required for reporting by certain coating and printing facilities.

We have reviewed New Hampshire's changes to Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and determined that they are acceptable. Additionally, the updated rule meets the anti-backsliding requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. The regulation we are approving is not less stringent that the version of the rule we previously approved. Therefore, we are approving the updated Env-A 900 regulation, with the exception of the portions that were withdrawn, into the New Hampshire SIP.

b. VOC Order for Sturm Ruger & Company

On February 10, 2017, New Hampshire submitted a revised order establishing reasonably available control technology (RACT) for control of VOCs for Sturm Ruger & Company located in Newport, NH. EPA most recently approved a previous version of RACT for this facility on August 21, 2014. 79 FR 49458. Subsequently, the company added 13 dewaxing pre-heat kilns, the exhaust from which is controlled by afterburners that achieve a minimum of 99% destruction of VOCs. The revised order provides operational requirements for the afterburners, including a required minimum operating temperature, a calibration schedule for the thermocouple and temperature controller on the afterburners, and recordkeeping requirements.

Other changes made to the order reflect recent changes made to New Hampshire's VOC regulations. For example, the emission rate for rustproofing operations provided in section 3.b of the order was lowered from 3.5 to 2.8 lbs VOC/gallon of coating in accordance with Env-A 1212.04(a). Additionally, the limits for camouflage coatings in section 3.d of the order were also lowered. Our review of the updated order indicates that the proposed changes are acceptable. Additionally, the updated order meets the requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. Therefore, we are approving the updated order into the New Hampshire SIP.

III. Final Action

EPA is approving portions of New Hampshire's revised regulation Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and RACT Order ARD–03–001 issued to Sturm Ruger & Company, as revisions to the New Hampshire SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 16, 2018 without further notice unless the Agency receives relevant adverse comments by December 14, 2017.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 16, 2018 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference portions of New Hampshire regulation Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, and RACT Order ARD–03–001, which are described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 26, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart EE—New Hampshire

■ 2. In § 52.1520:

■ a. In paragraph (c), amend the table by revising the entry ''Env-A 900'': And

■ b. In paragraph (d), amend the table by:

■ i. Removing two entries ''Sturm, Ruger & Company, ARD–03–001'' and ''Sturm, Ruger & Company, Order No. ARD–03–001''; and

■ ii. Adding an entry to the end of the table entitled ''Sturm Ruger & Company''.

The revision and addition read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
*	*	*	*	*
Env-A 900	Owner or Operator Obligations.	7/18/2015	11/14/2017,[Insert **Federal Register** citation].	The following sections withdrawn by state and not part of approved SIP: Env-A 907.01(d) and (e); 907.02(a)(1), (d)(1) a. and c., (2), and (e); 907.03; 911.04(b) and (c); 911.05.
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(d) *EPA-approved State Source specific requirements.*

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date [2]	Additional explanations/§ 52.1535 citation
*	*	*	*	*
Sturm Ruger & Company.	ARD–03–001	2/2/2017	11/14/17, [Insert **Federal Register** citation].	VOC RACT Order.

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2017–24540 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 62, and 70

[EPA–R07–OAR–2017–0470; FRL–9970–85–Region 7]

State of Iowa; Approval and Promulgation of the State Implementation Plan, the Operating Permits Program, and the 111(d) Plan; Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to adverse comments, the Environmental Protection Agency (EPA) is withdrawing the direct final rule for ''State of Iowa; Approval and Promulgation of the State Implementation Plan, the 111(d) Plan, and the Operating Permits Program,'' published in the **Federal Register** on September 15, 2017. Iowa's SIP revision included administrative changes, corrections to technical errors, revisions to titles and explanations of the scope of rules. The revision also rescinded outdated or no longer required rules for general conformity and emissions inventory relating to the Clean Air Interstate Rule (CAIR) which has been rescinded by EPA. Finally, the revision updated state rules by incorporating by reference more recent Code of Federal Regulation dates to ensure consistency between the state and Federally-approved rules.

DATES: The direct final rule published at 82 FR 43303, September 15, 2017, is withdrawn effective November 14, 2017.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7039, or by email at *Hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: Due to adverse comments, EPA is withdrawing the direct final rule to approve revisions to the Iowa State Implementation Plan (SIP), the 111(d) plan, and the Operating Permits Program. In the direct final rule published on September 15, 2017, (82 FR 43303), we stated that if we received adverse comment by October 16, 2017, the rule would be withdrawn and not take effect. EPA received adverse comments. EPA will address the comments in a subsequent final action based upon the proposed action also published on September 15, 2017 (82 FR 43315). EPA will not institute a second comment period on this action.

List of Subjects

40 CFR Part 52

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

40 CFR Part 62

Environmental protection, Air pollution control, Administrative practice and procedure, Reporting and recordkeeping requirements.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 3, 2017.

James B. Gulliford,

Regional Administrator, Region 7.

Accordingly, the direct final rule published at 82 FR 43303, September 15, 2017, is withdrawn effective November 14, 2017.

[FR Doc. 2017–24635 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[EPA–R01–OAR–2017–0439; FRL–9970–60–Region 1]

Notification of Partial Voluntary Withdrawal of Delegation of Authority; Connecticut; National Emission Standards for Hazardous Air Pollutants for Asbestos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of partial withdrawal of delegation of asbestos program.

SUMMARY: This document notifies affected sources and other interested parties that the Connecticut Department of Energy and Environmental Protection (CT DEEP) has voluntarily and partially withdrawn from the delegation of authority to implement and enforce the federal asbestos program provisions at 40 CFR part 61, subpart M. The withdrawal action only applies to sources that are not subject to CT DEEP's title V operating permit program, or that are subject to the title V operating permit program but have not yet received a title V operating permit from CT DEEP. CT DEEP will continue to implement and enforce 40 CFR part 61, subpart M for all sources that have already obtained a title V operating permit, or that obtain such a permit after the effective date of this action.

DATES: This delegation withdrawal is effective on December 14, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–

2017–0439. You can inspect copies of the delegation agreement and all correspondence regarding CT DEEP's voluntary and partial withdrawal from delegation of the asbestos program at our Region 1 office during normal business hours. All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Wortman, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square (OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1624, fax number (617) 918–0624, email *wortman.eric@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever '' we,'' '' us,'' or '' our'' is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

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I. Background and Purpose
II. Where should affected sources send notifications required by the Asbestos NESHAP?
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I. Background and Purpose

EPA first promulgated standards to regulate asbestos emissions on April 6, 1973 (38 FR 8820). These standards have since been amended several times and are codified in 40 CFR part 61, subpart M, ''National Emission Standard for Hazardous Air Pollutants for Asbestos'' (Asbestos NESHAP).

Prior to the 1990 Clean Air Act (CAA) Amendments, section 112(d) of the CAA allowed states to develop and submit to the Administrator a procedure for implementing and enforcing NESHAPs. The 1990 Amendments to the Act revised section 112 extensively, removed delegation provisions from 112(d)(1), and added section 112(l), which now provides the mechanism for delegating section 112 standards to state, local, and tribal agencies. Section 112(l) of the CAA authorizes the Administrator to delegate to each state, when appropriate, the authority to implement and enforce NESHAPs for stationary sources located in such state. The federal regulations governing EPA's delegation of authority for section 112 federal rules as promulgated without changes are located at 40 CFR part 63, subpart E. *See* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000). Upon approval by EPA, the state agency is authorized to implement and enforce the federal rule. Under these regulations, a state air pollution control agency may voluntarily withdraw from an approved delegation using the procedures outlined in 40 CFR 63.96(b)(7).

In general, delegations are implemented through agreements between the EPA regional offices and state or local air pollution control agencies. In a letter dated May 11, 1988, CT DEEP requested full delegation of the Asbestos NESHAP regulations. In a letter dated February 27, 1990, the EPA granted delegation of full administrative and enforcement authority for the Asbestos NESHAP to CT DEEP. On April 23, 1999, the EPA approved CT DEEP's mechanism for receiving delegation of Section 112 standards through the State's title V operating permit program. EPA also reconfirmed previously delegated standards for sources that obtained title V operating permits. *See* 64 FR 19922 (April 23, 1999).

On February 7, 2017, pursuant to the provisions at 40 CFR 63.96(b)(7), CT DEEP notified EPA of its intent to voluntarily and partially withdraw from delegation of the Asbestos NESHAP. Subsequently, CT DEEP provided electronic notice to the public and affected sources of the partial delegation withdrawal on June 20, 2017. Notification was also published in the Hartford Courant on June 27, 2017, and CT DEEP accepted written comments through 5 p.m. on July 31, 2017. In the notification, CT DEEP affirmed it will continue to assure compliance with all applicable CAA Section 112 requirements under an issued title V operating permit. CT DEEP received three written comments from the public and regulated community during the public comment period. After reviewing the comments received, CT DEEP sent a letter to the EPA on August 18, 2017 indicating CT DEEP completed the public comment procedures required by § 63.96(b)(7). The letter also requested that EPA proceed with a **Federal Register** notice concerning CT DEEP's voluntary, partial withdrawal of delegation for the Asbestos NESHAP. Copies of the correspondence letters between CT DEEP and the EPA regarding this action, the public notice issued by CT DEEP, and the public comments received by CT DEEP are included in the docket for this action.

II. Where should affected sources send notifications required by the Asbestos NESHAP?

Among other things, the Asbestos NESHAP at 40 CFR 61.145(b) requires all owners or operators of a demolition or renovation (demo/reno) activity that is subject to the Asbestos NESHAP to notify the EPA Administrator in writing before certain renovation and/or demolition activities occur and within specified time frames. Since the State of Connecticut was fully delegated the Asbestos NESHAP pursuant to Section 112(d) of the CAA prior to the 1990 amendments, the EPA determined that the State of Connecticut's regulations governing demo/reno activities at the time of delegation were adequate for the purposes of effectively implementing and enforcing the Asbestos NESHAP. This included the requirement that the owners or operators of a demo/reno activity notify in writing the designated state agency in advance of commencing the demo/reno activity. Because the EPA viewed this as a duplicative notification effort in relation to the state and federal requirements, the EPA determined that, with certain exceptions, notification to the designated state agency satisfied the federal notification requirement. On October 2, 1997 (62 FR 51654), the EPA published a notification in the **Federal Register** outlining the notification procedures for sources subject to the Asbestos NESHAP. The notification no longer required the regulated community in Connecticut to provide written notice of demo/reno activities to the EPA, with certain exceptions, as long as such notices were delivered to the designated state agency.

As a result of CT DEEP's partial, voluntary withdrawal from delegation of the Asbestos NESHAP, owners or operators of a demo/reno activity subject to the rule must submit the required notifications to the EPA, unless the owner or operator has a title V operating permit from CT DEEP. This notification requirement to EPA

includes owners or operators of title V sources prior to receiving a title V operating permit from CT DEEP, as well as sources not subject to the title V operating permit program. Therefore, after December 14, 2017, such owners or operators of a demo/reno activity in Connecticut subject to the Asbestos NESHAP must submit Asbestos NESHAP notifications required under Section 61.145(b) to the following address: Asbestos Demo/Reno Notifications, U.S. EPA Region 1, 5 Post Office Square, Mail Code: OES05–4, Boston, MA 02109–3912. The EPA believes the effective date of this notification provides sufficient time for affected sources that are not subject to the title V operating permit program, or are subject to the program but have not obtained a title V operating permit, to notify the EPA of future demo/reno activity in accordance with the Asbestos NESHAP. As noted throughout this document, the requirement to notify the EPA does not apply to sources that have obtained a title V operating permit under CT DEEP's title V operating permit program, already, or that obtain a title V operating permit in the future. Any source that has received a title V operating permit from CT DEEP will continue to submit demo/reno notifications to the State of Connecticut.

III. Do I still need to comply with the State of Connecticut regulations?

Nothing in this notification or CT DEEP's voluntary, partial withdrawal changes any source's obligation to comply with state or local laws. All sources subject to such laws must still comply with the state and local regulations. The Connecticut Department of Public Health implements an asbestos program under the Regulations of Connecticut State Agencies. Sources that are subject to the Asbestos NESHAP must also comply with the Connecticut Department of Public Health's asbestos program regulations. This includes potentially duplicative notification requirements for owners or operators of demo/reno activity subject to the Asbestos NESHAP, as well as the Connecticut Department of Public Health's asbestos program. Owners or operators of affected sources should continue to work with their state or local agencies to ensure any applicable requirements are being met. More information on the Connecticut Department of Public Heath asbestos program can be accessed online at *www.ct.gov/dph/asbestos.*

IV. EPA Action

Based on CT DEEP's voluntary and partial withdrawal relating to implementation and enforcement of the Asbestos NESHAP, the EPA is issuing this notification. As noted above, the CT DEEP will retain its delegation to implement and enforce the Asbestos NESHAP for sources that have obtained a title V operating permit from CT DEEP, or for sources that receive a title V operating permit in the future (once the permit is issued). CT DEEP will continue to assure compliance with all applicable CAA Section 112 requirements for all sources that have title V operating permits or obtain title V operating permits after the date of this action. The delegation withdrawal is effective on December 14, 2017.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Asbestos, Hazardous substances, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: October 25, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA-New England.

[FR Doc. 2017–24638 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2016–0448; FRL–9967–33]

Benzovindiflupyr; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of benzovindiflupyr in or on the bulb onion subgroup 3–07A, the green onion subgroup 3–07B, and increases an existing tolerance on sugarcane. Interregional Research Project Number 4 (IR–4) and Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 14, 2017. Objections and requests for hearings must be received on or before January 16, 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–2016–0448, 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 EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure

proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0448 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 January 16, 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–2016–0448, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 18, 2016 (81 FR 71668) (FRL–9952–19), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E8483) by IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201–W, Princeton, NJ 08540. The petition requested that 40 CFR 180.686 be amended by establishing tolerances for residues of the fungicide benzovindiflupyr (N-[9-(dichloromethylene)-1,2,3,4-tetrahydro-1,4-methanonaphthalen-5-yl]-3-(difluoromethyl)-1-methyl-1H-pyrazole-4-carboxamide) in or on onion, bulb, subgroup 3–07A at 0.02 parts per million (ppm), and onion, green, subgroup 3–07B at 0.4 ppm.

In the **Federal Register** of July 26, 2017 (82 FR 34664) (FRL–9963–50), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6F8499) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. The petition requested to establish a tolerance in 40 CFR part 180 for residues of the fungicide benzovindiflupyr in or on Sugarcane, cane, at 0.3 ppm.

The documents referenced summaries of the petitions prepared by Syngenta Crop Protection, LLC, the registrant, which are available in the dockets EPA–HQ–OPP–2016–0448 and EPA–HQ–OPP–2016–0752 at *http://www.regulations.gov.* There were no comments received in response to either notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The rat is the most sensitive species tested, and the target organs of benzovindiflupyr are the liver, thyroid, and kidneys. Hepatotoxicity was manifested as changes in liver weights, liver hypertrophy, and decreased triglycerides. The kidney effects were tubular cell pigment deposits, changes in the tubular basophilia, and increased urea. Enlargement and focal c-cell hyperplasia of the thyroid were observed. An increased incidence of cell hypertrophy in the pituitary pars distalis was noted in the F1 generation males and females in the 2-generation reproductive toxicity rat study. Mouse studies revealed distended large intestines, soft feces and hyperplasia of the colon and caecum. Indications of general malaise including decreased body weight and food consumption, decreased activity, decreased grip strength, piloerection, decreased response to stimulus, hunched posture, gait changes and/or ataxia were reported in the rat and mouse studies. In several studies, females tended to be more sensitive than males and effects were generally seen at lower doses with gavage dosing than with dietary dosing.

There are no concerns for developmental or reproductive toxicity following benzovindiflupyr exposure. Decreased fetal weight and ossification in the rat developmental toxicity studies occurred at maternally toxic doses. There were no maternal or fetal adverse effects in the rabbit developmental study. In rat reproduction studies, offspring effects (decreased body weight, liver and pituitary effects) occurred at doses higher than those causing parental effects; thus, there was no quantitative increase in sensitivity in rat pups. There were no single-dose developmental effects identified in the developmental toxicity studies in rats or rabbits. Although decreases in growing follicle counts were noted in the 2-generation reproduction toxicity study, this effect did not result in reduced fertility in the rat. Furthermore, the antral follicle counts at a later stage in development were not decreased, so the decreased growing follicle count effect is not considered adverse.

No evidence of specific neurotoxicity was observed in the acute oral (gavage) and sub-chronic oral (dietary) neurotoxicity (ACN and SCN) studies in rats, conducted on the benzovindiflupyr technical product. Although

benzovindiflupyr caused decreased activity and decreased grip strength in the neurotoxicity studies, there was no supportive neuro-histopathology in any study to indicate a specific neurotoxic effect.

The mouse immunotoxicity study was negative by the T-cell Dependent Antigen Response (TDAR) assay in the mouse.

No systemic effects were noted at the limit dose of 1,000 milligrams/kilogram/day (mg/kg/day) in the 28-day dermal rat study.

The Agency classified benzovindiflupyr as showing ''*Suggestive Evidence of Carcinogenic Potential*'' based on the presence of granular cell tumors of the brain in male rats only at the highest dose tested. The Agency concluded that a non-genotoxic mode of action for thyroid tumors observed in male rats has been established as a result of upregulation of uridine diphosphate glucuronyltransferase (UDPGT), increased clearance of T3 and T4 hormones, and increased TSH levels, resulting in increased thyroid cell proliferation, which progress to form thyroid tumors. There was no evidence of carcinogenicity in female rats or in male or female mice. In addition, there is no concern for mutagenicity. The Agency has determined that using a non-linear approach (*i.e.,* RfD; reference dose) will adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to benzovindiflupyr.

Specific information on the studies received and the nature of the adverse effects caused by benzovindiflupyr as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document titled ''*Benzovindiflupyr. Human Health Risk Assessment for the Proposed Use on Onion, Bulb Subgroup 3–07A; Onion, Green, Subgroup 3–07B; and Sugarcane*'' on pages 32–38 in docket ID number EPA–HQ–OPP–2016–0448.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for benzovindiflupyr used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of October 2, 2015 (80 FR 59627) (FRL–9933–03).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to benzovindiflupyr, EPA considered exposure under the petitioned-for tolerances as well as all existing benzovindiflupyr tolerances in 40 CFR 180.686. EPA assessed dietary exposures from benzovindiflupyr in food as follows:

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

Such effects were identified for benzovindiflupyr. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, EPA assumed 100 PCT and tolerance-level residues.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach adequately accounts for all chronic toxicity, including carcinogenicity, that could result from exposure to benzovindiflupyr; therefore, a separate dietary cancer risk assessment was not performed.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for benzovindiflupyr. Tolerance-level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for benzovindiflupyr in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of benzovindiflupyr. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Surface Water Concentration Calculator (SWCC) model and the Pesticide Root Zone Model Ground Water (PRZM–GW) model, the estimated drinking water concentrations (EDWCs) of benzovindiflupyr for acute exposures are estimated to be 8.41 parts per billion (ppb) for surface water and 0.14 ppb for ground water and for chronic exposures are estimated to be 5.41 ppb for surface water and 0.14 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute dietary risk assessment, the water concentration value of 8.41 ppb was used to assess the contribution to drinking water. For the chronic dietary risk assessment, the water concentration of value 5.41 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Benzovindiflupyr is currently registered for the following uses that could result in residential exposures: Turf and ornamentals. EPA assessed residential exposure using the following assumptions: For handlers, exposure is expected as a result of application to turf and ornamentals. Post-application exposure is also expected as a result of being in an environment that has been previously treated with benzovindiflupyr. Both handler and

post-application exposure is short-term in duration; there are no intermediate- or long term-exposures expected from the residential uses of benzovindiflupyr. Only residential handler inhalation and post-application incidental oral exposure scenarios have been quantitatively assessed since no dermal hazard was identified. Residential handler short-term inhalation MOEs are well above the LOC of 100 for all scenarios assessed and are not of concern (inhalation MOEs are ≥180,000). Residential post-application (incidental oral) MOEs for children ranged from 8,000 to 3,600,000 on the day of application, using default input values, and are not of concern (LOC = 100).

The residential scenarios used for the benzovindiflupyr aggregate assessments were as follows: Adults: Inhalation exposures from treating ornamentals with a manually pressurized handwand or backpack sprayer; Children 1 to <2 years old: Post-application hand-to-mouth exposures from treated turf. These scenarios resulted in the highest residential exposures and are considered protective of other exposure scenarios.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

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

EPA has not found benzovindiflupyr to share a common mechanism of toxicity with any other substances, and benzovindiflupyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that benzovindiflupyr does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There was no evidence of quantitative or qualitative susceptibility in fetuses or offspring in the rat and rabbit developmental studies or in the 2-generation rat reproduction study. Benzovindiflupyr produced effects in rat fetuses (*i.e.,* decreased fetal weight and ossification) in developmental toxicity studies at maternally toxic doses. In the rabbit developmental study, there were no adverse effects in either the does or the fetuses at the highest dose tested. In reproduction studies, offspring effects occurred at doses higher than the doses causing parental effects; thus, there was no quantitative increase in sensitivity in rat pups. The LOAELs and NOAELs for the rat developmental and rat reproduction studies were clearly defined.

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

i. The toxicity database for benzovindiflupyr is complete.

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

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

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to benzovindiflupyr in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by benzovindiflupyr.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to benzovindiflupyr will occupy 43% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to benzovindiflupyr from food and water will utilize 19% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of benzovindiflupyr is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Benzovindiflupyr is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to benzovindiflupyr.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 2100 for adults and 510 for children. Because EPA's level of concern for benzovindiflupyr is a MOE

of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, benzovindiflupyr is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for benzovindiflupyr.

5. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit III.A., EPA considers the chronic aggregate risk assessment to be protective of any aggregate cancer risk. As there is no chronic risk of concern, EPA does not expect any cancer risk to the U.S. population from aggregate exposure to benzovindiflupyr.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method is available to enforce the proposed tolerances for benzovindiflupyr in plant and livestock commodities. A Quick, Easy, Cheap, Effective, Rugged, and Safe (QuEChERS) multi-residue method (EN15662:2009) was developed for the determination of residues of benzovindiflupyr via liquid chromatography-mass spectrometry/mass spectrometry (LC–MS/MS).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

The Codex has not established any MRLs for benzovindiflupyr.

V. Conclusion

Therefore, tolerances are established for residues of benzovindiflupyr, including its metabolites and degradates, in or on onion, bulb, subgroup 3–07A at 0.02 ppm; onion, green, subgroup 3–07B at 0.40 ppm; and the existing ''sugarcane, cane'' tolerance is increased from 0.04 ppm to 0.30 ppm.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: October 12, 2017.

Michael L. 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 § 180.686, amend the table in paragraph (a) by:

■ i. Adding alphabetically the commodities ''Onion, bulb, subgroup 3–07A'', ''Onion, green, subgroup 3–07B'', and

■ ii. Revising the commodity ''Sugarcane, cane''.

The additions and revisions read as follows:

§ 180.686 Benzovindiflupyr; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Onion, bulb, subgroup 3–07A	0.02
Onion, green, subgroup 3–07B	0.40
* * * * *	
Sugarcane, cane	0.30
* * * * *	

* * * * *

[FR Doc. 2017–24109 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–OPPT–2017–0197; FRL–9968–26]

RIN 2070–AK32

Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

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 NAICS codes subject to reporting under the 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. The Agency did receive a relevant adverse comment on the proposed update, and is therefore withdrawing the direct final rule and will instead proceed with a final rule based on the proposed rule after considering all public comments.

DATES: Effective November 14, 2017 the direct final rule published in the **Federal Register** of August 17, 2017 (82 FR 39038) (FRL–9964–77) is withdrawn.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Stephanie Griffin, Toxics Release Inventory Program Division (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; Web site: *https://www.epa.gov/home/epa-hotlines.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of August 17, 2017. If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What rule is being withdrawn?

In the August 17, 2017 **Federal Register**, EPA published both a direct final rule (*see* 82 FR 39038) and a proposed rule (*see* 82 FR 39101) pursuant to sections 313(g)(1) and 328 of the Emergency Planning and Community Right-to-Know Act (EPCRA) for the purpose of updating the list of NAICS codes subject to TRI reporting under EPCRA section 313 to include OMB's revised 2017 NAICS codes. The action would have also modified the list of relevant exceptions and limitations to the covered NAICS codes included in the CFR for TRI reporting purposes.

Since the direct final rule and proposed rule's publication, EPA received a public comment supporting the overall update, but noting that the direct final rule inadvertently omitted one of the covered NAICS codes updated by OMB. As a result of this omission, EPA is withdrawing the direct final rule published in the **Federal Register** on August 17, 2017, and will instead proceed with a final rule based on the proposed rule after considering (and responding to) all public comments received.

III. How do I access the docket?

To access the docket, please go to *http://www.regulations.gov* and follow the online instructions using the docket identification (ID) number EPA–HQ–OPPT–2017–0197. Additional information about the Docket Facility is also provided under **ADDRESSES** in the August 17, 2017 **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. Good Cause Finding

EPA finds that there is ''good cause'' under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) to withdraw the direct final rule discussed in this document without prior notice and comment. Alongside the direct final rule, EPA published an identical proposed rule and gave notice in the **Federal Register** that the direct final rule would be withdrawn if the Agency received adverse comment.

For this document, notice and comment is impracticable and unnecessary because EPA is under a time limit to publish this withdrawal before the direct final rule is to take effect to limit confusion among Federal agencies and the regulated community. As such, EPA has determined that this document is not subject to the 30-day delay of effective date generally required by 5 U.S.C. 553(d). This withdrawal must become effective prior to the effective date of the direct final rule being withdrawn.

V. Statutory and Executive Order Reviews

This document withdraws regulatory requirements that have not gone into effect. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and Executive Order review requirements applicable to the direct final rule being withdrawn were discussed in the August 17, 2017 **Federal Register** document. Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

VI. Congressional Review Act (CRA)

Pursuant to the CRA (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). Section 808 of the CRA allows

the issuing agency to make a rule effective sooner than otherwise provided by CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. As required by 5 U.S.C. 808(2), this determination is supported by a brief statement in Unit IV.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: November 7, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–24633 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151130999–6594–02]

RIN 0648–XF821

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring a portion of its 2017 commercial bluefish quota to the State of Rhode Island. This quota adjustment is necessary to comply with the Atlantic Bluefish Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised commercial bluefish quotas for New Jersey and Rhode Island.

DATES: Effective November 8, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found in 50 CFR 648.160 through 648.167. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.162 and the initial 2017 allocations were published on March 13, 2017 (82 FR 13402).

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan published in the **Federal Register** on July 26, 2000 (65 FR 45844), and provided a mechanism for transferring bluefish quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can request approval of a transfer of bluefish commercial quota under § 648.162(e)(1)(i) through (iii). The Regional Administrator must first approve any such transfer based on the criteria in § 648.162(e).

New Jersey is transferring 50,000 lb (22,680 kg) of Atlantic bluefish commercial quota to Rhode Island. This transfer was requested by state officials in Rhode Island to ensure their 2017 commercial bluefish quota would not be exceeded. Both states have agreed to the transfer and certified that it meets all pertinent requirements. The revised bluefish quotas for calendar year 2017 are now: New Jersey, 1,215,633 lb (551,402 kg); and Rhode Island, 731,563 lb (331,831 kg); based on the initial quotas published in the 2016–2018 Atlantic Bluefish Specifications and subsequent transfers.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 8, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–24641 Filed 11–8–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 82, No. 218

Tuesday, November 14, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1068; Product Identifier 2017–CE–034–AD]

RIN 2120–AA64

Airworthiness Directives; Intreprinderea De Constructii Aeronautice Gliders

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Intreprinderea De Constructii Aeronautice Model IS–28B2 gliders. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks at stringers in the rear fuselage of several Model IS–28B2 gliders. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 29, 2017.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Aeroclubul Romaniei, Bd.Lascar Catargiu, Nr.54, cod: 010673, Sector 1, Bucharest, Romania; telephone: 011+40 021–312–36–19; fax: 011+40 021–312–36–19; Internet: *www.aeroclubulromaniei.ro;* email: *www.aeroclubulromaniei.ro/contact/.*

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1068; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1068; Product Identifier 2017–CE–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2016–0233, dated November 23, 2016 (referred to after this as ''the MCAI''), to correct an unsafe condition for Intreprinderea De Constructii Aeronautice Model IS–28B2 gliders. The MCAI states:

> Cracks were reportedly detected, located at stringers in the rear fuselage of a number of IS–28B2 sailplanes. The subsequent investigation attributed these cracks to induction of a pre-stress during the manufacturing process of the affected parts.
>
> This condition, if not detected and corrected, could lead to reduced structural strength, possibly resulting in a loss of structural integrity of the sailplane.
>
> To address this potentially unsafe condition, Aeroclubul Romaniei (AR) issued Service Bulletin (SB) SB–IS–28B2–AR–01 to provide inspection instructions. AR is currently developing modification(s) to provide a design solution for the affected sailplanes.
>
> For the reasons described above, this [EASA] AD requires repetitive inspections of the structure of the rear fuselage and, depending on findings, accomplishment of applicable corrective action(s).
>
> This [EASA] AD is considered to be an interim action and further AD action may follow.

Service Information Under 1 CFR Part 51

Aeroclubul Romaniei has issued Aeroclubul Romaniei Service Bulletin No.: SB–IS–28B2–AR–01, Revision 003, dated February 9, 2017 (ARSB No. AR–01), and Aeroclubul Romaniei Service Bulletin No.: SB–IS–28B2–AR–02, Revision 01, dated February 24, 2017 (ARSB No. AR–02). ARSB No. AR–01 describes procedures for inspection of the rear fuselage area to detect any cracks, ruptures, or corrosion. ARSB No. AR–02 describes procedures for installation of a modification to the upper stringer of the rear fuselage. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means

identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 30 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $5,100, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 15 work-hours and require parts costing $1,000, for a cost of $2,275 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Intreprinderea De Constructii Aeronautice: Docket No. FAA–2017–1068; Product Identifier 2017–CE–034–AD.

(a) Comments Due Date

We must receive comments by December 29, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Intreprinderea De Constructii Aeronautice IS–28B2 gliders, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 53: Fuselage.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks at stringers in the rear fuselage of several Model IS–28B2 gliders. We are issuing this AD to detect and correct cracks, which could lead to reduced structural strength resulting in loss of structural integrity and loss of control.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (2):

(1) Within 90 days after the effective date of this AD and repetitively thereafter at intervals not to exceed 50 hours time-in-service (TIS), inspect the rear fuselage structure following the instructions in Aeroclubul Romaniei Service Bulletin (SB) No.: SB–IS–28B2–AR–01, Revision 003, dated February 9, 2017.

(2) If any crack or corrosion is detected during any inspection required in paragraph (f)(1) of this AD, before further flight, modify the rear fuselage structure following the instructions in Aeroclubul Romaniei SB No.: SB–IS–28B2–AR–02, Revision 01, dated February 24, 2017.

(3) Completion of the modification to the rear fuselage structure as required in paragraph (f)(2) of this AD terminates the repetitive inspections required in paragraph (f)(1) of this AD.

(g) Reporting Requirement

Although Aeroclubul Romaniei SB No.: SB–IS–28B2–AR–01, Revision 003, dated February 9, 2017, specifies to submit certain information to the manufacturer, this AD does not require that action.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.* Before using any approved AMOC on any glider to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved

by the Manager, Small Airplane Standards Branch, FAA; or the European Aviation Safety Agency (EASA).

(i) Related Information

Refer to MCAI AD No.: 2016–0233, dated November 23, 2016; Aeroclubul Romaniei Service Bulletin No.: SB–IS–28B2–AR–01, Revision 003, dated February 9, 2017, and Aeroclubul Romaniei Service Bulletin No.: SB–IS–28B2–AR–02, Revision 01, dated February 24, 2017. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1068. For service information related to this AD, contact Aeroclubul Romaniei, Bd.Lascar Catargiu, Nr.54, cod: 010673, Sector 1, Bucharest, Romania; telephone: 011+40 021–312–36–19; fax: 011+40 021–312–36–19; Internet: *www.aeroclubulromaniei.ro;* email: *www.aeroclubulromaniei.ro/contact/*. You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 3, 2017.

Melvin J. Johnson,

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

[FR Doc. 2017–24500 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1015]

RIN 1625–AA09

Drawbridge Operation Regulation; China Basin, Mission Creek, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily modify the operating schedule that governs the 3rd Street Bridge, across China Basin, Mission Creek, mile 0.0, at San Francisco, California. This action is necessary to allow the bridge owner, the City of San Francisco, to keep the drawspan in the closed-to-navigation position in order to conduct critical mechanical and structural rehabilitation over an estimated 18 month period, scheduled to commence in February 2018. The temporary change to the regulations is expected to meet the reasonable needs of navigation on the waterway. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before December 14, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–1015 using Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516; email *Carl.T.Hausner@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On October 20, 2017, the City of San Francisco submitted a request to the Coast Guard to temporarily change the drawbridge operating schedule for the 3rd Street Bridge.

The 3rd St Bridge at mile 0.0, across China Basin, Mission Creek, at the City of San Francisco, California, has a vertical clearance of 3 feet at mean high water and 8 feet at mean low water. The waterway users are recreational, law enforcement, and search and rescue.

The purpose of this proposed temporary rule is to allow the bridge owner to conduct critical mechanical and structural rehabilitation of the bridge. It is reported that the bridge is not structurally deficient; however, clear evidence of damaged and buckled steel members and other damage to the bridge and the trunnion mechanism have been identified. Without preventative maintenance, the damage will worsen and ultimately compromise the structural integrity of the bridge. The work will include blast cleaning and painting structural steel, replacing the bridge deck, repairing the fender systems, repairing the concrete counter weight, coating steel piles to inhibit corrosion, and repairing the bridge endlocks.

The existing regulations in 33 CFR 117.149 require the bridge to open on signal if at least one hour notice is given.

III. Discussion of Proposed Rule

The Coast Guard proposes to change the drawbridge operation regulations in 33 CFR 117.149 by temporarily modifying the regulation for the draw of the 3rd Street bridge. This proposed change will allow the bridge owner to secure the bridge in the closed-to-navigation position in order to conduct critical rehabilitation work on the bridge.

China Basin, Mission Creek, is 0.64 miles in length with the 3rd Street Bridge at the mouth of the basin. Approximately 35 vessels are moored upstream of the bridge and require the drawspan to open in order to depart the basin into San Francisco Bay. The City of San Francisco has indicated that they will assist vessel owners in China Basin, Mission Creek, and find alternate moorings during the closure period. Vessels able to transit the bridge, while in the closed-to-navigation position, can continue to do so during the closure period.

There are no alternative routes into China Basin, Mission Creek.

In the event of an emergency, the bridge operator can open on signal if at least 45 days advance notice is given.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited number of vessels impacted and the ability of those vessel owners, located upstream of the bridge, to receive assistance from the City of San Francisco in finding alternate moorings while the bridge is in the closed-to-navigation position. In addition, rehabilitation of the bridge is

needed to ensure the safety and continued operation of the drawspan. We believe that the proposed rule, in keeping the drawspan in the closed-to-navigation position during the bridge's rehabilitation, would meet the reasonable needs of present and future navigation on the waterway.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph 32(e) of Figure 2–1 of Commandant Instruction M16475.1D. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacynotice.*

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From February 28, 2018 to September 30, 2019 revise § 117.149 to read as follows:

§ 117.149 China Basin, Mission Creek.

(a) The draw of the 3rd Street bridge, mile 0.0, at San Francisco, need not be opened for the passage of vessels. The draw shall be returned to operable condition within 45 days after notification by the District Commander to do so.

(b) The draw of the 4th Street bridge, mile 0.2, at San Francisco, shall open on signal if at least one hour notice is given.

Dated: November 7, 2017.

Todd A. Sokalzuk,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2017–24593 Filed 11–13–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0935]

RIN 1625–AA00

Safety Zone; Delaware River; Marcus Hook, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the waters of the Delaware River between Marcus Hook Range and Tinicum Range. The safety zone will temporarily restrict vessel traffic from transiting or anchoring in portions of the Delaware River while rock blasting, dredging, and rock removal operations are being conducted to facilitate the Main Channel Deepening project for the Delaware River. The safety zone is needed to protect personnel, vessels, and the marine environment from hazards created by rock blasting, dredging, and rock removal operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) or his designated representatives. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 21, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0935 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Petty Officer Amanda Boone, Waterways Management Branch, U.S. Coast Guard Sector Delaware Bay; telephone (215) 271–4889, email *Amanda.N.Boone@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Army Corps of Engineers notified the Coast Guard that Great Lakes Dredging and Dock Company will be conducting rock blasting, dredging, and rock removal operations, beginning November 30, 2017 through March 15, 2018, to facilitate the deepening of the main navigational channel to the new project depth of 45 feet. The COTP has determined that potential hazards associated with rock blasting, dredging, and rock removal operations will be a safety concern for anyone within 500 yards of the drill boat APACHE or dredges TEXAS and NEW YORK.

The purpose of this proposed rulemaking is to ensure the safety of personnel, vessels, and the marine environment within a 500-yard radius of rock blasting, dredging, and rock removal operations. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

This proposed rule would establish a safety zone from November 30, 2017 through March 15, 2018. The safety zone will cover all navigable waters in the Delaware River within 500 yards of vessels and machinery being used by personnel to conduct rock blasting, dredging, and rock removal operations between Marcus Hook Range and Tinicum Range. The safety zone will be enforced in an area and in a manner that does not conflict with transiting commercial and recreational traffic, except for the short periods of time when explosive detonation are being conducted. The explosive detonation will not occur more than three times a day. At all other times, at least one side of the main navigational channel will be open for vessels to transit.

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while operations are being conducted. For the duration of the project, in the vicinity of the rock blasting, rock removal, and dredging operation, one side of the main navigational channel will be closed. Vessels wishing to transit the safety zone in the main navigational channel may do so if they can make satisfactory passing arrangements with drill boat APACHE or the dredges TEXAS and NEW YORK in accordance with the Navigational Rules in 33 CFR subchapter E via VHF–FM channel 13 at least 30 minutes prior to arrival. If vessels are unable to make satisfactory passing arrangements with the drill boat APACHE or the dredges TEXAS and NEW YORK, they may request permission from the COTP, or his designated representative, on VHF–FM channel 16. All vessels must operate at the minimum safe speed necessary to maintain steerage and reduce wake.

No vessels may transit through the safety zone during times of explosive detonation. During explosive detonation, vessels will be required to maintain a 500 yard distance from the drill boat APACHE. The drill boat APACHE will make broadcasts via VHF–FM channels 13 and 16, at 15 minutes, 5 minutes, and 1 minute prior to detonation, as well as a countdown to detonation on VHF–FM channel 16. Sector Delaware Bay will ensure notice is given to the maritime community of dates and times of blasting via broadcast notice to mariners on VHF–FM channel 16. After every explosive detonation, a survey will be conducted to ensure the navigational channel is clear for vessels to transit. The drill boat APACHE will broadcast via VHF–FM channel 13 and 16, when the survey has been completed and the channel is clear to transit. Vessels wishing to transit the safety zone in the main navigational channel may do so if they can make satisfactory passing arrangements with drill boat APACHE or the dredges TEXAS and NEW YORK in accordance with the Navigational Rules in 33 CFR subchapter E via VHF–FM channel 13 at least 30 minutes prior to arrival. If vessels are unable to make satisfactory passing arrangements with the drill boat APACHE or the dredge TEXAS and NEW YORK, they may request permission from the COTP, or his designated representative, on VHF–FM channel 16.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and traffic management of the safety zone. The Coast Guard does not anticipate a significant economic impact because the safety zone will be enforced in an area and in a manner that does not conflict with transiting commercial and recreational traffic, except for the short periods of time when explosive detonations are being conducted. The blasting detonations will not occur more than three times a day. At all other times, at least one side of the main navigational channel will be open for vessels to transit. Moreover, the Coast Guard will work in coordination with the pilots to ensure vessel traffic is limited during the times of detonation and Broadcast Notice to Mariners are made via VHF–FM marine channel 13 and 16 when blasting operations will occur.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to anchor in or transit the safety zone may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that would prohibit entry within 500 yards of rock blasting, dredging, and rock removal. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment

applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0935, to read as follows:

§ 165.T05–0935 Safety Zone, Delaware River; Marcus Hook, PA

(a) *Location.* The following area is a safety zone: all the navigable waters of the Delaware River within 500 yards of vessels and machinery performing rock blasting, rock removal, and dredging operations, between Marcus Hook Range and Tinicum Range.

(b) *Definitions.* As used in this section:

(1) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to assist with enforcement of the safety zone described in paragraph (a) of this section.

(c) Regulations. (1) Vessels wishing to transit the safety zone in the main navigational channel may do so if they can make satisfactory passing arrangements with the drill boat APACHE or the dredges TEXAS and NEW YORK, as applicable, in accordance with the Navigational Rules in 33 CFR subchapter E via VHF–FM channel 13 at least 30 minutes prior to arrival. If vessels are unable to make satisfactory passing arrangements with the drill boat APACHE or the dredges TEXAS and NEW YORK, they may request permission from the Captain of the Port, or his designated representative, on VHF–FM channel 16.

(2) The operator of any vessel requesting to transit through the safety zone shall proceed as directed by the drill boat APACHE, the dredges TEXAS and NEW YORK, or the designated representative of the Captain of the Port and must operate at the minimum safe speed necessary to maintain steerage and reduce wake.

(3) No vessels may transit through the safety zone during times of explosive detonation. During explosive detonation, vessels will be required to maintain a 500 yard distance from the drill boat APACHE. The drill boat APACHE will make broadcasts, via VHF–FM Channel 13 and 16, at 15 minutes, 5 minutes, and 1 minute prior to detonation, as well as a countdown to detonation on VHF–FM Channel 16.

(4) After every explosive detonation a survey will be conducted by the dredging contractor to ensure the navigational channel is clear for vessels to transit. The drill boat APACHE will broadcast, via VHF–FM channel 13 and 16, when the survey has been completed and the channel is clear to transit. Vessels requesting to transit through the safety zone shall proceed as directed by the Captain of the Port and contact the drill boat APACHE on VHF–FM channel 13 to make safe passing arrangements.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by federal, state and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This rule will be enforced from December 01, 2017, through March 15, 2018, unless cancelled earlier by the Captain of the Port.

Dated: November 7, 2017.

Scott E. Anderson,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2017–24554 Filed 11–13–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0436; FRL–9970–65–Region 1]

Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions include regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Rhode Island. The revised program includes a test and repair network consisting of on-board diagnostic (OBD2) testing for model year 1996 and newer vehicles and tailpipe exhaust test, using a dynamometer, for model year 1995 and older vehicles. The intended effect of this action is to propose approval of the revised program into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before December 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2009–0436 at *www.regulations.gov,* or via email to *garcia.ariel@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA Region 1 Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number: (617) 918–1660, email: *garcia.ariel@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 24, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–24542 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0266; FRL–9970–63–Region 1]

Air Plan Approval; NH; Approval of Recordkeeping and Reporting Requirements and Single Source Order

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 Hampshire. The revisions establish recordkeeping and reporting obligations for sources of air pollution. Additionally, we are proposing approval of an order limiting emissions of volatile organic compounds from a facility in the state. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before December 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0266 at *https://www.regulations.gov,* or via email to *mcconnell.robert@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, 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) 918–1046; *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views them as noncontroversial submittals and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 26, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–24538 Filed 11–13–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2017–0051; FRL–9970–71–Region 10]

Air Plan Approval; OR, Oakridge; $PM_{2.5}$ Moderate Plan, Finding of Attainment and Clean Data Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to make a finding of attainment by the attainment date and a clean data determination (CDD) for the Oakridge-Westfir (Oakridge), Oregon fine particulate matter nonattainment area (Oakridge NAA). The finding is based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing the area has monitored attainment of the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) based on 2014–2016 data available in the EPA's Air Quality System (AQS) database. If finalized, this determination will not constitute a redesignation to attainment.

The EPA also proposes to approve revisions to Oregon's State Implementation Plan (SIP) consisting of the updated Oakridge-Westfir $PM_{2.5}$

Attainment Plan (Oakridge Update) submitted by the Oregon Department of Environmental Quality (ODEQ) on January 20, 2017. The purpose of the Oakridge Update, developed by Lane Regional Air Protection Agency (LRAPA) in coordination with the ODEQ, is to provide an attainment demonstration of the 2006 24-hour $PM_{2.5}$ NAAQS and correct deficiencies in the 2012 Oakridge Attainment Plan.

DATES: Comments must be received on or before December 14, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0051 at *https://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 the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, 206–753–9081, *duboiski.christi@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' is used, it is intended to refer to the EPA.

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I. Background for the EPA's Proposed Action

A. Regulatory Background

On October 17, 2006, the EPA strengthened the 24-hour $PM_{2.5}$ NAAQS by lowering the level of the standard from 65 micrograms per cubic meter (μg/m³) to 35 μg/m³ in order to provide increased protection of public health (40 CFR 50.13).[1] Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ (particulate matter 2.5 micrometers in diameter and smaller) levels and premature mortality. Other important adverse health effects associated with elevated $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function and increased respiratory symptoms. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children (78 FR 3088, January 15, 2013). $PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (''primary $PM_{2.5}$'' or ''direct $PM_{2.5}$'') or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (''secondary $PM_{2.5}$'').[2]

Following promulgation of a new or revised NAAQS, the EPA is required by section 107(d)(1) of the CAA to designate areas throughout the United States as attainment, nonattainment, or unclassifiable for the NAAQS. Nonattainment areas include both areas that are violating the NAAQS, and nearby areas with emissions sources or activities that contribute to violations in those areas. States with areas designated nonattainment are required to prepare and submit a plan for attaining the NAAQS in the area as expeditiously as practicable.

The requirements for attainment plans for the 2006 24-hour $PM_{2.5}$ NAAQS include the general nonattainment area planning requirements in CAA section 172 of title I, part D, subpart 1 (subpart 1) and the additional planning requirements specific to particulate matter in CAA sections 188 and 189 of title I, part D, subpart 4 (subpart 4). The EPA has a longstanding general guidance document that interprets the 1990 amendments to the CAA, commonly referred to as the ''General Preamble'' (57 FR 13498, April 16, 1992). The General Preamble addresses the relationship between subpart 1 and subpart 4 requirements and provides recommendations to states for meeting statutory requirements for particulate matter nonattainment planning. Specifically, the General Preamble explains that requirements applicable to Moderate area nonattainment SIPs are set forth in subpart 4, but such SIPs must also meet the general nonattainment planning provisions in subpart 1, to the extent these provisions ''are not otherwise subsumed by, or integrally related to,'' the more specific subpart 4 requirements (57 FR 13538). On August 16, 1994, the EPA promulgated an addendum to the General Preamble providing additional guidance for particulate matter nonattainment areas (59 FR 41988). Additionally, on August 24, 2016, the EPA issued a final rule, *Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements* ($PM_{2.5}$ SIP Requirements Rule) (81 FR 58009), to clarify our interpretations of the statutory requirements that apply to $PM_{2.5}$ nonattainment areas.

The requirements of subpart 1 for attainment plans include, among other things: (i) The section 172(c)(1) requirements to provide for the implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and attainment of the NAAQS; (ii) the section 172(c)(2) requirement to demonstrate reasonable further progress (RFP); (iii) the section 172(c)(3) requirement for emissions inventories; and (iv) the section 172(c)(9) requirement for contingency measures.

The subpart 4 requirements for Moderate areas are generally comparable with the subpart 1 requirements and include: (i) Section 189(a)(1)(B) requirements to demonstrate attainment by the outermost statutory Moderate area attainment date (*i.e.,* the end of the sixth calendar year following designation) or

[1] *See* 71 FR 61224 (October 17, 2006). The EPA set the first NAAQS for $PM_{2.5}$ on July 18, 1997 (62 FR 36852), including annual standards of 15.0 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations and 24-hour (daily) standards of 65 μg/m³ based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7). Unless otherwise noted, all references to the $PM_{2.5}$ standard in this notice are to the 2006 24-hour standard of 35 μg/m³ codified at 40 CFR 50.13.

[2] *See* EPA, *Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter* (EPA–452/R–12–005, December 2012), p. 2–1.

that attainment by such date is impracticable; (ii) section 189(a)(1)(C) requirements to ensure RACM will be implemented within four years of designation; (iii) section 189(c) requirements for RFP and quantitative milestones (QMs); and (iv) section 189(e) control requirements for precursor emissions from major stationary sources. In this action, the EPA is evaluating the Oakridge Update for compliance with the statutory and regulatory requirements applicable to Moderate $PM_{2.5}$ nonattainment areas.

B. Oakridge NAA Background

In 1994, the EPA designated Oakridge a nonattainment area for PM_{10}—particulate matter ten micrometers and smaller. In 1996, LRAPA in coordination with the ODEQ, prepared and submitted a PM_{10} attainment plan for Oakridge. The EPA approved it on March 15, 1999 (64 FR 12751). On July 26, 2001, EPA published a finding of attainment for the Oakridge PM_{10} NAA (66 FR 38947). However, the designation status in 40 CFR part 81 remains Moderate nonattainment for the area until such time as LRAPA meets the CAA requirements for redesignaton to attainment. A redesignation request and maintenance plan for PM_{10} has not been submitted. The area has continued to attain the PM_{10} NAAQS.

In 1997, the EPA revised the particulate standard to include $PM_{2.5}$ at a daily standard of 65 μg/m^3. Due to the same set of control measures that it used to address exceedances of the PM_{10} standard, Oakridge successfully remained below the $PM_{2.5}$ standard promulgated in 1997. When the EPA tightened the $PM_{2.5}$ standard from 65μg/m^3 to 35μg/m^3 in 2006, Oakridge was found to be violating the new standard. The air quality monitoring data at the Willamette Activity Center (WAC) was evaluated for 2006–2008, resulting in a design value of 40 μg/m^3. The EPA designated Oakridge, Oregon as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS on November 13, 2009 (74 FR 58689), prompting the development of the $PM_{2.5}$ Attainment Plan for the Oakridge, Oregon NAA (Oakridge Attainment Plan). The EPA subsequently classified the area as Moderate nonattainment for the 2006 24-hour $PM_{2.5}$ standard (79 FR 31565, June 2, 2014).[3]

On December 12, 2012, LRAPA, in coordination with the ODEQ, submitted the Oakridge Attainment Plan. On October 21, 2016, the EPA finalized partial approval and partial disapproval of this plan (81 FR 72714). In that action, the EPA approved the description of the Oakridge NAA and listing as nonattainment, and the 2008 base year emission inventory as meeting the section 172(c)(3) requirement for emissions inventories. The EPA disapproved all other elements of the submittal. The disapproval action for the Oakridge Attainment Plan started a sanctions clock for the imposition of offset sanctions and highway sanctions 18 months and 24 months respectively after the November 21, 2016 effective date, pursuant to section 179(a) of the CAA and our regulations at 40 CFR 52.31. In addition to sanctions, the EPA must promulgate a FIP no later than two years from the date of the finding if the deficiency has not been corrected within that time period.

The Oakridge Attainment Plan included control measures that were fully implemented and modeled attainment by the December 2014 deadline. However, leading up to the deadline, the *Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS* was finalized. The rule classified Oakridge as Moderate and established December 31, 2015, as the attainment date deadline for the Oakridge NAA (79 FR 31565, June 2, 2014). This decision was based on the fact that subpart 4 of the CAA requires a Moderate area attainment date to be no later than the end of the 6th calendar year after designation. The applicable attainment date for Oakridge changed from December 2014 to December 2015.

In order to measure progress towards meeting the attainment date, both LRAPA and the EPA followed monitoring data closely to ensure the area was meeting targets consistent with the modeling demonstration submitted in the 2012 Oakridge Attainment Plan. Prior to the December 31, 2015, attainment date deadline, LRAPA determined Oakridge would not come into attainment based on 2013–2015 monitoring data. Under section 188(d), the EPA has discretion to grant an extension to the attainment date for an area if the state requests the extension and meets the statutory criteria for such an extension. On December 14, 2015, LRAPA requested a 1-year extension of the 2015 attainment date for the Oakridge NAA. On July 18, 2016, the EPA granted a 1-year extension of the 2006 24-hour attainment date for the Oakridge NAA (81 FR 46612) from December 31, 2015 to December 31, 2016 (extended attainment date), on the basis that the State met the criteria for such an extension under the CAA.

Notwithstanding the extension of the attainment date to December 31, 2016, the applicable Moderate area attainment demonstration date for the Oakridge NAA remains December 31, 2015. The $PM_{2.5}$ SIP Requirements Rule provides that a state's modeled attainment demonstration needs to establish that an area will attain the NAAQS by the projected attainment date. Practically speaking, this is considered satisfied by the modeling showing that the 98th percentile is below the standard for the attainment year (81 FR 58010, at page 58054).

The EPA authorizes this approach because of the potential availability of extensions of the attainment date under relevant provisions of the CAA. In other words, if ambient data show attainment-level concentrations in the final statutory attainment year, but the three-year average does not demonstrate attainment, a state may be eligible for up to two 1-year extensions of the attainment date. *See* 40 CFR 51.1005. Extensions of the attainment date are available to accommodate states that may be able to attain the NAAQS by the extended attainment date, even if the measured design value for an area does not meet the NAAQS by the end of the 6th calendar year after designation. For this reason, the EPA's $PM_{2.5}$ SIP Requirements Rule indicates that it is acceptable for a state to model air quality levels for the final statutory attainment year in which the area is required to attain the standard (in this case 2015).

Because the initial Oakridge Attainment Plan did not adequately address the $PM_{2.5}$ problems in the airshed or meet the requirements of the CAA and the $PM_{2.5}$ SIP Requirements Rule, LRAPA developed the Oakridge Update that was subsequently adopted and submitted by the ODEQ to the EPA on January 20, 2017. The Oakridge Update was submitted to satisfy the requirement for an updated

[3] On January 4, 2013, the D.C. Circuit Court issued a decision in *NRDC* v. *EPA,* 706 F.3d 428, holding that the EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I (subpart 4). Prior to the January 4, 2013 Court decision, states had worked towards meeting the air quality goals of the 2006 $PM_{2.5}$ NAAQS in accordance with the EPA regulations and guidance derived from subpart 1 of Part D of Title I of the CAA. The EPA considered this history in issuing the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule (79 FR 31566, June 2, 2014) that identified the initial classification under subpart 4 for areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ standards as moderate.

comprehensive 2008 base year emission inventory and the 2015 attainment projected inventory for direct $PM_{2.5}$ emissions and all $PM_{2.5}$ precursors, an analysis and selection of reasonably available control measures and reasonably available control technologies (RACM and RACT), an attainment demonstration based on permanent and enforceable requirements, contingency measures, and quantitative milestones (QM) demonstrating reasonable further progress (RFP) toward attainment. The attainment plan's strategy for controlling direct $PM_{2.5}$ emissions relies primarily on an episodic wood stove curtailment program and a program to change out uncertified wood stoves.

II. Finding of Attainment by the Attainment Date and Clean Data Determination

Under CAA section 188(b)(2) the EPA is required to determine within six months of the applicable attainment date whether a nonattainment area attained the standard by that date. As discussed above, on July 18, 2016, the EPA granted a 1-year extension of the attainment date from December 31, 2015 to December 31, 2016 (81 FR 46612). Under the EPA regulations at 40 CFR part 50, Appendix N, the 2006 primary and secondary 24-hour $PM_{2.5}$ NAAQS are met within a nonattainment area when the 24-hour $PM_{2.5}$ NAAQS design value at each eligible monitoring site is less than or equal to 35 μg/m³. Three years of valid annual $PM_{2.5}$ 98th percentile mass concentrations are required to produce a valid 24-hour $PM_{2.5}$ NAAQS design value.

The EPA's finding of attainment is based upon data that has been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. Ambient air quality monitoring data for the 3-year period must meet data completeness requirements. The ambient air quality monitoring data completeness requirements are met when quarterly data capture rates for all four quarters in a calendar year are at least 75 percent.

The EPA reviewed the $PM_{2.5}$ ambient air monitoring data from the Willamette Activity Center (WAC) (AQS site 41–039–2013) consistent with the requirements contained in 40 CFR part 50, as recorded in the EPA AQS database for the Oakridge NAA. For purposes of determining attainment by the December 31, 2016 extended attainment date, the EPA determined that the data recorded in the AQS database was certified and complete.

The design value (the metrics calculated in accordance with 40 CFR part 50, appendix N, for determining compliance with the NAAQS) for the 2006 24-hour $PM_{2.5}$ NAAQS for the years 2014–2016 at the WAC was calculated to be 31 μg/m³, which is less than the standard of 35 μg/m³. See Table 1 below for the annual 98th percentiles and 3-year design value for the 2014–2016 monitoring period. On the basis of this review, we are proposing to determine, based on complete, quality-assured, and certified data for 2014–2016, that the Oakridge NAA attained the 2006 24-hour $PM_{2.5}$ NAAQS by the extended attainment date. This determination of attainment by the attainment date does not constitute a redesignation to attainment. Rather, redesignations require states to meet a number of additional statutory criteria in CAA section 107(d)(3)(E), including EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation. CAA section 107(d)(3)(E)(iv).

TABLE 1—2014–2016 OAKRIDGE AREA $PM_{2.5}$ MONITORING DATA

Monitor name	AQS site ID	98th percentile (μg/m³)			2014–2016 24-hour design value (μg/m³)
		2014	2015	2016	
Willamette Activity Center	41–039–2013	41.1	28.9	21.7	31

Additionally, the EPA is proposing to determine that the area has clean data for demonstrating attainment of the 2006 24-hr $PM_{2.5}$ NAAQS. A clean data determination (CDD) can be made upon a determination by the EPA that a Moderate $PM_{2.5}$ NAA is attaining the $PM_{2.5}$ NAAQS. Under a CDD, the requirements for the area to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other planning SIP requirements related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS are suspended for so long as the area continues to meet the relevant NAAQS (40 CFR 51.1015, August 24, 2016), and the FIP and sanctions clocks are also tolled for the pendency of the CDD. If the EPA subsequently determines that the area is in violation of the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA would rescind the CDD, the state would again be required to submit the suspended attainment plan elements to the EPA, and the FIP and sanctions clocks would resume. *See* 40 CFR 51.1015(a)(2).

Although a CDD suspends the requirement for submission of certain attainment planning elements, it does not relieve the EPA of its responsibility to take action on a state's SIP submission. Oregon submitted the Oakridge Update to address the previously disapproved elements of the SIP and EPA is proposing to approve the state's revisions. In the event that EPA determines in its final action that the Oakridge Update should not be approved, the Clean Data Determination (if finalized as proposed) would suspend Oregon's obligation to submit a revised SIP to address the attainment planning requirements related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, and as noted above, would toll the FIP and sanctions clocks that were started by the EPA's prior disapprovals as long as the area continues to attain the standard.

Neither the proposed finding of attainment by the attainment date nor CDD is equivalent to the redesignation of the area to attainment. This proposed action, if finalized, will not constitute a redesignation to attainment under section 107(d)(3)(E) of the CAA, because the state must have an approved maintenance plan for the area as required under section 175A of the CAA, and a determination that the area has met the other requirements for redesignation in order to be redesignated to attainment. The designation status of the area will remain nonattainment for the 2006 $PM_{2.5}$ NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment in CAA section 107(d)(3)(E).

III. The EPA's Evaluation of the Oakridge Update

On January 20, 2017, the ODEQ in coordination with LRAPA submitted the Oakridge Update to satisfy the Moderate

nonattainment area CAA requirements. In accordance with Sections 172(c) and 189 of the CAA, the Oakridge Update includes emissions inventories, an evaluation of precursors for control in the area, RACM/RACT demonstrations for direct $PM_{2.5}$ and $PM_{2.5}$ precursors, an attainment demonstration, QM and RFP requirements, and contingency measures. The SIP submittal also addresses motor vehicle emissions budgets (MVEBs). Each of these elements is discussed below. The primary control strategy in the Oakridge Update is reducing emissions from residential wood combustion.

The air pollution ordinances adopted by the City of Oakridge from 2012–2016 (ordinances 903, 913, 914 and 920) require emission reductions contributing to the 2015 attainment demonstration and the monitored attainment of the 2006 24-hr $PM_{2.5}$ NAAQS by the December 31, 2016, extended attainment date. Each ordinance, in succession, provides further strengthening of the control measures and maintains the integrity of the prior ordinance(s). The most recent city ordinance (ordinance 920), passed by the City of Oakridge and adopted by LRAPA on November 21, 2016, supersedes the previous air pollution ordinances and requires the continued implementation of the control strategies in a manner that is both permanent and enforceable.

The EPA has evaluated the Oakridge Update to determine whether it meets the applicable CAA requirements of subpart 1 and subpart 4, as specified in the $PM_{2.5}$ SIP Requirements Rule. Based on this evaluation, the EPA is proposing to approve the following elements of the Oakridge Update.

A. Emissions Inventories

1. Requirements for Emissions Inventories

Section 172(c)(3) of the CAA requires a state with an area designated as nonattainment to submit a ''comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant'' for the nonattainment area. By requiring an accounting of actual emissions from all sources of the relevant pollutants in the area, this section provides for the base year inventory to include all emissions from sources in the nonattainment area that contribute to the formation of a particular NAAQS pollutant. For the 2006 24-hour $PM_{2.5}$ NAAQS, this includes direct $PM_{2.5}$ (condensable and filterable) as well as the precursors to the formation of secondary $PM_{2.5}$: Nitrogen oxides (NO_X), sulfur dioxide (SO_2), volatile organic compounds (VOCs), and ammonia (NH_3) (40 CFR 51.1008; 81 FR 58028). Inclusion of $PM_{2.5}$ and all of the $PM_{2.5}$ precursors in the emissions inventory is necessary in order to inform other aspects of the attainment plan development process, such as ascertaining which pollutants a state must control in order to attain the NAAQS in the area expeditiously.

In addition to the base year inventory submitted to meet the requirements of CAA section 172(c)(3), the state must also submit an attainment projected inventory for the NAA for the attainment year and each QM year, and any other year of significance for meeting applicable CAA requirements. Projected emission inventories for future years must account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements, and are expected to be the best available representation of future emissions. The SIP submission should include documentation explaining how the state calculated the emissions data for the base year and projected inventories. The specific $PM_{2.5}$ emissions inventory requirements are set forth in 40 CFR 51.1008. The EPA has provided additional guidance for developing $PM_{2.5}$ emissions inventories in *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze.*[4]

2. Emissions Inventories in the Oakridge Update

The Oakridge Update has two emissions inventories for the area: a 2008 base year inventory for the nonattainment area and the 2015 attainment projected inventory for the nonattainment area. In addition, LRAPA developed a projected emissions inventory for 2016 for informational purposes to demonstrate the further effectiveness of the field compliance improvements and curtailment program for year 2015. Each inventory presents $PM_{2.5}$ emissions and emissions of all $PM_{2.5}$ precursors (NO_X, VOCs, NH_3, and SO_2) to meet the comprehensive emissions inventory requirements of CAA section 172(c) and section 189(a)(1)(B) for the 2006 24-hour $PM_{2.5}$ NAAQS. LRAPA provided inventories from all sources in the Oakridge NAA, including stationary point sources, stationary nonpoint (area sources), on-road mobile sources and non-road mobile sources.

The inventories are based on Typical Season Day and Worst Case Day emissions. LRAPA chose to develop a seasonal inventory representing a four-month period in 2008 (January, February, November, and December) during the wood-heating season. The agency examined ambient $PM_{2.5}$ data from the Willamette Activity Center and determined that values approaching the 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ only occur in the four-months when low temperatures spur higher home heating emissions and when stagnant air masses inhibit dispersion of air pollution. Therefore, the Typical Season Day inventory represents a seasonal inventory for the period of the year relevant for attainment planning. The Typical Season Day emissions are the daily rate of emissions for the four-month season. However, stagnant meteorological conditions are highly episodic and only occur for a portion of the season. Outside of these meteorological conditions, $PM_{2.5}$ levels are well below the 2006 24-hour $PM_{2.5}$ NAAQS. To best represent emissions during exceedances of the standard rather than an average of polluted and clean periods, LRAPA developed a ''Worst Case Day'' emission inventory for weather conditions that represent exceedance days.

Stationary Point Sources: The only operating industrial point sources within the Oakridge NAA are two minor aggregate industry sources (a rock crusher and concrete batch plant which shut down in 2014). These two minor sources together contribute less than 1% to base year and 0% to future year emission inventories. For the base year inventory, actual emissions were based on average actual production rates and calculated emissions during the months of November-February (2008–2011), worst-case day emissions were based on actual production rates and calculated emissions during the highest production month during November-February (2008–2011). On May 17, 2017, LRAPA submitted a clarification to the future year (2015) emissions reported in the Oakridge Update. The actual point source emissions based on actual production rates calculated for 2015 (January, February, November, and December) are 0% since the concrete batch plant is no longer in operation and the rock crushing operation did not operate in 2015.

Nonpoint/Area Sources: The most significant source category is residential wood combustion (RWC). Emissions from certified and non-certified wood

[4] The EPA's *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze* is available at *https://www.epa.gov/air-emissions-inventories/emissions-inventory-guidance-documents.*

stoves, fireplaces, and pellet stoves account for about 86% of the base year direct $PM_{2.5}$ emissions and 84% of the projected 2015 emissions on worst case winter days. To estimate emissions from RWC, LRAPA conducted a survey for the 2009–2010 heating season. The survey provided LRAPA with information on how many homes use various types of wood-heating devices, the amount of wood burned, and other information on wood-heating practices. The survey report, data, and additional RWC emission calculation details are included in Appendix D–2 of the 2012 Oakridge Attainment Plan. The only other nonpoint area source category with potential emissions is backyard burning which is banned in Oakridge during November-February. These emissions are estimated as 4.7 lb./day on worst-case days.

On-road and Non-road Sources: Road dust and tailpipe emissions from motor vehicles were initially calculated by the Lane Council of Governments (LCOG) by applying emission factors from the EPA MOVES2010a computer program. These were recently updated by the ODEQ in 2016 using the EPA MOVES2014a program using inputs and VMT compiled by LCOG in 2012 and incorporating the effects of three new federal emission control programs. Emissions from railroads were provided by Union Pacific Railroad.

It has been determined that condensable emissions currently are not required to be reported for the mobile source and residential wood combustion portion of the inventory since the EPA's best tools to date do not have a declarative answer for the condensable emissions portion for these sources. In addition, the point source, non-road and the ''all other stationary area source'' categories, which constitute 0.1%, 1% and 1% respectively of the worst-case day direct $PM_{2.5}$ emissions (2008 base year EI) and 0%, 1% and 1% respectively of the worst-case day emissions (2015 projected year EI), are too small to justify the need to break out condensable emissions. Thus the 2008 and 2015 inventories for the Oakridge NAA do not include separately reported filterable and condensable components of direct $PM_{2.5}$ emissions.

a. 2008 Base Year Emissions Inventory for the Nonattainment Area

LRAPA selected the year 2008 as the base year of the emissions inventory for the nonattainment area. The 2008 base year inventory is one of the three years used to designate the area as nonattainment and was inventoried for the National Emission Inventory. It is also the middle year of the five-year period, 2006–2010, used for determining the base design value. This inventory provides the basis for the control measure analysis and the attainment demonstration in the Oakridge Update.

The 2008 base year emission inventory for the nonattainment area was initially submitted as part of the 2012 Oakridge Attainment Plan and approved in a final rulemaking action completed on October 21, 2016 (81 FR 72714). The Oakridge Update contains a revised 2008 base year emission inventory for the nonattainment area because an updated version of MOVES (2014a) was available for calculating on-road emissions. LRAPA surveyed all source sectors within the nonattainment area and developed accurate, actual emissions for sources as they existed in 2008 using well established techniques. Table 2 presents a summary of both seasonal inventories and the annual average daily precursor emissions.

TABLE 2—2008 $PM_{2.5}$ BASE YEAR TYPICAL SEASON DAY AND WORST-CASE DAY EMISSIONS; AND 2008 PRECURSOR ANNUAL AVERAGE DAILY EMISSIONS

Source type category	Typical season day lbs/per day	Worst case day lbs/per day	Annual average daily values lbs/day			
	$PM_{2.5}$	$PM_{2.5}$	SO_2	NO_X	VOC	NH_3
Stationary Point (actuals)	0.5	0.9	* na	* na	* na	* na
Nonpoint/Area	479.5	480	2.9	12.8	216.8	5.3
On-road	41.4	64.7	10.6	866.7	434.4	13.8
Non-road	6.0	6.0	1.3	101	18.2	.05
Total	527	552	15	980	670	19.2

* These emissions are accounted for in the 2008 NEI but are grouped into the nonpoint/area source category.

b. Attainment Projected Emissions Inventory for the Nonattainment Area

In addition to developing a 2008 base year inventory, LRAPA developed a projected year inventory for 2015. This inventory is relevant to the December 31, 2015 attainment demonstration. LRAPA developed the 2015 projected year inventory by estimating the impact on emissions from anticipated demographic and economic trends and from adopted federal, state and local control measures in effect through December 31, 2014. A summary of the Oakridge NAA 2015 projected seasonal inventory is provided in Table 3.

TABLE 3—2015 $PM_{2.5}$ ESTIMATED TYPICAL SEASON DAY AND WORST-CASE DAY EMISSIONS; AND 2014 ANNUAL AVERAGE PRECURSOR EMISSIONS

Source type category	Typical season day lbs/per day	Worst case day lbs/per day	Annual average daily values lbs/day			
	$PM_{2.5}$	$PM_{2.5}$	SO_2	NO_X	VOC	NH_3
Stationary Point (actuals)	0	0	0	0	0	0
Nonpoint/Area	444.8	334.5	3.0	10.7	120.4	2.1
On-road	24.7	38.5	3.0	598.3	339.8	11.5
Non-road	6.0	6.0	1.1	77.3	14.4	.05

TABLE 3—2015 $PM_{2.5}$ ESTIMATED TYPICAL SEASON DAY AND WORST-CASE DAY EMISSIONS; AND 2014 ANNUAL AVERAGE PRECURSOR EMISSIONS—Continued

Source type category	Typical season day lbs/per day	Worst case day lbs/per day	Annual average daily values lbs/day			
	$PM_{2.5}$	$PM_{2.5}$	SO_2	NO_X	VOC	NH_3
Total	475	379	7	686	475	14

3. The EPA's Evaluation and Proposed Action: Emissions Inventories for the Nonattainment Area

The EPA has reviewed the results, procedures, and methodologies for the Oakridge NAA emissions inventories. The EPA has determined that the 2008 base year inventory for the nonattainment area and the 2015 attainment projected inventory for the nonattainment area are based on the most current and accurate information available to LRAPA at the time the Oakridge Update and its inventories were being developed. The selection of 2008 as a base year is consistent with emissions inventory requirements in 40 CFR 51.1008(a)(1)(i) because it is one of three years used to designate the area as nonattainment and it is also a year already inventoried for the National Emission Inventory. Weather conditions in 2008 were typical and temperature-dependent emissions from home heating and from mobile sources are considered representative for the 2006–2010 period. The selection of 2015 for the attainment projected inventory for the nonattainment area is consistent with 40 CFR 51.1008(2)(2)(i) because 2015 is the attainment year in the attainment demonstration.

The EPA finds the worst case day (episodic) approach that LRAPA used for the 2008 and 2015 inventories to be consistent with the $PM_{2.5}$ SIP Requirements Rule in which the EPA stated that an episodic period developed in order to reflect periods of higher emissions during periods of high ambient $PM_{2.5}$ can help, in some situations, to ensure the nonattainment area inventory reflects the emissions conditions that led to the nonattainment designation for the area (81 FR 58030). This seasonal Worst Case Day inventory is the most relevant and accurate for nonattainment area planning.

Additionally, the 2008 and 2015 inventories sufficiently account for $PM_{2.5}$ emissions as required in 40 CFR 51.1008(a)(1)(iv) and (a)(2)(iv). The inventories comprehensively address all source categories in the Oakridge NAA, actual emissions are provided, and appropriate procedures were used to develop the inventories. We are therefore proposing to approve the updated 2008 base year worst-case day emissions inventory for the Oakridge NAA as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(a)(1), and we are proposing to approve the 2015 projected year worst-case day inventory for the Oakridge NAA as meeting the requirements of 40 CFR 51.1008(a)(2). We are also proposing to find that the 2008 base year inventory in the Oakridge Update provides an adequate basis for the control strategy analysis, the attainment demonstration, and demonstrating RFP (discussed in sections II.C, E and F, respectively).

B. Pollutants Addressed

1. Requirements for the Control of Direct $PM_{2.5}$ and Precursors

The composition of $PM_{2.5}$ is complex and highly variable due in part to the large contribution of secondary $PM_{2.5}$ to total fine particle mass in most locations, and to the complexity of secondary particle formation processes. A large number of possible chemical reactions, often non-linear in nature, can convert gaseous SO_2, NO_X, VOCs and NH_3 to $PM_{2.5}$, making them precursors to $PM_{2.5}$.[5] Formation of secondary $PM_{2.5}$ may also depend on atmospheric conditions, including solar radiation, temperature, relative humidity, and the interactions of precursors with preexisting particles and with water and ice cloud or fog droplets.[6]

The EPA interprets the CAA to require states to evaluate sources of all four $PM_{2.5}$ precursors for regulation unless it provides a demonstration establishing that it is either not necessary to regulate a particular precursor in the nonattainment area at issue in order to attain by the attainment date, or that emissions of the precursor do not make a significant contribution to $PM_{2.5}$ levels that exceed the standard. 40 CFR 51.1006 and 81 FR 58017. The EPA has identified SO_2, NO_X, VOCs, and NH_3 as precursors to the formation of $PM_{2.5}$. 40 CFR 51.1000. Accordingly, the attainment plan requirements presumptively apply to emissions of direct $PM_{2.5}$ and all four precursor pollutants from all types of stationary, area, and mobile sources, however, the presumption can be rebutted consistent with CAA section 189(e) and the EPA's interpretation of the statute.

Section 189(e) of the CAA requires that the control requirements for major stationary sources of direct PM_{10} also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. By definition, PM_{10} includes $PM_{2.5}$. Section 189(e) contains the only express exception to the control requirements under subpart 4 for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. Notwithstanding the fact that section 189(e) explicitly addresses only major stationary sources, the EPA interprets the CAA as authorizing it also to determine, under appropriate circumstances, that regulation of specific $PM_{2.5}$ precursors from other source categories in a given nonattainment area are not necessary. *See* 81 FR 58018. If the EPA were to approve a state's precursor demonstration, the state would not need to regulate emissions of the precursor to meet the requirement to control emissions from the inventory to attain as expeditiously as practicable, such as the imposition of RACM/RACT on sources of such precursor emissions.

The state has different options for demonstrating that a particular precursor does not need to be controlled in the nonattainment area for the purposes of the attainment plan: (1) A comprehensive precursor demonstration to establish that the state does not need to address the precursor in the attainment plan for purposes of the control strategy, RFP, QMs and associated reports, contingency measures, MVEB, or regional emissions analyses in transportation conformity determinations, and/or (2) a major stationary source precursor

[5] EPA, *Air Quality Criteria for Particulate Matter* (EPA/600/P–99/002aF, October 2004), Chapter 3.

[6] EPA, *Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter* (EPA–452/R–12–005, December 2012), p. 2–1.

demonstration supporting a conclusion that one or more precursors do not have to be controlled from existing major sources. 40 CFR 51.1006. Both types of precursor demonstrations must include a concentration-based analysis, in which the state evaluates the impact of each precursor on ambient $PM_{2.5}$ levels in the nonattainment area. A concentration-based analysis may be sufficient for the EPA to approve the demonstration, on a precursor-by-precursor basis. 40 CFR 51.1006(a)(1). If an impact of a particular precursor cannot be deemed insignificant based upon the concentration based analysis, the state also has the option of conducting a sensitivity-based analysis to show that changes in the emissions of a particular precursor would not result in significant changes in ambient $PM_{2.5}$ in the area, notwithstanding the fact that the volume of the precursor at issue is large. 40 CFR 51.1006(a)(1)(iii). The EPA's Draft $PM_{2.5}$ Precursor Demonstration Guidance (Draft Precursor Demonstration Guidance) recommends calculating the precursor impact relative to observed ambient data so that the results are applicable to measured $PM_{2.5}$ in the area.[7]

2. Direct $PM_{2.5}$ and Precursors in the Oakridge Update

In the 2012 Oakridge Attainment Plan and the Oakridge Update, LRAPA discusses the five pollutants that contribute to the mass of the ambient $PM_{2.5}$ (*i.e.,* NH_3, NO_X, SO_2, VOCs, and direct $PM_{2.5}$). LRAPA developed the 2012 Oakridge Attainment Plan before the EPA proposed a new implementation rule in 2015 (80 FR 15340, March 23, 2015) and before the EPA issued the Draft Precursor Demonstration Guidance in 2016. The 2012 Oakridge Attainment Plan therefore includes a variety of information on precursor impacts on $PM_{2.5}$ concentrations in the Oakridge NAA. However, prior to submitting the Oakridge Update, LRAPA was able to take advantage of the final $PM_{2.5}$ SIP Requirements Rule as well as the recommendations in the Draft Precursor Demonstration Guidance during the public comment period.

The Oakridge Update contains information necessary to evaluate a comprehensive precursor demonstration for all sources of SO_2, NO_X, NH_3, and VOCs. It reports speciated $PM_{2.5}$ data from the WAC monitor that can be compared to the recommended insignificance thresholds in the Draft Precursor Demonstration Guidance as part of a concentration-based analysis. These data are the results of the relative attainment test methodology (speciated model attainment test or ''SMAT'') and are representative of precursor concentrations for the baseline design value of 39.5 μg/m³ (Table 4). Values of 0.43 μg/m³, 0.17 μg/m³, and 0.17 μg/m³ for SO_2, NO_X, and NH_3 respectively were compared to the recommended insignificance threshold of 1.3 μg/m³ in the Precursor Demonstration Guidance. LRAPA used the monitored amount of sulfate to assess the contribution from SO_2 and the amount of ammonium + nitrate to assess the contributions from NO_X and NH_3. LRAPA did not remove background concentrations of the $PM_{2.5}$ species for this analysis. More information on how the relative calculations were applied can be found in the Oakridge Update section II.D.

TABLE 4—CONCENTRATIONS OF $PM_{2.5}$ SPECIES USED FOR THE SPECIATED MODELED ATTAINMENT TEST

Parameter	Sulfate	Nitrate	Organic carbon	Elemental carbon	Water	Ammonium	Other primary particulate
Percent	1.1	0.4	88.4	7.6	1.4	0.03	1.1
μg/m³	0.43	0.16	34.46	2.95	0.54	0.01	0.44

LRAPA's VOC precursor demonstration examined both ambient and modeled $PM_{2.5}$ species data to help evaluate the formation of secondary organic aerosols (SOA) from VOC emissions in the nonattainment area. In the Oakridge Update, LRAPA did not directly determine the impact of VOCs on $PM_{2.5}$ from speciated monitoring data alone because it is difficult to distinguish organic carbon from direct $PM_{2.5}$ and secondary organic carbon formed from VOC chemistry.

LRAPA presents several analyses involving observed chemical data, a source apportionment analysis, and an independent modeling effort to substantiate the demonstration. The $PM_{2.5}$ data set from 2006–2010 at the WAC, which formed the basis for the baseline design value, shows that exceedances of the standard only occur between October 15 and February 28 (*See* Oakridge Update appendix 3, attachment H). The same conclusion is valid for days with concentrations above 25 μg/m³. The results of the concentration-based analysis in Table 4 show that species commonly associated with photochemistry, ammonium sulfate and ammonium nitrate, occur in low concentrations during the polluted days. In addition, LRAPA submitted a positive matrix factorization (PMF) source apportionment study conducted by the EPA Region 10 (*See* Oakridge Update appendix 3.E.2). That report concluded primary emissions of wood smoke was responsible for about 75% of the $PM_{2.5}$ on polluted days above 25 μg/m³. Additional analysis was conducted by Portland State University in collaboration with the ODEQ to better understand the secondary organic aerosols in the Klamath Falls, Oregon airshed (*See* Oakridge Update, page 36). The results showed that on wintertime days anthropogenic VOC emissions were responsible for 3% of the observed $PM_{2.5}$. After calibrating this value to the Oakridge baseline design value of 39.5 μg/m³, LRAPA estimated that the anthropogenic VOC contribution to $PM_{2.5}$ is 1.17 μg/m³ and asserted that the value is a conservatively high value.

3. The EPA's Evaluation and Proposed Action: Pollutants Addressed

The EPA confirmed that LRAPA performed a contribution-based analysis for SO_2, NO_X, and NH_3 according to section 3.1 of the Draft Precursor Demonstration Guidance, with one exception. The guidance recommends that the NO_X contribution be calculated as the nitrate ion plus the ammonium associated with nitrate, whereas LRAPA appears to have included all ammonium in the calculation. Rounding to the hundredths decimal place, the EPA calculated a contribution of 0.16 μg/m³. This difference is immaterial to LRAPA's conclusion, and LRAPA's calculation errs on the conservative side. The contributions for SO_2, NO_X, and NH_3, 0.43 μg/m³, 0.17 μg/m³, and 0.17 μg/m³ respectively, are well below the recommended contribution

[7] The Precursor Demonstration Guidance is available at *https://www.epa.gov/sites/production/files/2016-11/documents/transmittal_memo_and_draft_pm25_precursor_demo_guidance_11_17_16.pdf*

threshold for the 24-hour $PM_{2.5}$ NAAQS of 1.3 μg/m³.

For LRAPA's VOC precursor demonstration, the state agency presented multiple analyses of observed data, source apportionment modeling, and independent modeling. All of the analyses and modeling support the conclusion that VOCs contribute only a small amount to $PM_{2.5}$ in the Oakridge NAA and that this amount is 1.17 μg/m³ or less, as indicated by the Portland State University modeling. At the times where there is substantial $PM_{2.5}$ in Oakridge, the temperature is low and the sun is relatively weak, which are less conducive to secondary $PM_{2.5}$ formation from VOCs. This conclusion is supported by the fact that there is little secondary ammonium sulfate and ammonium nitrate in the nonattainment area during periods of high pollution ($PM_{2.5}$ > 25 μg/m³).

While the Portland State University modeling was conducted for Klamath Falls, both Klamath Falls and Oakridge were nonattainment for the 24-hour $PM_{2.5}$ standard for mainly wood smoke pollution and with similar meteorology and atmospheric chemistry during periods of high $PM_{2.5}$. They are on opposite sides of the Oregon Cascade Mountains, but they are only 115 miles apart and the modeling used conservative meteorological conditions that would apply to both locations. The modeling used emissions that are valid for 2008 in the Klamath Falls nonattainment area and correspond to the base year emission inventory for the Oakridge Update. The 2008 anthropogenic VOC emissions for the Oakridge nonattainment area are 122 tons per year, about 5% of that in the Klamath Falls nonattainment area. The EPA believes that an analysis with Oakridge emissions would result in a much lower $PM_{2.5}$ contribution from VOCs, as argued by LRAPA in the Oakridge Update (*See* page 36). All of the lines of evidence supplied by LRAPA in the Oakridge Update are consistent with the $PM_{2.5}$ contribution from VOCs being 1.17 μg/m³ or less. This conservative value is below the recommended contribution threshold for the 24-hour $PM_{2.5}$ NAAQS of 1.3 μg/m³.

The EPA also examined an independent regional air quality modeling effort for $PM_{2.5}$, the Airpact model at Washington State University.[8] For 2015, this model estimates all $PM_{2.5}$, including secondary $PM_{2.5}$ from anthropogenic VOC sources, in 12-km grid cells across the Northwest on a daily basis. For the period of January, February, November, and December, corresponding to the Oakridge $PM_{2.5}$ season, the Airpact model predicts at most 0.16 μg/m³ of $PM_{2.5}$ species derived from anthropogenic VOC emissions. While the model is not conducted in a way to be the primary estimate of $PM_{2.5}$ for the Oakridge nonattainment area, its estimate of $PM_{2.5}$ from anthropogenic VOC emissions provides support for the low contribution estimated by Portland State University for Klamath Falls and conservatively applied to Oakridge by LRAPA.

Based on a review of the information provided by LRAPA, the EPA believes LRAPA's methodology is appropriate for the area and that LRAPA's concentration-based analyses are accurate and sufficiently comprehensive to establish a precursor demonstration for SO_2, NO_X, NH_3, and VOCs. The EPA proposes to approve LRAPA's precursor demonstrations for all existing sources of SO_2, NO_X, NH_3, and VOCs within the Oakridge NAA. As a result, the EPA proposes to find it not necessary to evaluate controls on sources of SO_2, NO_X, NH_3, and VOCs in the control strategy for the Oakridge Update. We discuss LRAPA's evaluation of potential control measures for direct $PM_{2.5}$ in the following section.

C. Reasonably Available Control Measures/Reasonably Available Control Technology

1. Requirements for RACM/RACT

The general SIP planning requirements for nonattainment areas under subpart 1 include CAA section 172(c)(1), which requires implementation of all RACM, including RACT. The terms RACM and RACT are not further defined within subpart 1, but past guidance has described ''reasonable available'' controls as those controls that are technologically and economically feasible, and necessary for attainment in a given area. *See* 57 FR 13560. The provision explicitly requires that such measures must provide for attainment of the NAAQS in the area covered by the attainment plan.

The SIP planning requirements for particulate matter nonattainment areas in CAA subpart 4 require states to develop attainment plans that implement RACM and RACT on appropriate sources within a nonattainment area. Section 189(a)(1)(C) requires that states with areas classified as Moderate nonattainment areas have SIP provisions to assure that RACM and RACT level controls are implemented by no later than four years after designation of the area. As with subpart 1, the terms RACM and RACT are not specifically defined within subpart 4, and the provisions of subpart 4 do not identify specific control measures that must be implemented to meet the RACM and RACT requirements. However, past policy has described RACM (including RACT) as those measures that are technologically and economically feasible and needed for expeditious attainment of the standard. 81 FR 58034. The $PM_{2.5}$ SIP Requirements Rule provides a process for developing an attainment plan control strategy for purposes of meeting the RACM and RACT requirements.[9] *See* 40 CFR 51.1009.

To meet the Moderate area control strategy requirements, a state first needs to identify all sources of direct $PM_{2.5}$ and precursor emissions in the nonattainment area, consistent with common emission inventory development practices and requirements. 40 CFR 51.1009(a)(1). Next, a state must identify existing and potential control measures for each identified source or source category of emissions. *Id.* at 51.1009(a)(2). The state's compilation of potential control measures must be sufficiently broad to provide a basis for identifying all technologically and economically feasible controls that may be RACM or RACT. The state must identify potential control measures for emissions of direct $PM_{2.5}$ and each precursor from relevant sources unless the state has provided an adequate comprehensive demonstration for the nonattainment area at issue showing that control of a particular precursor is not required, or provided an adequate demonstration with respect to control of precursor emissions from existing major stationary sources. *Id.* at 51.1009(a)(4)(i). For any potential control measure identified, a state must evaluate the technological and economic feasibility of adopting and implementing such measure. *Id.* at 51.1009(a)(3). For purposes of evaluating technological feasibility, a state may consider factors including but not limited to operating processes and procedures, raw materials, physical plant layout, and potential environmental impacts from the adoption of controls. For purposes of evaluating economic feasibility, a state may consider factors including but not limited to capital, operating and

[8] *http://lar.wsu.edu/airpact/.*

[9] The development of the RACM and RACT requirements in the $PM_{2.5}$ Implementation Rule was informed by the EPA's longstanding guidance in the General Preamble providing recommendations for appropriate considerations for determining what control measures constitute RACM and RACT for purposes of meeting the statutory requirements of subpart 4. *See* 81 FR 58034.

maintenance costs and the cost effectiveness of a measure (typically expressed in cost per ton of reduction). *Id.* States should also evaluate control measures imposed in other nonattainment areas as RACM and RACT as part of this analysis.

CAA section 110(a)(2)(A) provides generally that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirement of the Act.'' Section 172(c)(6) of the CAA, which applies specifically to nonattainment area plans, imposes comparable requirements. Measures necessary to meet RACM/RACT and the additional control measure requirements under section 172(c)(6) must be adopted by the state in an enforceable form (57 FR 13541) and submitted to the EPA for approval into the SIP under CAA section 110.

2. RACM/RACT Analysis in the Oakridge Update

In the Oakridge Update, LRAPA evaluated and selected control measures consistent with the process set forth in 40 CFR 51.1009 that constitute RACM/RACT in the Oakridge NAA. Based on emissions inventory information and other technical analyses, LRAPA first identified source categories in the Oakridge NAA and associated emissions of $PM_{2.5}$ and its precursors. Based on the comprehensive precursor demonstration for SO_2, NO_X, NH_3, and VOCs, LRAPA limited its RACM/RACT analysis to direct $PM_{2.5}$.

LRAPA, in coordination with the Oakridge $PM_{2.5}$ Advisory Committee, developed a list of potential control measures for relevant sources based on information compiled from various EPA guidance documents, and information regarding controls that other states or the EPA have identified as RACM or RACT in attainment plans in other nonattainment areas. A full discussion of the RACM/RACT analysis and control strategies are presented in the Oakridge Update Attainment Strategies Section and Appendix 3, Attachment 3.3j. Table 5 provides a chart of the RACM/RACT implemented for the Oakridge area and the emission reductions modeled for each control strategy. All measures are currently being implemented.

LRAPA's approach to the RACM/RACT analysis targets emissions that occur during the wintertime when stagnant air episodes occur and concentrations of emissions accumulate, leading to exceedances of the 2006 24-hour $PM_{2.5}$ NAAQS. The dominant source of $PM_{2.5}$ in Oakridge on worst-case winter days is wood combustion in wood stoves and fireplaces (approximately 86% in the 2008 base year emissions inventory). Therefore, LRAPA identified strategies in the Oakridge Update that focused primarily on RWC emission reductions. The long-term permanent RWC strategies consist of a mandatory curtailment program, a wood stove changeout program, the Oregon and the EPA wood stove certification programs, the Oregon Heat Smart Law, and Oregon State and federal transportation and fuel related measures.

LRAPA believes that the implementation of the mandatory curtailment program was key in helping this area attain the 24-hour $PM_{2.5}$ standard. The curtailment program restricts wood burning on red advisory days through Ordinance 920. Specifically, the curtailment restricts combustion in residential solid fuel-fired appliances on red advisory days when the forecast is for daily $PM_{2.5}$ to be greater than or equal to 25 $\mu g/m^3$. On red advisory days the residents within the City of Oakridge are prohibited from emitting visible emissions into the air from solid fuel burning devices, unless the device is the sole source of heat or an economic need exemption has been granted from the City Administrator. The curtailment program is implemented through advisories forecasted by LRAPA on a daily basis. The mandatory curtailment program was modeled to provide the greatest $PM_{2.5}$ emissions reductions in the NAA of 7.1 $\mu g/m^3$.

The wood stove changeout programs in Oakridge provided incentives for homeowners to replace older uncertified wood stoves with newer, cleaner certified wood stoves. Between 2009 and 2012, the changeout program replaced 90 uncertified wood stoves in the Oakridge NAA. The removal and destruction of the old wood stoves assures emissions reductions are permanent. The changeouts are enforceable because a statewide building code prohibits the installation of any uncertified wood stove in the future. The Heat Smart Program, a statewide mandate requiring removal of uncertified wood stoves at the time of home sale, went into effect in 2010. This statewide rule closely mirrors the existing requirement in the Oakridge ordinance. LRAPA is responsible for the implementation of the Heat Smart Program in the Oakridge NAA, however, the ODEQ is required to confirm residences where owners removed or changed-out uncertified wood stoves upon home sale. Under the rule, all uncertified devices on the property being sold must be removed at the time of home sale. Three Heat Smart removals were recorded and occurred prior to December 31, 2014. The changeout programs described above are modeled to collectively provide $PM_{2.5}$ reductions in the NAA of 2.6 $\mu g/m^3$.

LRAPA applied national and state measures to reduce mobile source emissions, such as fuel economy standards and vehicle emissions standards including Oregon Low Emission Vehicle regulations (LEV II). These mobile measures are modeled to collectively provide direct $PM_{2.5}$ reductions in the NAA of 1.3 $\mu g/m^3$.

There are two existing industrial sources in the Oakridge area that are minor sources of $PM_{2.5}$ emissions (a portable rock crusher and concrete batch plant which shut down in 2014) which together emit less than one ton per year of primary $PM_{2.5}$ emissions. LRAPA explained that the air pollution control technology installed on these sources are standard for the industry and would meet RACT requirements. The rock crusher has water-spray controls and the concrete plant had baghouse controls. Furthermore, the modeled impact of these two sources is much less than 1 $\mu g/m^3$, even if they were to operate at maximum permitted production rates valid in 2014. LRAPA did not include any RACT requirement for these two minor sources in the Oakridge Update because it was determined that RACT was not needed to bring the area into attainment.

TABLE 5—RACM/RACT PROJECTED AIR QUALITY BENEFIT FOR THE OAKRIDGE AREA

RACM/RACT	Modeled $PM_{2.5}$ reductions on a worst-case winter day ($\mu g/m^3$)
Primary Control Measures:	
• Mandatory curtailment program	7.1
• Wood stove changeout programs	.....
• OR Heat Smart—uncertified wood stove removal upon sale of home	2.6
• OR and the EPA wood stove certification program	.....
• Transportation and Fuel Related Measures	1.3
• Diesel Retrofits of school buses	.....
• Oregon's Low Emission Vehicle Program.	
• Increased Fuel Economy.	
Total	*11.0*
*Total Effective Reductions**	*10.2*
Ancillary Control Measures:	
• Expanded public education	0
• Prohibits unseasoned (>20% moisture) firewood	.....
• Firewood Seasoning Program	.....
• Heating advisory extended from four to eight months	.....
• Tighter restrictions on the wood stove curtailment exemption process	.....
Supplemental Control Measures:	
• Expanded field compliance	.....
• Stricter wood stove curtailment program	1.7

*The individual emission reduction estimates in this table are derived from the modeled Future Design Value in 2015. Because the control strategies interact nonlinearly, the total effective reductions value is not a simple addition of the individual measures' benefits. When all control strategies are simulated together, their benefit is less than it would appear because, for instance, the curtailment ordinance has a smaller benefit when stoves have already been changed out to be cleaner.

LRAPA expects the ancillary and supplemental control measures, listed in Table 5, to increase compliance with regulations and encourage behaviors that reduce emissions. The supplemental control measures were implemented when it became clear the Oakridge NAA would not attain the 2006 24-hr $PM_{2.5}$ standard by the December 31, 2015 attainment date. The field compliance improvements were expanded in October of 2015 with the hiring of a city code enforcement officer to primarily focus on enforcing city ordinances during the winter months.

LRAPA asserts that while the expanded education and outreach is not a permanent and enforceable measures in itself, the program to enhance education, outreach, and public awareness is key to supporting the implementation of the mandatory permanent and enforceable curtailment programs, including increasing compliance rates with curtailments on red advisory days. Further discussion of these measures can be found in the Oakridge Update.

3. The EPA's Evaluation and Proposed Action: RACM/RACT

The EPA proposes to approve the primary control measures listed in Table 5 and sections of the City of Oakridge Ordinance 920 identified below in Section IV Proposed Action, regulating wood and other solid fuel burning in the Oakridge NAA. LRAPA appropriately followed a process to analyze control measures and to select RACM/RACT level controls for this specific NAA consistent with the requirement of section 172(c)(1) and the procedures for Moderate NAAs identified at 40 CFR 51.1009. The result of this process was LRAPA's adoption and implementation of a control strategy that includes the identified technologically and economically feasible control measures for sources of direct $PM_{2.5}$ in the Oakridge NAA. Furthermore, consistent with the requirements of 172(c)(6) and the procedures in 40 CFR 51.1009, LRAPA analyzed control measures to determine if there were any other reasonable control measures and found none. The area attained the 2006 24-hr $PM_{2.5}$ standard by the December 31, 2016 extended attainment date, with a corresponding 2014–2016 design value of 31 $\mu g/m^3$ in 2016, so the advancement of attainment by one year, or as expeditiously as possible, is no longer relevant.

The EPA proposes to find that the Oakridge Update provides for the implementation of RACM/RACT as required by CAA sections 189(a)(1)(C) and 172(c)(1). The EPA's evaluation of the Oakridge Update indicates that the control strategy includes permanent and enforceable requirements and takes appropriate credit for emissions reductions from those control measures. The EPA is proposing to approve LRAPA's analysis and selection of RACM/RACT as meeting the requirements of subparts 1 and 4.

D. Modeling

1. Requirements for Air Quality Modeling

CAA section 189(a)(1)(B) requires each state with a Moderate nonattainment area to submit a plan that includes, among other things, either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable. For model attainment demonstrations, the EPA's modeling requirements are in 40 CFR part 51, appendix W (82 FR 5182, January 17, 2017). The EPA's guidance recommendations for model input preparation, model performance evaluation, use of the model output for the attainment demonstration, and modeling documentation are described in *Draft Guidance for Demonstrating Attainment of Air Quality Goals for*

Ozone, $PM_{2.5}$, and Regional Haze (Modeling Guidance).[10]

Air quality modeling is used to establish emissions targets, the combination of emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors that the area can accommodate and still attain the standard, and to assess whether the proposed control strategy is likely to result in attainment of the relevant NAAQS. Air quality modeling is performed for representative episodes in the past and compared to air quality monitoring data collected during those episodes in order to determine model performance. To project future design values, the model response to emission reductions, in the form of relative response factors, is applied on a chemical species-by-species basis to the baseline design value, as implemented in the relative attainment test methodology and described in the Modeling Guidance. The future year design value is intended to estimate the projected 98th percentile of the 24-hour average $PM_{2.5}$ in the attainment year.

In addition to a modeled attainment demonstration that focuses on locations with an air quality monitor, the $PM_{2.5}$ SIP Requirements Rule recommends an additional test called an ''unmonitored area analysis.'' This analysis is intended to ensure that a control strategy leads to reductions in $PM_{2.5}$ at other locations that have no monitor, but might have base year and/or projected future year ambient $PM_{2.5}$ levels exceeding the standard. This is particularly critical where the state and/or the EPA has reason to believe that potential violations may be occurring in unmonitored areas. Finally, as discussed in the Modeling Guidance, the EPA recommends supplemental air quality analyses. These are used as part of a weight of evidence analysis, in which the likelihood of attainment is assessed by considering evidence other than the main air quality modeling attainment test.

For an attainment demonstration, a thorough review of all modeling inputs and assumptions is especially important because the modeling must ultimately support a conclusion that the plan (including its control strategy) will provide for timely attainment of the applicable NAAQS. The EPA recommends that states prepare a modeling protocol in order to establish, prior to actual modeling, agreed upon procedures with the appropriate EPA Regional Office for all phases of the modeling analysis.

2. Air Quality Modeling in the Oakridge Update and the EPA's Evaluation

LRAPA used a ''linear roll-forward'' model as the basis for projecting future design values and the effect of control strategies. In the Oakridge Update, this model is referred to as ''a proportional roll-back/roll-forward'' and also as a ''rollback model''. We use the term roll-forward here but are referring to the same model as in the Oakridge Update. A standard roll-forward model assumes all sources contribute to the WAC monitor in proportion to their weight in the emissions inventory on a species-by-species basis. The model does not explicitly treat chemistry leading to secondary $PM_{2.5}$, but as shown earlier, secondary $PM_{2.5}$ is a very small percentage of the total measured $PM_{2.5}$ in Oakridge. As implemented in the Oakridge Update, the roll-forward model assumes that the observed concentrations of secondary species (secondary organic aerosol, sulfate, nitrate, retained water, and ammonium) remain constant over time. For secondary organic aerosol concentrations from VOC precursors, LRAPA took Portland State University's results for Klamath Falls and applied them to Oakridge.

LRAPA developed multiple emission inventories for modeling attainment, one for the 2008 base year and multiple for the 2015 attainment year. The inventories used for modeling are the worst-case season day as defined in section III.A.2. Because of the simple form of the roll-forward model and the small, homogeneous airshed of the nonattainment area, the planning inventory for the nonattainment area did not need to be expanded or modified for use as an inventory for modeling. The projected 2015 attainment year inventory accounts for all changes (*i.e.* vehicle fleet turnover, population changes) that were expected to occur from 2008 through December 31, 2014. LRAPA then applied each local control strategy to the projected 2015 modeling inventory in isolation, and several or all strategies jointly, in order to develop emission inventories for various emission control scenarios in the 2015 attainment year. Once the emission inventories were available, they were input into the relative attainment test to estimate the future year design value.

To calculate the projected 2015 $PM_{2.5}$ design value, LRAPA performed the SMAT methodology, as recommended in the EPA modeling guidance. LRAPA used the ratio of attainment year (2015) to base year (2008) modeling results to derive relative response factors for organic carbon, elemental carbon, and ''other $PM_{2.5}$'' (mainly crustal material). The relative response factor for organic carbon does not account for changes in secondary organic aerosol, as estimated by Portland State University, because secondary organic aerosol is held constant between the base year and the attainment year (2015). The concentration of secondary species sulfate, nitrate, retained water, and ammonium are held constant between the base year and the attainment year (2015), and thus those species have a response factor of 1. These response factors were applied to concentrations of chemical species in the baseline design value to produce an attainment year design value. The results of this process are further discussed in the Attainment Demonstration section E. Details of the analysis are presented in Appendix 3, Attachment H of the Oakridge Update.

LRAPA chose the 2006–2010 period for the baseline to represent conditions before emission controls and calculated a baseline design value of 39.5 $\mu g/m^3$. The concentrations of chemical species used in the baseline design value were drawn from the monitoring data for the top 25 percent most polluted wintertime days (in the first and fourth quarters) when speciated monitoring was collected (between July 2009 and July 2011). Only the top 25 percent was used because there are many cleaner days in the winter when the emission source mix and contributions of $PM_{2.5}$ to the monitor are not relevant for air quality planning to meet the 24-hour $PM_{2.5}$ standard. The top 25 percent most polluted wintertime days best captured the days with weather conditions and emissions patterns that occur when the standard is exceeded. The average of the speciated concentrations of the top 25 percent most polluted days were weighted to the observed $PM_{2.5}$ concentrations from the official regulatory data at the WAC, such that the speciated $PM_{2.5}$ data used for air quality modeling (and for the precursor demonstration) are reflective of the baseline design value of 39.5 $\mu g/m^3$. The technique was not used for the second and third quarters because an examination of the $PM_{2.5}$ data from the baseline period 2006–2010 showed that the data from the second and third quarters were too low to affect the attainment year design value.

The Oakridge Update also contains an unmonitored area analysis and supplemental information as additional support for the modeling demonstration. LRAPA conducted a saturation study in

[10] The Modeling Guidance is available on EPA's SCRAM Web site, Web page: *https://www.epa.gov/scram/state-implementation-plan-sip-attainment-demonstration-guidance; direct link: https://www3.epa.gov/scram001/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf.*

2002–2003 in the town of Oakridge and in 2009–2010 for the Westfir portion of the nonattainment area (*See* Oakridge Update appendix 3.A). The area around the WAC had the highest concentrations of $PM_{2.5}$ in the winter when the air was polluted. LRAPA submitted a positive matrix factorization (PMF) source apportionment study conducted by the EPA Region 10 (*See* Oakridge Update appendix 3.E.2). That report concluded that primary emissions of wood smoke was responsible for about 75% of the $PM_{2.5}$ on polluted days above 25 μg/m³. In comparison, the base year emission inventory attributes 80% of the primary $PM_{2.5}$ on Worst Case Days to wood smoke.

3. The EPA's Conclusions on Air Quality Modeling

The model inputs, model design, modeling emission inventories, supplemental information, and attainment test methodology are appropriate for nonattainment planning and for an attainment demonstration in the Oakridge NAA. The roll-forward model used by LRAPA is not the standard attainment model used in larger areas and in areas with significant secondary $PM_{2.5}$. However, the roll-forward model is well-suited to a nonattainment area that is on the scale of 5–10 km and to an area where secondary $PM_{2.5}$ is limited. The extra complexity of a gridded photochemical model would add little value and may be less transparent and more difficult to use for testing out RACT/RACM measures. LRAPA's unmonitored area analysis shows that a roll-forward model based on the data and location of the WAC is appropriate because other parts of the nonattainment area experience lower $PM_{2.5}$ concentrations on polluted winter days. By keeping the $PM_{2.5}$ concentration of sulfate, nitrate, retained water, and ammonium the same in 2015 as in 2008, LRAPA is estimating a conservatively high attainment year design value because the emission inventories show that precursor emissions to those secondary species went down between 2008 and 2015, sometimes substantially (*See* Tables 2 and 3 in section III.A.2). If secondary $PM_{2.5}$ reductions were included in the model, the modeled future year design value would be slightly lower.

The EPA is proposing to find that LRAPA's model adequately meets the current EPA modeling requirements, and uses acceptable modeling techniques to demonstrate attainment by December 31, 2015. The EPA also proposes to find that the modeling is adequate for purposes of supporting the control strategy analysis, RFP, and contingency measures.

E. Attainment Demonstration

1. Requirements for Attainment Demonstration

CAA section 189(a)(1)(B) requires that each Moderate area attainment plan include a demonstration that the plan provides for attainment by the latest applicable Moderate area deadline or, alternatively, that attainment by the latest applicable attainment date is impracticable. A demonstration that the plan provides for attainment must be based on air quality modeling consistent with the EPA's modeling regulations (51.1011(a)(2); 51.1011(a)(4)(ii); and 81 FR 58049). In SIP submissions to demonstrate attainment, the state should document that its required control strategy in the plan represents the application of RACM/RACT to existing sources.

CAA section 188(c) states, in relevant part, that the Moderate area attainment date ''shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment.'' For the 2006 24-hour $PM_{2.5}$ NAAQS, effective December 14, 2009, the applicable Moderate area attainment date under section 188(c) for the Oakridge NAA is as expeditiously as practicable, but no later than December 31, 2015.

In addition, the EPA's August 24, 2016, $PM_{2.5}$ SIP Requirements Rule provides that a state's modeled attainment demonstration needs to establish that an area will attain the NAAQS by the projected attainment date. Practically speaking, this is considered satisfied by the modeling showing that the 98th percentile is below the standard for the attainment year (81 FR 58010, at page 58054). The EPA authorizes this approach because of the potential availability of extensions of the attainment date under relevant provisions of the CAA. In other words, if ambient data show attainment-level concentrations in the applicable statutory attainment year, a state may be eligible for up to two 1-year extensions of the attainment date. *See* 40 CFR 51.1005. Using this provision, a state may be able to attain the NAAQS by the December 31, 2016 extended attainment date, even if the measured design value (a 3-year average) for an area does not meet the NAAQS by the end of the 6th calendar year after designation. For this reason, the EPA's $PM_{2.5}$ SIP Requirements Rule indicates that it is acceptable for a state to model air quality levels for the final statutory attainment year in which the area is required to attain the standard (in this case 2015).

2. Attainment Demonstration in the Oakridge Update

In the Attainment Demonstration section of the Oakridge Update, LRAPA described how its chosen control strategies would provide the emissions reductions needed to demonstrate attainment by December 31, 2015. The majority of projected control strategy air quality benefits came from the wood smoke curtailment program, the wood stove changeout program, and the Heat Smart program. A more detailed discussion of these strategies can be found in section III. C. RACT/RACM above.

Table 6 lists the control strategies, the modeled $PM_{2.5}$ benefit in the attainment year from each major control strategy, and the attainment year design value from all control strategies implemented together. LRAPA estimated the total effective emissions reductions from the adopted control strategy in the Oakridge Update would result in a 10.2 μg/m³ reduction from the baseline design value of 39.5 μg/m³ at the WAC monitor resulting in a 2015 attainment year design value of 29.3 μg/m³. The design value represents the modeled 98th percentile for 2015 based on controls in place by December 31, 2014.

TABLE 6—2015 ATTAINMENT DEMONSTRATION STRATEGIES FOR THE OAKRIDGE AREA

Control strategies	Projected air quality benefit (μg/m³)
Baseline Design Value	39.5
Primary Control Measures (Table 5 contains a detailed list of control strategies)	10.2

TABLE 6—2015 ATTAINMENT DEMONSTRATION STRATEGIES FOR THE OAKRIDGE AREA—Continued

Control strategies	Projected air quality benefit (μg/m³)
Future Design Value 2015	29.3

* The individual emission reduction estimates in this table are derived from the modeled Future Design Value in 2015. The air quality benefit for the control measures are presented in Table 5. Because the control strategies interact nonlinearly, the final design value is not a simple subtraction of the individual measures' benefits from the baseline design value. When all control strategies are simulated together, their benefit is less than it would appear because, for instance, the curtailment measure has a smaller benefit when stoves have been changed out to be cleaner.

3. The EPA's Evaluation and Proposed Action: Attainment Demonstration

We have evaluated the Oakridge attainment demonstration, supporting air quality modeling, supplemental analyses, and RACM/RACT control strategy analyses which address the adoption of all reasonable measures. The EPA's evaluation of the Oakridge Update indicates that the control strategy includes permanent and enforceable requirements and takes appropriate credit for emissions reductions from those control measures. We are proposing to approve the Oakridge attainment demonstration for the area. LRAPA showed that emission controls were in place in order to demonstrate attainment by December 31, 2015 for the 2006 $PM_{2.5}$ NAAQS. The requirement to demonstrate that attainment could not be advanced by a year or more by implementing additional measures as expeditiously as practicable was met in that there were no additional reasonable control measures available for implementation.

The area needed to identify at least 4.1 μg/m³ of reductions to get from the baseline design value of 39.5 μg/m³ to attain the 2006 $PM_{2.5}$ NAAQS. With a 2014–2016 design value of 31 μg/m³, the emissions reductions from the implementation of the adopted permanent and enforceable measures of 10.2 μg/m³ are sufficient to provide a buffer below the 35 μg/m³ standard and demonstrate attainment. Recent monitoring data demonstrates attainment with the NAAQS and that the plan was effective.

Finally, the unmonitored area analysis confirms that the WAC is the highest neighborhood-scale location in the nonattainment area on polluted winter days. Given the high contribution of wood smoke to high $PM_{2.5}$ levels at the WAC monitor, the relatively uniform distribution of emissions within the nonattainment area, and the focus of control measures on wood burning, it is reasonable to conclude that demonstrating attainment at the WAC monitor assures attainment elsewhere in the nonattainment area.

F. Reasonable Further Progress (RFP) and Quantitative Milestones (QM)

1. Requirements for RFP and QMs

CAA section 172(c)(2) requires nonattainment area plans to provide for RFP. In addition, CAA section 189(c) requires $PM_{2.5}$ nonattainment area SIPs to include QMs to be achieved every 3 years until the area is redesignated to attainment and which demonstrate RFP. CAA section 171(1) defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by [Part D] or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable [NAAQS] by the applicable date.'' Neither subpart 1 nor subpart 4 require that a set percentage of emissions reductions be achieved in any given year for purposes of satisfying the RFP requirement for $PM_{2.5}$ NAAQS. Because RFP is an annual emission reduction requirement and the QMs are to be achieved every 3 years, when a state demonstrates compliance with the QM requirement, it provides an objective evaluation of RFP that has been achieved during each of the relevant 3 years. 40 CFR 51.1013(a)(1)(ii).

An attainment plan for a $PM_{2.5}$ nonattainment area must include an RFP analysis that demonstrates that sources in the area will achieve such annual incremental reductions in emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors as are necessary to ensure attainment as expeditiously as practicable. 40 CFR 51.1012(a). The RFP analysis must include a schedule for implementation of the control measures and provide projected emissions from these measures for each applicable milestone year. *Id.* at 51.1012(a)(1)–(2). At a minimum, QMs for a Moderate area attainment plan must track progress achieved in implementing RACM/RACT and additional reasonable control measures by each milestone date. Therefore, timely implementation of the control measures that achieve the emissions reductions comprising the RFP plan provides a means for satisfying the QM requirement.

The CAA does not specify the starting point for counting the 3-year periods for QMs under CAA section 189(c). However, the EPA's longstanding interpretation of the CAA is that the first QM should fall 3 years after the latest date on which the state should have submitted the attainment plan. For the 2006 $PM_{2.5}$ NAAQS, the EPA set QMs to be achieved no later than 3 years after December 31, 2014, and every 3 years thereafter until the QM date that falls within 3 years after the applicable attainment date. 40 CFR 51.1013(a)(4). Accordingly, the only QM date for the Oakridge NAA Moderate attainment plan must be met no later than December 31, 2017 (3 years after December 31, 2014), with additional QM dates to be identified in the Serious attainment plan if needed.

2. RFP and QMs in the Oakridge Update

The Oakridge Update identifies direct $PM_{2.5}$ emission reductions achieved as a result of progressively implemented control strategies. These control strategies were implemented from 2008 through 2016 and continue to be in effect. LRAPA provided a table in the Oakridge Update that listed the $PM_{2.5}$ control strategies, the implementation timeframes and direct $PM_{2.5}$ emissions reductions realized. Table 7 summarizes this information.

TABLE 7—SUMMARY OF $PM_{2.5}$ AIR QUALITY IMPROVEMENTS FROM RWC STRATEGIES

RWC strategy	Reductions on worst case winter days-direct $PM_{2.5}$		Time period
	lb/day	μg/m³	
Changeouts	38	2.6	2009–2014
Curtailment Program	107	7.1	2009–2014
Strengthened Curtailment Program	25	1.7	2015–2016

LRAPA provided a projected year emissions inventory and modeled concentrations for 2016 which is within the three-year period after the applicable attainment date (3 years after December 31, 2014). The 2016 projected emissions inventory and modeling reflects the contingency measures implemented in 2015 in order to meet the 2006 24-hr $PM_{2.5}$ standard by the December 31, 2016 extended attainment date. The demonstrated impact of these measures (stronger curtailment program and enhanced enforcement on more red advisory days) showed a reduction in $PM_{2.5}$ emissions by an additional 25 lb/day and a reduction in $PM_{2.5}$ concentrations on worst case days by an additional 1.7 μg/m³. The modeled $PM_{2.5}$ concentration for 2016 was 27.5 μg/m³ and the actual 98th percentile for 2016 was 21.7 μg/m³.

In the Oakridge Update, LRAPA outlined their plan to submit to the EPA, by June 30, 2017, a Quantitative Milestone report and an annual RFP update in the event the standard was not attained by December 31, 2016. The QM report would explain ongoing progress in implementing the required control measures in the area until attainment of the 2006 24-hr $PM_{2.5}$ NAAQS was achieved.

3. The EPA's Evaluation and Proposed Action: RFP and QMs

The EPA proposes to find that the Oakridge Update adequately meets both the RFP and QM requirements for this area as specified in the CAA and the $PM_{2.5}$ SIP Requirements Rule. Even though LRAPA did not label the information we relied on to make our determination as RFP and QM, it was clear that attainment was achieved incrementally and the area substantively met the RFP and QM requirements based on other data gathered from their submission.

As of the time the state submitted the Oakridge Update, the area was attaining the 2006 24-hour $PM_{2.5}$ NAAQS. After reviewing the Oakridge Update, the EPA identified that the control strategies were implemented on time and achieved incremental emission reductions that resulted in attainment of the 2006 24-hour $PM_{2.5}$ NAAQS by the extended attainment date. The Oakridge Update provides sufficient data to identify emission reductions necessary for quantifying reasonable progress towards demonstrating attainment. The key control strategies for attainment were implemented and emissions reductions achieved during the period of nonattainment as a result of measures implemented in the area. These measures collectively contributed to the attainment of the 2006 $PM_{2.5}$ NAAQS by December 31, 2016. As a result, the area needs no further annual incremental emissions reductions.

The EPA finds that the adopted measures listed in Table 7 are being implemented and sufficient incremental reductions in emissions occurred over the attainment period to satisfy the RFP requirement. Further, the EPA concludes that the accounting of control measure implementation and the resultant emissions reductions satisfy the QM requirement for the area. For these reasons, the EPA proposes to approve the submitted Oakridge Update as meeting both the RFP and QM requirements.

The requirement to submit and achieve milestones does not continue after attainment of the NAAQS. Although section 189(c) states that revisions shall contain milestones which are to be achieved until the area is redesignated to attainment, such milestones are designed to show reasonable further progress ''toward attainment by the applicable attainment date,'' as defined by section 171. Thus, it is clear that once the area has attained the standard, a demonstration to satisfy the QM requirement is no longer necessary. This interpretation is supported by language in section 189(c)(3), which mandates that a state that fails to achieve a milestone must submit a plan that assures that the state will achieve the next milestone or attain the NAAQS if there is no next milestone.

G. Contingency Measures

1. Requirements for Contingency Measures

Under CAA section 172(c)(9), $PM_{2.5}$ plans must include contingency measures to be implemented if an area fails to meet RFP or fails to attain the $PM_{2.5}$ standards by the applicable attainment date. The purpose of contingency measures is to continue progress in reducing emissions during the period while a state is revising its SIP to address a failure, such as a failure to meet a QM requirement or failure to attain. The principal considerations for evaluating contingency measures are:

- Contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the NAAQS by its attainment date.
- The SIP must contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measures will be implemented without further action by the state or by the EPA. In general, we expect all actions needed to affect full implementation of the measures to occur within 60 days after the EPA notifies the state of a failure.
- The contingency measures shall consist of control measures that are not otherwise included in the control strategy or that achieve emissions reductions not otherwise relied upon in the control strategy for the area.
- The measures should provide for emissions reductions equivalent to approximately one year of reductions needed for RFP calculated as the overall level of reductions needed to demonstrate attainment divided by the number of years from the base year to the attainment year. 81 FR 58066.

2. Contingency Measures in the Oakridge Update

In 2014, LRAPA determined the Oakridge NAA was not making reasonable further progress toward attaining the 2006 24-hr $PM_{2.5}$ NAAQS by the December 31, 2015, attainment date. In addition to requesting a 1-year

extension of the 2015 attainment date, LRAPA and the City of Oakridge triggered the following contingency measures contained in the 2012 p.m.2.5 SIP submittal.[11]

- A stricter advisory program, reducing the red advisory threshold by 5 μg/m³, from 30 μg/m³ to 25 μg/m³ thereby potentially increasing the average number of red advisory days by 5 days per year—adopted into Oakridge Ordinance 920.
- Expanding field compliance with a dedicated Oakridge Police Department compliance officer.

The contingency measures for stronger enforcement on more red advisory days were modeled and projected to reduce the future year design value by 1.7 μg/m³, which is greater than the one year of RFP reductions of 0.7 μg/m³ needed per year to demonstrate attainment by the attainment year.[12] These contingency measures are fully implemented, submitted as part of the permanent and enforceable control strategy in the Oakridge Update (Oakridge Ordinance 920) and have helped the area achieve attainment by 2016.

In order to address the next potential triggering event, failure to attain the applicable standard, LRAPA identified two additional contingency measures and submitted them as part of the Oakridge Update. In accordance with basic requirements for valid contingency measures, these two measures are not required to meet other attainment plan requirements and are not relied on in the control strategy. The contingency measures in the Oakridge Update are:

- An increase in the number of red advisory days each winter. LRAPA projects that by reducing the red advisory thresholds by 3 μg/m³, from 25 μg/m³ to 22 μg/m³, the average number of potential red advisory days will increase by three to five additional days per year; and
- Prohibition of fireplace use on yellow advisory days (in addition to the existing prohibition on red advisory days).

These contingency measures were adopted as part of the City of Oakridge Ordinance 920. In accordance with basic requirements for valid contingency measures, they will go into effect for the October 1, 2017, wood heating season with minimal further action by the state or the EPA in response to a triggering event; in this case the measures adopted by LRAPA will automatically go into effect if the EPA makes a finding that Oakridge fails to attain by the applicable attainment date. Implementation of the contingency measures are projected to reduce the future year design value by 2.8 μg/m³, which is greater than the one year of RFP reductions of 0.7 μg/m³ needed per year to demonstrate attainment by the attainment year.

3. The EPA's Evaluation and Proposed Action: Contingency Measures

The Oakridge Update includes contingency measures that would take effect upon failure of the Oakridge NAA to attain by the applicable attainment date, December 31, 2016. The Oakridge NAA monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date. In this notice, the EPA is proposing to approve the contingency measures included within the Oakridge Ordinance 920 as meeting the requirements of section 176(c) of the CAA.

H. Motor Vehicle Emissions Budgets

1. Requirements for the Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires Federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIPs. This means that such actions will not cause or contribute to violations of a NAAQS, worsen the severity of an existing violation, or delay timely attainment of any NAAQS or interim milestones. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR part 93, subpart A) as well as the Oregon transportation conformity SIP which cites the national rule (77 FR 60627). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, the EPA, the FHWA and the FTA to demonstrate that their long-range transportation plans and transportation improvement programs (TIPs) conform to applicable SIPs. This demonstration is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEB) contained in a SIP.

The emissions inventories should identify MVEB for the attainment year and each RFP milestone year for direct $PM_{2.5}$ and NO_X. The MVEB should also reflect VOC, SO_2, and NH_3, if transportation-related emissions of these precursors have been found to contribute significantly to the $PM_{2.5}$ nonattainment problem (40 CFR 93.102(b)(2)(iv)). All direct $PM_{2.5}$ SIP budgets should include direct $PM_{2.5}$ motor vehicle emissions from tailpipe, brake wear, and tire wear. A state must also consider whether re-entrained paved and unpaved road dust are significant contributors and should be included in the direct $PM_{2.5}$ budget. *See* 40 CFR 93.102(b) and 93.122(f) and the conformity rule at *https://nepis.epa.gov/Exe/ZyPDF.cgi/P100E7CS.PDF?Dockey=P100E7CS.PDF.*

2. Motor Vehicle Emissions Budgets in the Oakridge Update

Oakridge is considered an isolated rural nonattainment area, so transportation conformity under 40 CFR 93.109(g) is only needed when a non-exempt federally-funded project is funded or approved. The Oakridge Update includes budgets for direct $PM_{2.5}$ for 2015. The budget was calculated with the assistance of the ODEQ using the MOVES2014a vehicle emissions model and was executed with locally developed inputs representative of wintertime calendar year 2015 conditions. The mobile source emissions were modeled to steadily decrease between 2008 and 2015 as a result of cleaner vehicles and cleaner fuels. Secondary particulate is a minor contributor to the Oakridge $PM_{2.5}$ air pollution concentrations on worst winter days as summarized above in section III. B. Therefore, the Oakridge 2015 MVEB of 22.2 lb/day for direct $PM_{2.5}$ is a sum of primary exhaust, brake wear and tire wear.

3. The EPA's Evaluation and Proposed Action: Motor Vehicle Emissions Budgets

For MVEB to be approvable, they must meet, at a minimum, the EPA's adequacy criteria (40 CFR 93.118(e)(4)). In this notice, the EPA is proposing to approve the comprehensive precursor demonstration for SO_2, NO_X, NH_3, and VOCs (*See* section III. B) and proposing to find that the state does not need to address precursors in the Oakridge Update for purposes of the MVEB, or regional emissions analyses in transportation conformity determinations. The EPA has reviewed the MVEB and found it to be consistent with the attainment of the 2006 24-hour $PM_{2.5}$ NAAQS and that it met the

[11] These contingency measures were previously disapproved by EPA (81 FR 72714) because the regulatory text of the contingency measures (Oakridge Ordinance 914) had not been included as a part of that SIP submission.

[12] Other provisions were adopted in Ordinance 920, but weren't relied upon as contingency measures to establish the one year of RFP reduction needed per year to demonstrate attainment by the attainment year.

criteria for adequacy and approval (82 FR 26090, June 6, 2017). The EPA proposes to approve the 2015 MVEB of 22.2 lb/day for direct $PM_{2.5}$ for the 24-hour $PM_{2.5}$ NAAQS for the Oakridge NAA. As a clarification, only the 2015 MVEB in the submittal is applicable to the attainment plan and only the 24-hour budget will be used for conformity purposes. As such, the EPA believes that these motor vehicle emissions meet applicable requirements for such budgets for purposes of the 2006 24-hour $PM_{2.5}$ NAAQS for transportation conformity purposes. If approved as proposed, this action will lift the conformity freeze put in place as of November 21, 2016 (40 CFR 72714).

IV. Proposed Action

The EPA proposes to:

- Determine that the Oakridge area attained the 2006 24-hour $PM_{2.5}$ NAAQS by the December 31, 2016 attainment date as demonstrated by quality-assured and quality-controlled 2014–2016 ambient air monitoring data.
- Make a clean data determination (CDD) in accordance with the EPA's clean data policy. In the event that EPA determines in its final action that the Oakridge Update should not be approved, the Clean Data Determination would suspend Oregon's obligation to submit a revised SIP to address the attainment planning requirements related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, and would toll the FIP and sanctions clocks that were started by the EPA's prior disapprovals as long as the area remains in attainment.
- Fully approve the remaining elements of the Oakridge Update as meeting the requirements section 110(k) of the CAA. Specifically, the EPA has determined the Oakridge Update meets the substantive statutory and regulatory requirements for base year and projected emissions inventories for the nonattainment area, and an attainment demonstration with modeling analysis and imposition of RACM/RACT level emission controls, RFP plan, QMs, and contingency measures. Therefore, the EPA is proposing to approve these elements.[13] The EPA is also proposing to approve a comprehensive precursor demonstration for VOCs, SO_2, NO_X, and NH_3. The EPA is also proposing to approve the 2015 MVEB of 22.2 lb/day for direct $PM_{2.5}$.
- Approve, and incorporate by reference, the following sections in the City of Oakridge Ordinance 920: Section 1 Definitions; Section 2(1) Curtailment; Section 2(2) Prohibited materials; Section 3 Solid Fuel Burning Devices Upon Sale of the Property; Section 4 Solid Fuel Burning Devices Prohibited; Section 5 Solid Fuel Burning Devices Exemptions; Section 7 Contingency Measures.

V. Incorporation by Reference

In this rule, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section IV. Proposed Action. The EPA has made, and will continue to make, these documents generally available electronically through *https://www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble 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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 1, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–24539 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

[13] It is important to note, the 2016 Oakridge Update includes the complete 2012 Oakridge Attainment Plan which was previously partially approved, partially disapproved (81 FR 72714). In this action, the EPA is taking no action on the following elements of 2012 Oakridge Attainment Plan included in Appendix 3 of the 2016 Oakridge Update; the 2012 Oakridge $PM_{2.5}$ Attainment Plan and associated appendices F1, F6 and K. These elements are considered informational elements, not essential for making decisions on the 2016 Oakridge Update. On February 24, 2016, ODEQ withdrew appendices F2 and F3 from the Oakridge $PM_{2.5}$ Attainment Plan submittal and clarified that they were provided for informational purposes only.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 170815763–7999–01]

RIN 0648–BH13

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Tropical Tuna in the Eastern Pacific Ocean for 2018 to 2020

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations under the Tuna Conventions Act to implement provisions included in Resolution C–17–02 (*Conservation Measures for Tropical Tunas in the Eastern Pacific Ocean During 2018–2020*), which was adopted at the 92nd Meeting of the Inter-American Tropical Tuna Commission (IATTC or Commission) in July 2017. This proposed rule would implement the C–17–02 management measures for tropical tuna (*i.e.,* bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), and skipjack tuna (*Katsuwonus pelamis*)) for 2018 to 2020 in the eastern Pacific Ocean (EPO). The proposed rule would impose on purse seine vessels of class sizes 4–6 (carrying capacity greater than 182 metric tons (mt)) fishing for tropical tuna in the EPO: A 72-day closure, a 31-day area closure, and a requirement that—with some exceptions—all tropical tuna be retained and landed. In addition, this proposed rule would revise the restrictions for force majeure, establish a bigeye tuna catch limit of 750 mt for U.S. longline vessels greater than 24 meters (m) in overall length, and regulate the use of fish aggregating devices (FADs). This proposed rule is necessary for the conservation of tropical tuna stocks in the EPO and for the United States to satisfy its obligations as a member of the IATTC.

DATES: Comments on the proposed rule and supporting documents must be submitted in writing by December 14, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0129, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0129,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Rachael Wadsworth, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier ''NOAA–NMFS–2017–0129'' in the comments.

Instructions: Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Copies of the draft Regulatory Impact Review and other supporting documents are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2017–0129, or by contacting the Regional Administrator, Barry A. Thom, NMFS West Coast Region, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232–1274, or *RegionalAdministrator.WCRHMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth, NMFS at 562–980–4036.

SUPPLEMENTARY INFORMATION:

Background on the IATTC

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. In 2003, the IATTC adopted the Convention for the Strengthening of the IATTC Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention). The Antigua Convention entered into force in 2010. The United States acceded to the Antigua Convention on February 24, 2016. The full text of the Antigua Convention is available at: *https://www.iattc.org/PDFFiles2/Antigua_Convention_Jun_2003.pdf.*

The IATTC consists of 21 member nations and five cooperating non-member nations. It facilitates scientific research into, as well as the conservation and management of, tuna and tuna-like species in the IATTC Convention Area. The IATTC Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude. The IATTC maintains a scientific research and fishery monitoring program and regularly assesses the status of tuna, sharks, and billfish stocks in the IATTC Convention Area to determine appropriate catch limits and other measures deemed necessary to promote sustainable fisheries and prevent the overexploitation of these stocks.

International Obligations of the United States Under the Antigua Convention

As a Party to the Antigua Convention and a member of the IATTC, the United States is legally bound to implement decisions of the IATTC. The Tuna Conventions Act (16 U.S.C. 951 *et seq.*) directs the Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the U.S. Coast Guard, to promulgate such regulations as may be necessary to carry out the United States' obligations under the Antigua Convention, including recommendations and decisions adopted by the IATTC. The authority of the Secretary of Commerce to promulgate such regulations has been delegated to NMFS.

IATTC Resolution on Tropical Tuna Conservation for 2018 to 2020

The IATTC adopted Resolution C–17–02 (*Conservation Measures for Tropical Tunas in the Eastern Pacific Ocean During 2018–2020 and Amendment to Resolution C–17–02*) by consensus at its 92nd meeting in July 2017, in Mexico City, Mexico. Resolution C–17–02 includes provisions to revise Resolution C–17–01 for 2017, and also includes provisions for management measures for tropical tuna for 2018 to 2020. NMFS implemented 2017-specific measures in a separate rulemaking that published on September 29, 2017 (82 FR 45514). This proposed rule focuses on the tuna conservation measures for 2018 to 2020.

The intent of this Resolution is to manage fishing activities for tropical tuna stocks in the EPO and to address the recent increases in the purse seine fishing capacity in the IATTC Convention Area, which has the

potential to reduce production from tuna resources in the future if regulations are not implemented. Resolution C–17–02 includes provisions for purse seine and longline vessels fishing for tropical tunas in the IATTC Convention Area that apply from 2018 to 2020 and are described in more detail in the following paragraphs.

Resolution C–17–02 includes three provisions that were in effect for 2017 and that apply to purse seine vessels of class sizes 4–6 fishing for tropical tuna in the EPO. First, the Resolution C–17–02 maintains the requirement that each vessel must cease fishing for 72 days during one of the following two periods: July 29 to October 8, or from November 9 to January 19 of the following year. Second, the Resolution maintains the closure for purse seine vessels within the area of 96° and 110° W. and between 4° N. and 3° S. from 0000 hours on October 9 to 2400 hours on November 8. And third, the Resolution maintains the requirement that all tropical tuna be retained on board and landed, except fish considered unfit for human consumption for reasons other than size, as well as an exception on the final set of a trip, when there may be insufficient well space remaining to accommodate all the tuna caught in that set.

Resolution C–17–02 also revises provisions related to purse seine vessels requesting an exemption due to force majeure. The Commission previously defined force majeure in Resolutions C–13–01 and C–17–01 as a purse seine vessel that is disabled by mechanical and/or structural failure, fire and explosions. Resolution C–17–02 narrows the definition to situations where a vessel is disabled in the course of ''fishing operations.'' The revised definition would exclude situations where a vessel was rendered inoperable while not at sea, *e.g.,* fire in a shipyard, and situations where a vessel was in transit for purposes other than fishing operations. For situations where the Commission has approved an exemption due to force majeure, Resolution C–17–02 changes the number of days the purse seine vessel would need to observe the 72-day closure period from 30 days, as was in C–17–01, to 40 days. The reduced closure period could either be observed in the year the force majeure event occurred, or if the vessel already observed a 72-day closure period in the year the event occurred, the vessel could observe the reduced closure period the following year. The proposed action would also require that all class 4–6 purse seine vessels granted an exemption due to force majeure carry an observer.

Resolution C–17–02 removes two measures for 2018 to 2020 that were in effect for 2017. The provisions for 2018 to 2020 do not include the exception for allowing a purse seine vessel with a dolphin mortality limit to fish for 10 days during the closure period. The Commission had adopted this exception as a new measure for only 2017. In addition, Resolution C–17–02 removes a long standing provision that allowed purse seine vessels of class size 4 (*i.e.,* vessels with a carrying capacity between 182 and 272 mt) to make a single fishing trip of up to 30 days during the closure period, provided that any such vessel carries an observer.

Resolution C–17–02 also increases the U.S. annual catch limit for bigeye tuna in the IATTC Convention Area from 500 mt to 750 mt for longline vessels greater than 24 m in overall length. In addition, Resolution C–17–02 regulates for the first time the practice of IATTC members and cooperating non-members (CPCs) transferring longline catch limits for bigeye tuna. The previous IATTC resolutions on tropical tuna did not address transfers of longline catch. A few IATTC members reportedly transferred portions of their catch limits to other IATTC members, but there were no formal procedures for such transfers in the resolutions. The Commission adopted provisions to regulate any transfer to improve transparency and to increase the information collected about such transfers. Resolution C–17–02 specifies that no more than 30 percent of a CPCs catch limit may be transferred. Furthermore, a transfer may not be made retroactively to cover an overage of a catch limit for bigeye tuna and may not be retransferred to any other CPC. Ten days in advance of any transfer, both CPCs involved in a transfer must notify the IATTC (either separately or jointly). All notifications of a transfer of any catch limit must specify the tonnage to be transferred and the year in which the transfer will occur. Each CPC that receives a transfer would be responsible for management of the transferred catch limit, including monitoring and monthly reporting of catch.

Resolution C–17–02 also includes several new provisions on purse seine vessels fishing with FADs in the IATTC Convention Area. NMFS interprets the Resolution as differentiating between ''active FADs''—defined as a FAD that it is deployed at sea, starts transmitting its location, and is being tracked by the vessel—and non-active FADs that do not have equipment capable of transmitting their location. As explained herein, the Resolution includes requirements that apply solely to active FADs (*i.e.,* active FAD limits per vessel and monthly reporting), and requirements that apply to both active and non-active FADs (*e.g.,* deployment restrictions, removal restrictions, and materials to reduce entanglements). For long-term planning purposes, NMFS is seeking public comment on whether the industry needs the flexibility to continue deploying non-active FADs in the IATTC Convention Area or whether NMFS should prohibit the deployment of non-active FADs to facilitate monitoring of, and reporting on, FADs that have tracking equipment. The Resolution specifies that an active FAD may be activated only while it is onboard a purse seine vessel. The Resolution limits the number of active FADs that each purse seine vessel may have at any one time in the IATTC Convention Area: Class 6 vessels (1,200 cubic meters well volume and greater) may have up to 450 FADs; class 6 vessels (less than 1,200 cubic meters), up to 300 FADs; class 4–5 vessels, up to 120 FADs; class 1–3 vessels, up to 70 FADs.

To ensure compliance with the active FAD limits, the Resolution requires reporting on active FADs for each vessel in the IATTC Convention Area. The Resolution instructs the IATTC scientific staff and IATTC Permanent Working Group on FADs to develop, at the latest by November 30, 2017, guidance on the reporting of active FAD data in accordance with the Resolution. Vessel owners and operators must ensure that daily information on all active FADs in the IATTC Convention Area is recorded and the information must be reported at monthly intervals to the IATTC. To ensure confidentiality on any location information, these reports may be submitted with a time delay of at least 60 days but no later than 90 days.

The Resolution also includes restrictions on all FAD deployments and recovery in the IATTC Convention Area. The Resolution provides that purse seine vessels of class size 4–6 must ensure that FADs are not deployed during a period of 15 days prior to the start of the selected 72-day closure period. In addition, the Resolution provides that class 6 purse seine vessels (greater than 363 mt carrying capacity) must recover (*i.e.,* meaning remove from the water), within 15 days prior to the start of the selected closure period, a number of FADs equal to the number of FADs set upon during that same period.

In addition, the Resolution imposes design standards for all FADs to reduce the entanglement of marine life, *e.g.,* sharks and turtles, with FADs. Specifically vessel owners and operators are required to ensure that, as of January

1, 2019, all FADs are designed and deployed based on the principles set out in paragraphs 1 and 2 of Annex II in Resolution C–16–01 (*Amendment of Resolution C–15–03 on the Collection and Analyses of Data on Fish-Aggregating Devices*). These paragraphs describe materials that can be used for both the surface and subsurface structure of the FAD.

Proposed Regulations—Tuna Conservation Measures for 2018 to 2020

This proposed rule would implement the provisions of Resolution C–17–02 as described above. These proposed regulations would apply to U.S. commercial fishing vessels that are used to fish for tropical tuna stocks in the IATTC Convention Area. These proposed regulations would apply from 2018 to 2020. Per Resolution C–17–02, the proposed regulations would maintain three existing U.S. regulations for purse seine vessels, revise several existing regulations for both purse seine and longline vessels, and add several new regulations on transferring longline catch limits and FAD management. The proposed new regulations are further described below.

As described previously, there are several new provisions on transfers of bigeye catch limits for longline vessels. NMFS and U.S. Department of State would be responsible for arranging any transfers of a bigeye tuna catch limit for the United States with another IATTC CPC. Currently, the IATTC CPCs with which the United States could conduct a transfer, per paragraph 16 of Resolution C–17–02, include China, Japan, South Korea, and Chinese Taipei. NMFS would ensure that the total catch limit transferred either to the United States or from the United States would not exceed 30 percent of the catch limit designated to those CPCs or the United States by the IATTC. In addition, these transfers would not be allowed to be made to retroactively cover an overage of a U.S. catch limit for bigeye tuna. The United States would not be allowed to retransfer any of the transferred catch limit it receives from another CPC to another CPC.

Per requirements of the Resolution, NMFS will notify the IATTC of the transfer 10 days in advance, either separately or with the other CPC transferring catch. The notification would specify the tonnage to be transferred and the year in which the transfer would occur. NMFS will be responsible for the management of the transferred catch limit, including monitoring and monthly reporting of catch.

If the United States engages in a transfer of a bigeye tuna catch limit with another IATTC member, NMFS would publish a notice in the **Federal Register** announcing the new catch limit that is available to U.S. commercial fishing vessels that are over 24 meters in overall length. All restrictions described in 50 CFR 300.25 paragraphs (a)(1) and (a)(3) through (a)(4) would continue to apply.

In addition, the proposed regulations include several new restrictions on FADs in the IATTC Convention Area. The proposed regulations define the term ''Active FAD'' as a fish aggregating device that is equipped with gear capable of tracking location, such as radio or satellite buoys. An Active FAD would be considered active unless/until the tracking equipment is removed and the vessel owner or operator notifies NMFS Highly Migratory Species (HMS) Branch that this vessel is no longer active (*i.e.,* deactivated). With respect to limits on the number of Active FADs, all class 6 U.S. purse seine vessels on the IATTC Regional Vessel Register have a well volume of 1,200 m^3 or more. Therefore, these U.S. purse seine vessels would have a limit of 450 active FADs per vessel at any one time.

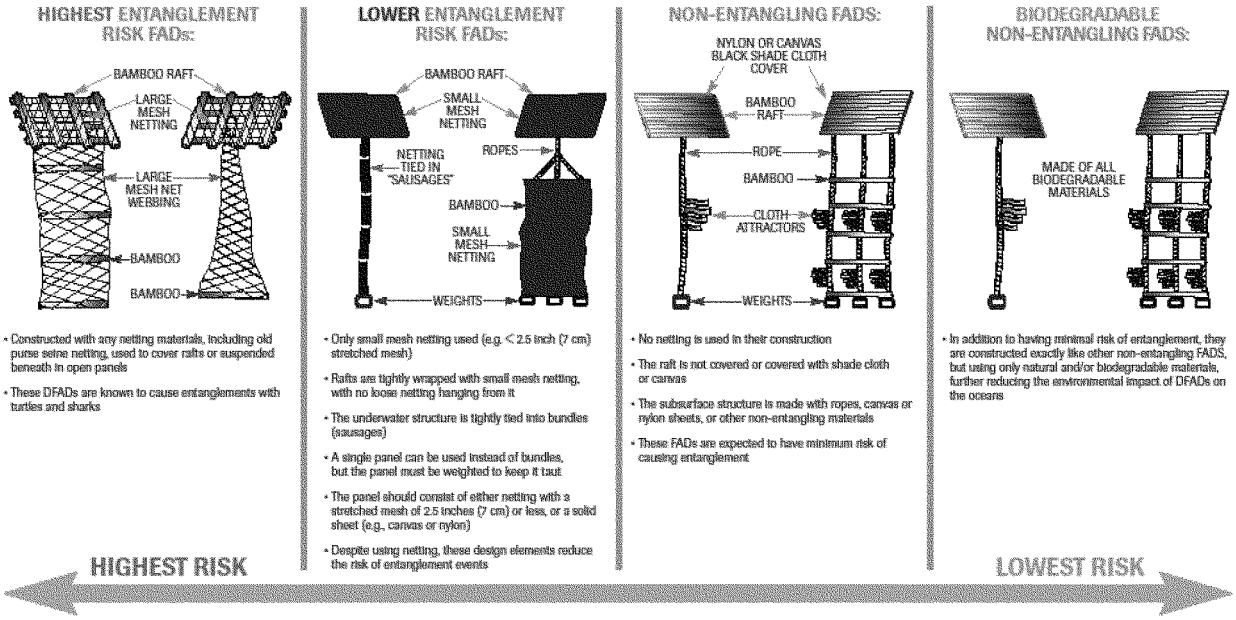
The proposed regulations would also require reporting on Active FADs in the IATTC Convention Area. U.S. vessels owners and operators would be required to maintain daily information on all Active FADs for each vessel in the IATTC Convention Area and report this information monthly to the address specified by NMFS HMS Branch. NMFS will distribute any guidance or templates developed by the IATTC FAD Working Group prior to the effective date of the final rule. These reports would be required to be submitted no later than 90 days after the month covered by the report. For example, reports covering the month of January 2018 could be submitted on or before May 1, 2018.

The proposed regulations also clarify that the reporting on FAD interactions, which is already required by regulations at 50 CFR 300.25(i), must be submitted within 30 days of each landing or transshipment of tuna or tuna-like species.

In addition, the proposed regulations include restrictions on FAD deployments and removals in the IATTC Convention Area. The proposed regulations specify that U.S. vessel owners, operators, and crew of purse seine vessels of class size 4–6 must ensure that FADs are not deployed during a period of 15 days prior to the start of the 72-day closure period selected by the vessel per 50 CFR 300.25(e)(1). In addition, the proposed regulations specify that U.S. vessel owners, operators, and crew of purse seine vessels of class size 6 (greater than 363 mt carrying capacity) must recover (*i.e.,* remove from the water) a number of FADs equal to the number of FADs set upon by the vessel during the 15 days prior to the start of the closure period selected by the vessel per 50 CFR 300.25(e)(1).

As described previously, Resolution C–17–02 includes broadly worded restrictions on the use of entangling material on FADs. In order to establish clear standards for FAD designs that meet the requirements of Resolution C–17–02, NMFS proposes to provide two options to meet the Resolution restrictions by following guidance developed by the International Seafood Sustainability Foundation (ISSF) in 2015 (available at*: https://iss-foundation.org/knowledge-tools/guides-best-practices/non-entangling-fads/download-info/issf-guide-for-non-entangling-fads/*). According to the ISSF Guide for Non-Entangling FADs (ISSF Guide), there are materials that range from highest risk of entanglement to lowest risk (*i.e.,* ''Biodegradable and Non-Entangling FADs''). This range of options is illustrated in Figure 1.

Figure 1. FAD designs and materials ranging from highest to lowest risk of entanglement according to ISSF Guide for Non-entangling FADs (available at: *https://iss-foundation.org/knowledge-tools/guides-best-practices/non-entangling-fads/download-info/issf-guide-for-non-entangling-fads/*).



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The proposed regulations would require that, no later than January 1, 2019, all FADs onboard or deployed by U.S. purse seine vessel owners and operators in the IATTC Convention Area are consistent with either the ''Lower Entanglement Risk FADs'' or ''Non-Entangling FADs'' as described in the ISSF Guide (*i.e.,* the two diagrams in the middle of Figure 1). For clarification, the diagrams in Figure 1 show bamboo rafts and bamboo hanging materials, which are not specific material requirements in the proposed regulations. As shown in the ISSF Guide (diagram farthest to the left in Figure 1), the ''Highest Entanglement Risk FADs'' include the use of large mesh netting (*i.e.,* greater than 7 centimeters (cm) or 2.5 inches (in)) that covers the raft and/or is hanging below the raft. Therefore, the use of these materials would be prohibited on FADs that are deployed on or after January 1, 2019, in the IATTC Convention Area. The diagram on the far right in Figure 1 uses biodegradable materials, and would be a permissible sub-alternative to the ''Non-Entangling FADs'' option.

The proposed regulations provide two options for vessel owners and operators and identifies materials that are acceptable in both the surface component of the FAD (*e.g.,* raft) and subsurface component of the FAD (*e.g.,* hanging material). If FADs are constructed in a manner consistent with either of these two options, this would meet the requirements of the proposed regulations.

To meet the requirements of the Non-Entangling FADs (see diagram third from left in Figure 1), the FAD would be required to be free from netting, and the raft would either not be covered at all or only covered with shade cloth or canvas. The subsurface structure would be made with ropes, canvas, or nylon sheets. Although biodegradable material is not required under Resolution C–17–02 or these proposed regulations, this option is presented for the purposes of discussion and to solicit public feedback. To meet the requirements of the Non-Entangling FAD plus the biodegradable option for a FAD (see diagram furthest to the right in Figure 1), the FAD would be constructed in the same manner as the previously described Non-Entangling FAD and the material would only include biodegradable materials. NMFS is considering definitions for biodegradable, but examples of biodegradable materials could include non-plastic and non-metal materials, as well as natural materials such as bamboo, palm leaves, coconut fiber or sisal fiber.

Alternatively, the ''Lower Entanglement Risk FADs'' (see diagram second from the left in Figure 1) would require that if netting is used for either the surface or subsurface components that only small mesh would be used (*i.e.,* 7 cm/2.5 in or less stretched mesh). If the raft is covered and small mesh netting is used, it must be tightly wrapped around the raft to avoid loose hanging netting. Any other covering must be comprised of shade cloth or canvas. Any small mesh netting used in the subsurface structure must be tightly tied into bundles (''sausages''), or formed into a panel that is weighted so as to keep it taut.

In addition, NMFS is soliciting the public for information on additional materials or configurations that have been demonstrated to reduce or avoid entanglements when used in FAD construction. Taking into account enforceability, NMFS will evaluate this input and consider including it in the final rule. NMFS acknowledges that additional materials may be recognized in the future that are effective at reducing or avoiding entanglement. Therefore, NMFS will update these regulations as appropriate.

Classification

After consultation with the Department of State and Homeland Security, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act of 1950, as amended, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS is amending the supporting statement for the West Coast Region Pacific Tuna Fisheries Logbook and Fish Aggregating Device Form, Office of Management and Business (OMB) Paperwork Reduction Act (PRA) requirements (OMB Control No. 0648–0148) to include the data collection requirements for FADs as described in the preamble. NMFS estimates that the public reporting burden for this collection of information will average 3 minutes per form, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. NMFS requests any comments on the addition of the FAD data collection form to the PRA package, including whether the paperwork would unnecessarily burden any vessel owners and operators. Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the **ADDRESSES** above, and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

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

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is provided in the following paragraphs.

As described in the **SUPPLEMENTARY INFORMATION** section, the proposed regulations would implement IATTC Resolution C–17–02, which would establish regulations for U.S. commercial fishing vessels fishing for tropical tuna in the IATTC Convention Area as detailed above. The objectives of the proposed action are: (1) To manage U.S. fishing activities for tropical tuna in the EPO for the benefit of maximizing harvests while avoiding overfishing, and (2) fulfilling the international obligations of the United States as a member of the IATTC.

The absence of the proposed rule action would allow U.S. fisheries to target tropical tuna stocks in the IATTC Convention Area without restrictions (except for existing permit requirements). This may contribute to overfishing conditions of tuna resources. Managing stocks at or above levels able to produce maximum sustainable yield is intended to benefit both the stocks and the fisheries in the EPO by allowing the production of the stocks to be maintained at levels where the largest catch can be taken overtime. Alternatively, the implementation of Resolution C–17–02 will result in the sharing of sustainable benefits from Pacific tuna fishery resources among the IATTC CPC countries. The entities directly affected by the actions of this proposed rule are: (1) U.S. purse seine vessels that fish for tuna or tuna-like species in the IATTC Convention Area, and (2) U.S. longline vessels greater than 24 meters in overall length that catch bigeye tuna in the IATTC Convention Area.

The United States Small Business Administration (SBA) defines a ''small business'' (or ''small entities'') as one with annual revenue that meets or is below an established size standard. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. SBA current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016. *Id.* at 81194. The new standard results in fewer commercial finfish businesses being considered small.

NMFS prepared analyses for this regulatory action in light of the new size standard. All of the entities directly regulated by this regulatory action are commercial finfish fishing businesses. Under the new size standards, the U.S. purse seine vessels this action applies to are considered large and small businesses. The longline vessels this action applies to are considered to be small businesses.

There are two components to the U.S. tuna purse seine fishery in the EPO: (1) Large purse seine vessels of class size 6 that typically have been based in the western and central Pacific Ocean (WCPO), and (2) coastal purse seine vessels with smaller fish hold volumes (size class 2–3; between 46–181 mt carrying capacity) that are based on the U.S. West Coast. Although Resolution C–17–02 and the proposed regulations include restrictions for class size 4–5 (182–363 mt carrying capacity) purse seine vessels, there are no (nor have there been in the past ten years) any U.S. vessels of class sizes 4–5 registered to fish in the IATTC Convention Area. Therefore, the proposed regulations for class size 4–5 purse seine vessels are not expected to have any impact to U.S. vessel owners or operators.

As of September 2017, there are 17 class size 6 purse seine vessels registered to fish in the IATTC Convention Area. The number of U.S. size class 6 purse seine vessels on the IATTC Regional Vessel Register has increased substantially in the past two years due to previous uncertainty in the negotiations regarding the South Pacific Tuna Treaty and the interest expressed by vessel owners that typically fish in the WCPO in relocating to the EPO. From 2005 through 2014, three or fewer class 6 purse seine vessels fished in the Convention Area. In 2015 and 2016, fifteen and eighteen vessels fished in the Convention Area, respectively.

The U.S. class size 6 purse seine vessels target skipjack tuna by fishing on floating objects and unassociated sets; they also catch and retain yellowfin and bigeye tuna. Since at least 2005, the observer coverage rate on class size 6 vessels in the EPO has been 100 percent. In addition, one U.S. class 6 purse seine vessel has permission to fish on dolphins in 2017 and may be eligible to fish on dolphins in the future; but, this vessel could also fish on floating

objects and unassociated sets as it has done in the past. Previous to 2017, no U.S. purse seine vessel had fished on dolphins in over 10 years and NMFS does not yet have any catch data for this fishing activity.

For large purse seine vessels that fished exclusively in the EPO in 2015 and 2016, ex-vessel price information is not available to NMFS because these vessels did not land on the U.S. West Coast, and the cannery receipts are not available through the IATTC. However, estimates for large purse seine vessels based in the WCPO that fish in both the EPO and WCPO may be used as a proxy for U.S. large purse seine vessels. The number of these U.S. purse seine vessels is approximated by the number with Western and Central Pacific Fisheries Commission (WCPFC) Area Endorsements, which are the NMFS-issued authorizations required for a vessel to fish commercially for highly migratory species (HMS) on the high seas in the WCPFC Convention Area. As of October 2017, the number of purse seine vessels with WCPFC Area Endorsements was 37.

Based on (limited) financial information about the affected fishing fleets, and using individual vessels as proxies for individual businesses, NMFS believes that over half of the vessels in the purse seine fleet are small entities as defined by the RFA; that is, they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $11 million. Within the purse seine fleet, analysis of average revenue, by vessel, for the three years of 2014–2016 reveals that average fleet revenue was $10,201,962; 22 participating vessels qualified as small entities with their average of the most recent three years of vessel revenue for which data is available of less than $11 million.

As of September 2017, the IATTC Regional Vessel Register lists 158 U.S. longline vessels that have the option to fish in the IATTC Convention Area, 37 of which are large-scale longline vessels (*i.e.,* greater than 24 m in overall length). The majority of these longline vessels have Hawaii Longline Limited Access Permits (issued under 50 CFR 665.13). Under the Hawaii longline limited access program, no more than 164 permits may be issued. The Hawaii longline fisheries include a tuna-targeting (including bigeye tuna) deep-set fishery and swordfish-targeting shallow set fishery. Since at least 2008, the observer coverage rates on shallow-set and deep-set longline vessels in the EPO have been a minimum of 100 and 20 percent, respectively. U.S. longline vessels fishing in the EPO have reached the 500 mt catch limit for bigeye tuna in 2013 to 2015 and in 2017.

In addition, there are U.S. longline vessels based on the U.S. West Coast, some of which operate under the Pacific HMS permit and high seas permits. U.S. West Coast-based longline vessels operating under the Pacific HMS permit fish primarily in the EPO and are currently restricted to fishing with deep-set longline gear outside of the U.S. West Coast EEZ. There have been fewer than three U.S. West Coast-based vessels operating under the HMS permit since 2005; therefore, landings and ex-vessel revenue are confidential. However, the number of Hawaii-permitted longline vessels that have landed in U.S. West Coast ports has increased from one vessel in 2006 to 18 vessels in 2016. In 2016, 928 mt of HMS (excluding striped marlin, pelagic thresher shark, and bigeye thresher shark) were landed into West Coast ports by Hawaii permitted longline vessels with total ex-vessel revenue of about $5.4 million. The average ex-vessel revenue for each vessel is approximately $302,222. This is well below the $11 million threshold for finfish harvesting businesses.

Economic Impacts

The proposed action is not expected to have a significant adverse economic impact on either the profitability of a substantial number of small entities or a disproportional economic effect on small entities relative to large entities. Under the new size standards, the entities impacted by the action related to purse seine vessels are considered large and small business, and the entities impacted by the action related to longline vessels are considered small business. However, disproportional economic effects between small and large businesses are not expected. Several proposed measures for 2018–2020 would maintain regulations that have been in place for years for tropical tuna management in the IATTC Convention Area; therefore, these actions are routine for the purse seine and longline fisheries. The proposed changes to the 2017 regulations include removing two regulations, revising two regulations, and adding several new regulations. These changes and the expected economic effects are discussed in more detail below.

Exception for dolphin fishing vessels: This proposed action would remove the exception that allowed vessels with DMLs to fish for ten days during the 72-day closure period. The Commission had adopted this temporary exemption for 2017 to provide additional flexibility to the DML vessels based on negotiations at the July 2017 IATTC meeting. As described above, only one U.S. purse seine vessel has a DML for 2017. It is currently unknown if the vessel will use this exemption in place for 2017. The exemption provided an optional additional economic benefit to DML vessels in 2017. Although removing this exemption may reduce the profitability of this particular vessel, the economic impacts are not expected to be substantial. Furthermore, the vessel would now be subject to the same restrictions as the other U.S. purse seine vessels that fish on FADs and unassociated sets and are subject to a 72-day closure. Therefore, no disproportionate impacts between small and large businesses are expected.

Exception for class 4 vessels: The proposed action to remove the regulation that allows purse seine vessels of class size 4 to make a single fishing trip of up to 30 days during the closure period is not expected to have any impact on U.S. purse seine vessels because there are no U.S. purse seine vessels of class size 4 registered to fish in the IATTC Convention Area.

Force Majeure: The proposed action would narrow the definition of force majeure to situations where a vessel is disabled at sea (except while transiting between ports on a trip during which no fishing operations occur). The proposed action would change the number of days the vessel would need to observe the 72-day closure from 30 days, as was in Resolution C–17–01, to 40 days, and would allow a reduced closure period to be observed the year following the force majeure event. The proposed action would also require that all class 4–6 purse seine vessels granted an exemption due to force majeure carry an observer. Because all class 6 U.S. purse seine vessels already carry observers under the requirements of the Agreement on the International Dolphin Conservation Program (AIDCP) and there are no class 4–5 U.S. purse seine vessels, this requirement will not impose additional restrictions on U.S. purse seine vessel owners or operators. The revised definition would exclude situations when something happened to the vessel while not at sea, *e.g.,* if the vessel caught on fire in a shipyard. Since 2013, when the force majeure provisions first went into effect, the United States has requested force majeure exemptions three times, one of which was for a situation that would be excluded under the current definition. Because force majeure events are rare and unpredictable, it is difficult to speculate future situations where a U.S. vessel would need to request force majeure. However, based on the

previous types of force majeure requests, the economic impacts are expected to be minor or none. The economic effects from reducing the number of days the vessel would need to observe the closure and allowing more flexibility in the year in which to observe a reduced closure period would have a positive economic impact for vessels that are granted an exemption due to force majeure. Nonetheless, this proposed measure is expected to provide some relief to purse seiners that experience an unforeseen circumstance and would otherwise have fewer days in a calendar year in which to fish.

Catch Limit: The proposed action maintains a bigeye tuna catch limit for longline vessels greater than 24 m in overall length; however, the proposed action included an increase from 500 to 750 mt specifically for the United States. The total allocated catch limits for IATTC members specified in the Resolution is 55,131 mt. The increase in U.S. catch limit of 250 mt represents 0.45 percent increase of the total catch limit. The IATTC staff estimated that this increase represents less than a 0.8 percent increase in fishing mortality for the EPO stock of bigeye tuna, which is currently estimated to not be experiencing overfishing or to be overfished. This increase may allow for additional flexibility and fishing opportunity for the U.S. longline fleet. Longline bigeye tuna catch limits have been in place since 2009 (Resolution C–09–01), and extending and increasing the U.S. catch limit would likely increase the profitability of the fishery. The proposed action is not expected to require any additional compliance effort or expense by affected vessels.

Transfer of catch limit: The proposed action also specifies the terms under which the U.S. could transfer (*e.g.,* receive or provide) bigeye tuna catch limit for longline vessels greater than 24 m. Although a few IATTC members reportedly transferred portions of their catch limits to other IATTC members in the past, there were no formal procedures for such transfers in the resolutions. To date, the United States has never engaged in transfers of bigeye tuna catch limits. The United States has no intention of providing any of its catch limit to another IATTC CPC. If there ever was a circumstance in the future where this would be considered (*e.g.,* if the U.S. longline fleet was no longer in fishing in the IATTC Convention Area), NMFS would evaluate the economic impacts of doing this through a separate economic analysis. It is more likely, although there is no plan for doing so at this time, that NMFS would receive a transfer of catch limit from another CPC in 2018 to 2020. If the United States did receive a transferred catch limit, it would be managed by NMFS the same way as the 750 mt catch limit is proposed to be managed by publishing the temporary increase in the catch limit in the **Federal Register** and monitoring the catch through logbooks. An increased catch limit would result in an economic benefit to the fishery and increased profitability. Because all affected longline vessels are considered small business, no disproportionate impacts between small and large entities of longline vessels would occur.

Fish Aggregating Devices (FADs): With respect to limits on Active FADs, all large U.S. purse seine vessels on the IATTC Regional Vessel Register have a well volume of 1,200 m^3 or more. Therefore, a limit of 450 Active FADs per large U.S. purse seine vessel at any one time would apply. According to information compiled by IATTC scientific staff from 2013–2015, most purse seine vessels fishing in the IATTC Convention Area deploy 300 or less FADs within a year (*https://www.iattc.org/Meetings/Meetings2016/Oct/Pdfs/_English/IATTC-90-INF-B-Add-1-Alternative-management-measures.pdf*). Although it is unknown how many Active FADs each U.S. purse seine vessel maintains at any given time, according to discussions between NMFS and U.S. industry representatives, it is not more than 450 FADs. Because this measure is not expected to reduce the number of Active FADs any U.S. purse seine vessel has in the water, this proposed rule is not expected to reduce the profitability of the fishery and no disproportionate impacts between small and large businesses are expected. In addition, although there is an additional reporting requirement for Active FADs, vessel operators are already expected to be collecting the necessary information and this is not expected to reduce profitability.

As described previously, the proposed action would prohibit FAD deployment 15 days in advance of the selected closure period. For those U.S. purse seine operators that typically deploy FADs before the closure period, this restriction could result in adjustments in fishing practices. For example, vessel operators that typically deploy FADs during that time period might choose to deploy more FADs at earlier dates before the closure or choose to deploy fewer FADs overall. In addition, the proposed action would require purse seine vessels to remove, within 15 days prior to the start of the selected closure period, a number of FADs equal to the number of FADs set upon by the vessel during that same period. Vessel operators that typically set on FADs fifteen days prior to the closure period may choose to adjust their fishing practices to not set on FADs, or to set on fewer FADs, within 15 days prior to the start of the selected closure period to avoid or reduce the number of FADs to remove. If vessel owners or operators make one set per day, they would need to remove 15 FADs to comply with this proposed regulation. For those vessel owners that remove FADs to comply with this regulation, it would be expected that they would pick up the FAD after making the set and there would be an additional time burden for vessel operators and crew to pull the FAD(s) out of the water. These proposed restrictions on FAD deployments and removals would not restrict the number of FADs in the water, but could change the amount of time vessel operators or crew engage in activities with FADs on the water. Thus, these measures are not expected to reduce the overall profitability of the fishery. Because all U.S. purse seine vessels fishing with FADs would be impacted in a similar manner, no disproportionate impacts between small and large businesses are expected.

The proposed action includes a range of options to comply with the restrictions on entangling materials on FADs in the IATTC Convention Area. Although information compiled by ISSF showed that the majority of the U.S. purse seine fleet currently use materials on FADs that have a high risk of entanglement (*e.g.,* hanging nets), according to discussions between industry representatives and NMFS, the purse seine fleet in the Pacific Ocean is in the process of transitioning to materials that do not have the highest risk of entanglement. This is a result of coordination between ISSF and U.S. industry and is expected to become effective in March 2018. Although there will likely be costs associated with this transition, which will vary depending on the materials available to the vessel and which materials the vessel uses, these measures are not expected to reduce the profitability of the fishery. Because all U.S. purse seine vessels fishing with FADs would be impacted in a similar manner, no disproportionate impacts between small and large businesses are expected. In addition, the effective date for this proposed action is January 1, 2019, which provides additional time for compliance with this measure.

With these additional restrictions on FADs, U.S. purse seine vessels will continue to have the option to fish on

unassociated sets throughout the IATTC Convention Area. In addition, depending on the level of flexibility for FAD regulations in the WCPO, U.S. purse seine vessels could also fish in the Area of Overlap without the IATTC restrictions on FADs. However, the other regulations in the Area of Overlap still apply, such as carrying an IATTC and WCPFC approved observer and being listed on the IATTC Regional Vessel Register per NMFS regulations published in 50 CFR 300.21 (definition of the Convention Area). The current regulations for the Area of Overlap could also change in the future.

In summary, the proposed action is not expected to substantially change the typical fishing practices of affected vessels. In addition, any impact to the income of U.S. vessels is expected to be minor. Therefore, NMFS has determined that the action is neither expected to have a significant economic impact on a substantial number of small entities nor to have a disproportional economic impact on the small entities relative to the large entities. Given these conclusions, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: November 8, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 300, subpart C, is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.21, add a definition of ''Active FAD'' in alphabetical order and revise the definition for ''Force majeure'' to read as follows:

§ 300.21 Definitions.

* * * * *

Active FAD means, a fish aggregating device that is equipped with gear capable of tracking location, such as radio or satellite buoys. A FAD with this equipment shall be considered an Active FAD unless/until the equipment is removed and the vessel owner or operator notifies the HMS Branch that the FAD is no longer active (*i.e.,* deactivated).

* * * * *

Force majeure means, for the purpose of § 300.25, a situation in which a vessel at sea, except while transiting between ports on a trip during which no fishing operations occur, is disabled by mechanical and/or structural failure, fire or explosion.

* * * * *

■ 3. In § 300.22, the section heading and the paragraph heading for paragraph (a) are revised, and paragraph (a)(3) is added to read as follows:

§ 300.22 Recordkeeping and reporting requirements.

(a) *Logbooks and FAD data reporting.*

* * * * *

(3) *FAD data reporting for purse seine vessels.* (i) *Reporting on FAD interactions:* U.S. vessel owners and operators must ensure that any interaction or activity with a FAD is reported using a standard format provided by the HMS Branch. The owner and operator shall ensure that the form is submitted within 30 days of each landing or transshipment of tuna or tuna-like species to the address specified by the HMS Branch.

(ii) *Reporting on active FADs:* U.S. vessels owners and operators must record or maintain daily information on all Active FADs in the IATTC Convention Area in the format provided by the HMS Branch. The HMS Branch will distribute a template describing the information to report. This information must be reported for each calendar month for which Active FADs are deployed in the Convention Area, and submitted to the address specified by the HMS Branch. These reports must be submitted no later than 90 days after the month covered by the report.

* * * * *

■ 4. In § 300.24, revise paragraphs (m), (n), (ee), and (ff), and add paragraphs (ii) through (nn) to read as follows:

§ 300.24 Prohibitions.

* * * * *

(m) Fail to stow gear as required in § 300.25(a)(4)(iv) or (e)(6).

(n) Use a fishing vessel of class size 4–6 to fish with purse seine gear in the Convention Area in contravention of § 300.25(e)(1), (e)(2), (e)(5) or (e)(6).

* * * * *

(ee) Fail to ensure characters of a unique code are marked indelibly on a FAD deployed or modified on or after January 1, 2017, in accordance with § 300.28(a)(2).

(ff) Fail to record or report data on FADs as required in § 300.22(a)(3).

* * * * *

(ii) Activate the transmission equipment attached to a FAD in a location other than on a purse seine vessel at sea as required in § 300.28(b).

(jj) Fail to turn on the tracking equipment for an Active FAD before deploying at sea as required in § 300.28(b).

(kk) Have more Active FADs than specified in § 300.28(c) in the IATTC Convention Area at any one time.

(ll) Deploy a FAD in the IATTC Convention Area during a period of 15 days prior to the start of the selected closure period in contravention of § 300.28(d)(1).

(mm) Fail to remove from the water a number of FADs in the IATTC Convention Area equal to the number of FADs set upon by the vessel during the 15 days prior to the start of the selected closure period as required in § 300.28(d)(2).

(nn) Deploy, or have onboard a vessel, a FAD in the IATTC Convention Area with non-authorized materials as required at § 300.28(e).

■ 5. In § 300.25:

■ a. Revise paragraphs (a)(1) and (2);

■ b. Add paragraph (a)(5);

■ c. Revise paragraphs (e)(1) through (3), and (e)(4)(ii);

■ d. Add paragraphs (e)(4)(iii) and (iv); and

■ e. Revise paragraphs (e)(5) and (6).

The additions and revisions read as follows:

§ 300.25 Fisheries management.

(a) * * *

(1) Fishing seasons for all tuna species begin on 0000 hours Coordinated Universal Time (UTC) January 1 and end either on 2400 hours UTC December 31 or when NMFS closes the fishery for a specific species.

(2) For the calendar years 2018, 2019, 2020, there is a limit of 750 metric tons of bigeye tuna that may be caught by longline gear in the Convention Area by U.S. commercial fishing vessels that are over 24 meters in overall length. The catch limit within a calendar year is subject to increase if the United States receives a transfer of catch limit from another IATTC member or cooperating non-member, per paragraph (a)(5) of this section.

* * * * *

(5) If the United States engages in a transfer of a bigeye tuna catch limit with another IATTC member or cooperating non-member, NMFS will publish a notice in the **Federal Register** announcing the new catch limit that is

available to U.S. commercial fishing vessels that are over 24 meters in overall length. All restrictions described in paragraphs (a)(1) and (a)(3) through (a)(4) of this section will continue to apply.

* * * * *

(e) *Purse seine closures.* (1) A commercial purse seine fishing vessel of the United States that is of class size 4–6 (more than 182 metric tons carrying capacity) may not be used to fish with purse seine gear in the Convention Area for 72 days in each of the years 2018, 2019, and 2020 during one of the following two periods:

(i) From 0000 hours Coordinated Universal Time (UTC) July 29, to 2400 hours UTC October 8, or

(ii) From 0000 hours UTC November 9 to 2400 hours UTC January 19 of the following year.

(2) A vessel owner, manager, or association representative of a vessel that is subject to the requirements of paragraph (e)(1) of this section must provide written notification to the Regional Administrator declaring to which one of the two closure periods identified in paragraph (e)(1) of this section his or her vessel will adhere in that year. This written notification must be submitted by fax at (562) 980–4047 or email at *RegionalAdministrator.WCRHMS@noaa.gov* and must be received no later than July 1 prior to the first closure period within a calendar year. The written notification must include the vessel name and registration number, the closure dates that will be adhered to by that vessel, and the vessel owner or managing owner's name, signature, business address, and business telephone number.

(3) If written notification is not submitted per paragraph (e)(2) of this section for a vessel subject to the requirements under paragraph (e)(1) of this section, that vessel must adhere to the second closure period under paragraph (e)(1)(ii) of this section.

* * * * *

(4) * * *

(ii) If the request for an exemption due to force majeure is accepted by the IATTC, the vessel must observe a closure period of 40 consecutive days in the same year during which the force majeure event occurred, in one of the two closure periods described in paragraph (e)(1) of this section.

(iii) If the request for an exemption due to force majeure is accepted by the IATTC and the vessel has already observed a closure period described in paragraph (e)(1) of this section in the same year during which the force majeure event occurred, the vessel must observe a closure period of 40 consecutive days the following year the force majeure event occurred, in one of the two closure periods described in paragraph (e)(1) of this section.

(iv) Any purse seine vessel for which a force majeure request is accepted by the IATTC, must carry an observer aboard authorized pursuant to the International Agreement on the International Dolphin Conservation Program.

(5) A fishing vessel of the United States of class size 4–6 (more than 182 metric tons carrying capacity) may not be used from 0000 hours on October 9 to 2400 hours on November 8 in 2017 to fish with purse seine gear within the area bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude.

(6) At all times while a vessel is in a time/area closed period established under paragraphs (e)(1) or (e)(5) of this section, unless fishing under exceptions established under paragraphs (e)(4) of this section, the fishing gear of the vessel must be stowed in a manner as not to be readily available for fishing. In particular, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and launches must be secured.

* * * * *

■ 5. Add § 300.28 to Subpart C to read as follows:

§ 300.28 Fish aggregating device restrictions.

(a) *FAD identification requirements for purse seine vessels.* (1) For each FAD deployed or modified on or after January 1, 2017, in the IATTC Convention Area, the vessel owner or operator must either: Obtain a unique code from HMS Branch; or use an existing unique identifier associated with the FAD (*e.g.,* the manufacturer identification code for the attached buoy).

(2) U.S. purse seine vessel owners and operators shall ensure the characters of the unique code or unique identifier be marked indelibly at least five centimeters in height on the upper portion of the attached radio or satellite buoy in a location that does not cover the solar cells used to power the equipment. For FADs without attached radio or satellite buoys, the characters shall be on the uppermost or emergent top portion of the FAD. The vessel owner or operator shall ensure the marking is visible at all times during daylight. In circumstances where the on-board observer is unable to view the code, the captain or crew shall assist the observer (*e.g.,* by providing the FAD identification code to the observer).

(b) *Activating FADs for purse seine vessels.* A vessel owner, operator, or crew shall deploy an Active FAD only while at sea and the tracking equipment must be turned on while the FAD is onboard the vessel and before being deployed in the water.

(c) *Restrictions on Active FADs for purse seine vessels.* U.S. vessel owners and operators of purse-seine vessels with the following well volume (m^3) or fish hold capacity (mt) must not have more than the following number of Active FADs per vessel in the IATTC Convention Area at any one time:

Well volume (m^3)	Carrying capacity (mt)	Active FAD limit
1,200 or more	1,408 or more	450
435–1,199	510–1,407	300
213–425	182–363	120
0–212	0–181	70

(d) *Restrictions on FAD deployments and removals.* (1) U.S. vessel owners, operators, and crew of purse seine vessels of class size 4–6 (more than 182 metric tons carrying capacity) must not deploy a FAD during a period of 15 days prior to the start of the selected closure period described in § 300.25(e)(1).

(2) U.S. vessel owners, operators, and crew of purse seine vessels of class size 6 (greater than 363 metric tons carrying capacity) must remove from the water a number of FADs equal to the number of FADs set upon by the vessel during the 15 days prior to the start of the closure period selected by the vessel per § 300.25(e)(1).

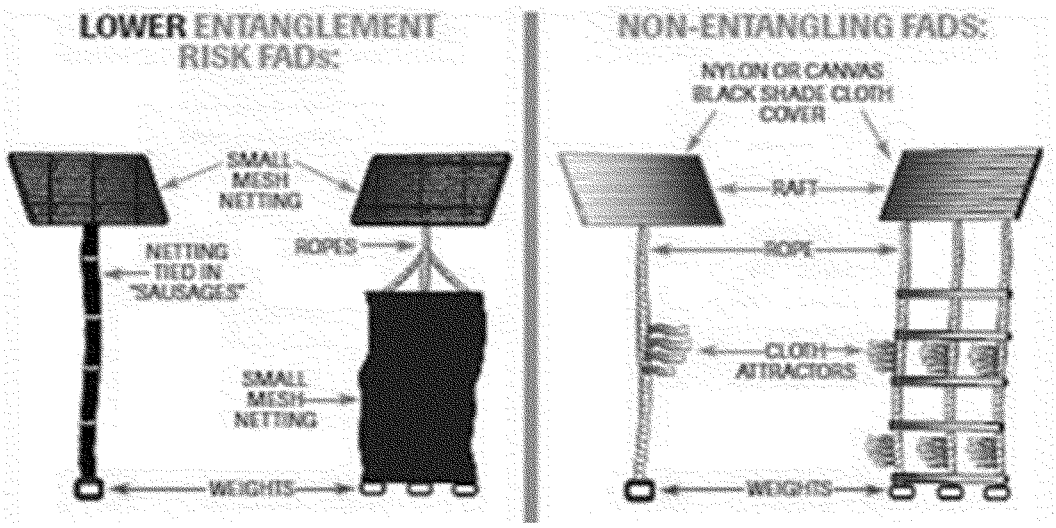
(e) *FAD design to reduce entanglements.* No later than January 1, 2019, all FADs onboard or deployed by U.S. vessel owners, operators, or crew, must comply with the surface (*e.g.,* raft) and subsurface component terms of either paragraph (e)(1)(i) or (e)(1)(ii) of this section. The use of netting with a mesh size greater than 7 centimeters/2.5 inches stretched mesh is prohibited on all parts of a FAD.

(1) Non-Entangling FADs must not include netting on any parts of the FAD, and the raft must either not be covered or covered with shade cloth or canvas. The subsurface structure must be made with ropes, canvas, or nylon sheets (diagram on the right in Figure 1 to paragraph (e)(2)).

(2) Lower Entanglement Risk FADs may use small mesh netting (mesh may not exceed 7 centimeters/2.5 when stretched) for either the surface or subsurface components. If the raft is

covered and small mesh netting is used, it must be tightly wrapped around the raft with no loose netting hanging from it. Any other covering on the raft must be comprised of shade cloth or canvas. Any small mesh netting used in the subsurface structure must be tightly tied into bundles (''sausages''), or formed into a panel that is weighted so as to keep it taut (diagram on the left in Figure 1 to paragraph (e)(2)).

Figure 1. Diagrams of FADs constructed to be Lower Entanglement Risk FADs and Non-Entangling FADs, based on the International Seafood Sustainability Foundation Guide for Non-Entangling FADs.



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Notices

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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

November 7, 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 14, 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.

Food Safety and Inspection Service

Title: Application of Laboratories, Transactions, and Exemptions.

OMB Control Number: 0583–0082.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are wholesome, not adulterated, and properly labeled and packaged. The Federal Meat Inspection Act (21 U.S.C. 642.), the Poultry Products Inspection Act (21 U.S.C. 460(b)) requires certain parties to keep records that fully and correctly disclose all transactions involved in their businesses related to relevant animal carcasses and part. FSIS requires FSIS accredited non-Federal analytical laboratories to maintain certain paperwork and records. FSIS will collect information using several FSIS forms.

Need and Use of the Information: FSIS will collect information to ensure that all meat and poultry establishments produce safe, wholesome, and unadulterated product, and that non-federal laboratories accord with FSIS regulations. In addition, FSIS also collects information to ensure that meat and poultry establishments exempted from FSIS's inspection do not commingle inspected and non-inspected meat and poultry products, and to ensure that retail firms qualifying for a retail store exemption and who have violated the provision of the exemption are no longer in violation.

Description of Respondents: Business or other for-profit.

Number of Respondents: 19,997.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 113,848.

Food Safety and Inspection Service

Title: Public Health Inspection System.

OMB Control Number: 0583–0153.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031). These statues mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

Need and Use of the Information: FSIS developed a Web-based system that will improve FSIS inspection operations and facilitate industry members' application for inspection, export, and import of meat, poultry, and egg products. Industry members use FSIS forms in the Public Health Information System (PHIS). Industry is able to submit some of these forms through a series of screens in PHIS; other forms are available in PHIS only as electronic forms. Paper forms will also be available to firms that do not wish to use PHIS. To submit information through PHIS, firms' employees will need to register for a USDA eAuthentication account with Level 2 access.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,242.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 103,814.

Ruth Brown,

Departmental Information Collection Clearance Officer.

*Billing Code 3410–DM

[FR Doc. 2017–24564 Filed 11–13–17; 8:45 am]

BILLING CODE 3410–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 8, 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 14, 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 and Plant Health Inspection Service

Title: Importation of Live Swine, Pork and Pork Products, and Swine Semen from the European Union.

OMB Control Number: 0579–0218.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The Law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Animal and Plant Health Inspection Service (APHIS) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not present or prevalent here.

Need and Use of the Information: APHIS will collect information using an Application for Import or in Transit Permit, concerning the origin and history of the items destined for importation into the United States. APHIS will also collect information to ensure that swine, pork and pork products, and swine semen pose a negligible risk of introducing exotic swine diseases into the United States. A Declaration of Importation form is also used to collection information in this collection. If the information is not collected, it would cripple APHIS' ability to ensure that swine, pork and pork products, and swine semen pose a minimal risk of introducing classical swine fever and other exotic animal diseases into the United States.

Description of Respondents: Foreign Federal Governments and Businesses.

Number of Respondents: 21.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 8,785.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–24626 Filed 11–13–17; 8:45 am]

BILLING CODE 3410–34–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 these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[10/25/2017 through 11/5/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Daktech, Inc	3502 36th Street Southwest, Fargo, ND 58104.	10/31/2017	The firm manufactures desktop personal computers, netbooks, tablets, and laptops.
Integrated Wood Components, Inc	791 Airport Road, Deposit, NY 13754.	11/1/2017	The firm manufactures wooden cabinetry and furniture, including kitchen cabinets, bathroom cabinets, point-of-purchase displays, and related components.
Contour Industries, Inc., d/b/a GKM Acquisitions, Inc. and Contour Glass, Inc.	125 Industrial Drive, Surgoinsville, TN 37873.	11/2/2017	The firm manufactures glass for the appliance, solar, lighting, and building products markets, including refrigerator shelves, solar panel glass, and glass shower doors.

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.

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. 2017–24594 Filed 11–13–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF809

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of decision and availability of decision documents associated with the issuance of one Section 10(a)(1)(A) permit to enhance the propagation and survival of endangered and threatened species.

SUMMARY: This notice advises the public that one direct take permit has been issued pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA) for continued operation, monitoring, and evaluation of hatchery programs rearing and releasing Sacramento River winter-run Chinook salmon into the Upper Sacramento River Basin. This notice also announces the availability of the associated decision documents. Section 10(a)(1)(A) Permit 16477 was issued to the U.S. Fish and Wildlife Service for the implementation of two Hatchery and Genetic Management Plans (HGMPs) at Livingston Stone National Fish Hatchery.

DATES: The permit was issued on September 29, 2017 subject to certain conditions set forth therein. Subsequent to issuance, the necessary countersignatures by the applicants were received. The permits expire on December 31, 2027.

ADDRESSES: Requests for copies of the decision documents or any of the other associated documents should be directed to NOAA's National Marine Fisheries Service, California Central Valley Office, 650 Capitol Mall, Suite 5–100, Sacramento, California 95814. The documents are also available online at *www.westcoast.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Amanda Cranford, Sacramento, California (Phone: 916–930–3706; Fax: 916–930–3629; email: *Amanda.Cranford@noaa.gov*).

SUPPLEMENTARY INFORMATION:

This notice is relevant to the following species and evolutionarily significant unit (ESU)/distinct population segment (DPS):

Chinook salmon (*Oncorhynchus tshawytscha*): Endangered, naturally produced and artificially propagated Sacramento River winter-run and Threatened, naturally produced and artificially propagated Central Valley spring-run;

Steelhead (*O. mykiss*): Threatened, naturally produced and artificially propagated California Central Valley.

Dated: November 7, 2017.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–24591 Filed 11–13–17; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0038]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is proposing a new information collection, titled, ''Debt Collection Quantitative Disclosure Testing''.

DATES: Written comments are encouraged and must be received on or before December 14, 2017 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. *Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Debt Collection Quantitative Disclosure Testing.

OMB Control Number: 3170–XXXX.

Type of Review: New Collection (Request for a New OMB Control Number).

Affected Public: Individuals.

Estimated Number of Respondents: 17,500

Estimated Total Annual Burden Hours: 3,555.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) and other Federal consumer financial laws authorize the Bureau to engage in consumer protection rule writing. The Bureau relies on empirical evidence and rigorous research to improve its understanding of consumer financial markets for regulatory purposes. This PRA clearance request seeks approval from the Office of Management and Budget (OMB) to conduct a web survey of 8,000 individuals as part of the Bureau's research on debt collection disclosures.

The survey will explore consumer comprehension and decision making in response to debt collection disclosure forms. The survey will oversample respondents who have had experience with debt collection in the past.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice

on June 5, 2017, 82 FR 25779, Docket Number: CFPB–2017–0013. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: November 7, 2017.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2017–24607 Filed 11–13–17; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 17–54]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107, *pamela.a.young14.civ@mail.mil* or Kathy Valadez, (703) 697–9217, *kathy.a.valadez.civ@mail.mil;* DSCA/DSA–RAN.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 17–54 with attached Policy Justification, Sensitivity of Technology, and Section 620C(d) Certification.

Dated: November 7, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

OCT 16 2017

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 17-54, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost $2.404 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Section 620C(d) Certification

BILLING CODE 5001–06–C

Transmittal No. 17–54

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Greece

(ii) *Total Estimated Value:*

Major Defense Equipment *	$.918 billion
Other	1.486 billion
Total	$2.404 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Greece has requested the possible sale of items and services to support the upgrade of up to one hundred twenty-three (123) F–16 aircraft to Block V configuration.

Major Defense Equipment (MDE):

One hundred twenty-five (125) APG–83 Active Electronically Scanned Array (AESA) Radars (includes 2 spares)
One hundred twenty-three (123) Modular Mission Computers (MMCs)
One hundred twenty-three (123) LINK–16 Multifunctional Information Distribution System Joint Tactical Radio System (MIDS–JTRS) with TACAN and EHSI
One hundred twenty-three (123) LN260 Embedded Global Navigation Systems (EGI)-Inertial Navigation System (INS)
One hundred twenty-three (123) Joint Helmet Mounted Cueing Systems (JHMCS)
One hundred twenty-three (123) Improved Programmable Display Generators (iPDGs)

Non-MDE:

Included in the possible sale are up to one hundred twenty-three (123) APX–126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponder (CIT); one (1) Joint Mission Planning System (JMPS); one (1) F–16V Simulator; upgrade to two (2) existing simulators; one (1) Avionics Level Test Station; Secure Communications, cryptographic equipment and navigation equipment; upgrade and integration of the Advanced Self-Protection Integrated Suite (ASPIS) I to ASPIS II on twenty-six (26) F–16s; Ground Support System, systems integration and test; spares and repair parts, support and test equipment; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor engineering, logistical, and technical support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (SNY Amendment 6)

(v) *Prior Related Cases, if any:* GR–D–SBD, $1.3B, 7 Dec 1992; GR–D–SNX, $2B, 9 Mar 2000; GR–D–SNY, $1.9B, 13 Dec 2005

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* October 16, 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Greece—Upgrade of F–16 Aircraft to an F–16 Block V Configuration

The Government of Greece has requested a possible purchase of an upgrade of its existing F–16 fleet to an F–16 Block V configuration which includes up to one hundred twenty-five (125) APG–83 Active Electronically Scanned Array (AESA) Radars (includes two (2) spares); one hundred twenty-three (123) Modular Mission Computers (MMCs); one hundred twenty-three (123) LINK–16 Multifunctional Information Distribution System Joint Tactical Radio Systems (MIDS–JTRS) with TACAN and EHSI; one hundred twenty-three (123) LN260 Embedded Global Navigation Systems (EGI)/Inertial Navigation Systems (INS); and one hundred twenty-three (123) Improved Programmable Display Generators (iPDGs). Also included in the proposed sale are up to one hundred twenty-three (123) APX–126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponders (CIT); one (1) Joint Mission Planning System (JMPS); one (1) F–16V Simulator; upgrade to two (2) existing simulators; one (1) Avionics Level Test Station; Secure Communications, cryptographic equipment and navigation equipment; upgrade and integration of the Advanced Self-Protection Integrated Suite (ASPIS) I to ASPIS II on twenty-six (26) F–16s; Ground Support System, systems integration and test; spares and repair parts, support and test equipment; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor engineering, logistical, and technical support services; and other related elements of logistics and program support. The total estimated program cost is $2.404 billion.

This proposed sale will contribute to U.S. foreign policy and national security objectives by helping to improve the security of a NATO ally which is an important partner for political stability and economic progress in Europe. The upgrade of F–16 aircraft to an F–16 Block V configuration will bolster the Hellenic Air Force's ability to support NATO and remain interoperable with the U.S. and the NATO alliance. It will also help Greece sustain operations in the future, thereby reducing the threat the alliance's enemies pose to the U.S. and the alliance.

The proposed sale will improve Greece's capability to meet current and future security threats. Greece will use this capability as a deterrent to regional threats, strengthen its homeland defense, and execute counter-terrorism operations.

Greece currently employs a mix of F–16s in Block 30, Block 50, Block 52+, and Block 52+ Advanced configurations. Therefore, Greece will have no difficulty absorbing the upgrade of these aircraft from an operation and support standpoint.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Lockheed Martin of Fort Worth, TX. There are currently no known offsets. However, Greece typically requests offsets. Any offset agreement will be defined in negotiations between Greece and the contractor.

The proposed sale will require the assignment of approximately 3–5 additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 17–54

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The proposed sale for upgrade of Greece's F–16s to Block V will involve the release of sensitive and/or classified (up to SECRET) elements to Greece, including hardware, accessories, components, and associated software. The F–16 Block V aircraft system is UNCLASSIFIED, except as noted below. The aircraft utilizes the F–16 airframe and features advanced avionics and systems including the AN/APG–83 Active Electronically Scanned Array (AESA) Radar, Modular Mission Computers (MMCs); LINK–16 Multifunctional Information Distribution System Joint Tactical Radio System LINK–16 Multifunctional Information Distribution System Joint Tactical Radio System (MIDS–JTRS); Advanced Self-Protection Integrated Suite (ASPIS) II ship-sets; LN260 Embedded Global Navigation Systems (EGI)-Inertial Navigation System (INS); Joint Helmet Mounted Cueing Systems (JHMCS II); Improved Programmable Display Generators (iPDGs); APX–126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponder (CIT); and Joint Mission Planning System (JMPS).

2. Additional sensitive areas include operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operations and repair. The hardware, software, and data identified are classified (up to SECRET) to protect vulnerabilities, design, and performance parameters and other similar critical information.

3. The AN/APG–83 is an Active Electronically Scanned Array (AESA) radar upgrade for the F–16. It includes higher processor power, higher transmission power, more sensitive receiver electronics, and Synthetic Aperture Radar (SAR), which creates higher-resolution ground maps from a greater distance than existing mechanically scanned array radars (*e.g.,* APG–68). The upgrade features an increase in detection range of air targets, increases in processing speed and memory, as well as significant improvements in all modes. The highest classification of the radar is SECRET.

4. The Modular Mission Computer (MMC) is the central aircraft computer of the F–16. It serves as the hub for all aircraft subsystems and avionics data transfer. The hardware and software are classified SECRET.

5. The Multifunctional Informational Distribution System-Joint Tactical Radio System (MIDS–JTRS) is classified CONFIDENTIAL. The MIDS–JTRS is a secure data and voice communication network using Link-16 architecture. The system provides enhanced situational awareness, positive identification of participants within the network, secure fighter-to-fighter connectivity, secure voice capability, and ARN–118 TACAN functionality. It provides three major functions: Air Control, Wide Area Surveillance, and Fighter-to-Fighter. The MIDS–JTRS can be used to transfer data in Air-to-Air, Air-to-Surface, and Air-to-Ground scenarios. The MIDS terminal hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified CONFIDENTIAL. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through intermediate level) of the data link terminal, installed systems, and related software.

6. The Advanced Self-Protection Integrated Suite II (ASPIS II) is an enhanced version of the original ASPIS I integrated Electronic Warfare (EW) system, which provides passive radar warning, wide spectrum Radio Frequency (RF) jamming, and control and management of the entire EW system. It is an externally mounted EW pod. The suite includes an ALQ–187 EW System, ALR–93 Radar Warning Receiver, and ALE–47 Countermeasure Dispenser System. Greece has upgraded ASPIS I to II on all but a remaining twenty-six jets. The commercially developed system software and hardware are UNCLASSIFED. The system is classified SECRET when loaded with a U.S. derived EW database.

7. The Embedded Global Positioning System (EGI)–Inertial Navigation System (INS)/LN–260 is a sensor that combines Global Positioning System (GPS) and inertial sensor inputs to provide accurate location information for navigation and targeting. The EGI–INS/LN–260 is UNCLASSIFIED. The GPS cryptovariable keys needed for highest GPS accuracy are classified up to SECRET.

8. The Joint Helmet Mounted Cueing System (JHMCS) is a modified HGU–55/P helmet that incorporates a visor-projected Heads-Up Display (HUD) to cue weapons and aircraft sensors to air and ground targets. In close combat, a pilot must currently align the aircraft to shoot at a target. JHMCS allows the pilot to simply look at a target to shoot. This system projects visual targeting and aircraft performance information on the back of the helmet's visor, enabling the pilot to monitor this information without interrupting his field of view through the cockpit canopy. The system uses a magnetic transmitter unit fixed to the pilot's seat and a magnetic field probe mounted on the helmet to define helmet pointing positioning. A Helmet Vehicle Interface (HVI) interacts with the aircraft system bus to provide signal generation for the helmet display. This provides significant improvement for close combat targeting and engagement. Hardware is UNCLASSIFIED; technical data and documents are classified up to SECRET.

9. The Improved Programmable Display Generator (iPDG) and color multifunction displays utilize ruggedized commercial liquid crystal display technology that is designed to withstand the harsh environment found in modern fighter cockpits. The display generator is the fifth generation graphics processor for the F–16. Through the use of state-of-the-art microprocessors and graphics engines, it provides orders of magnitude increases in throughput, memory, and graphics capabilities. The hardware and software are UNCLASSIFIED.

10. The AN/APX–126 Advanced Identification Friend or Foe (AIFF) Combined Interrogator Transponder (CIT) is a system capable of transmitting and interrogating Mode V. It is UNCLASSIFIED unless/until Mode IV and/or Mode V operational evaluator parameters are loaded into the equipment. Elements of the IFF system classified up to SECRET include software object code, operating characteristics, parameters, and technical data. Mode IV and Mode V anti-jam performance specifications/data, software source code, algorithms, and tempest plans or reports will not be offered, released, discussed, or demonstrated.

11. The Joint Mission Planning System (JMPS) is a multi-platform PC based mission planning system. JMPS hardware is UNCLASSIFIED and the software is classified up to SECRET.

12. Software, hardware, and other data/information, which is classified or sensitive, is reviewed prior to release to protect system vulnerabilities, design data, and performance parameters. Some end-item hardware, software, and other data identified above are classified at the CONFIDENTIAL and SECRET level. Potential compromise of these systems is controlled through management of the basic software programs of highly sensitive systems and software-controlled weapon systems on a case-by-case basis.

13. If a technologically advanced adversary obtains knowledge of the specific hardware and software source code in this proposed sale, the information could be used to develop countermeasures or equivalent systems that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

14. Greece is both willing and able to protect U.S. classified military information. Greek physical and document security standards are equivalent to U.S. standards. Greece has signed a General Security of Military Information Agreement (GSOMIA) with the United States and is in negotiations with CENTCOM on the Communications Interoperability and Security Memorandum of Agreement (CISMOA). The Government of Greece has demonstrated its willingness and capability to protect sensitive military technology and information released to its military in the past.

15. A determination has been made that the Greece can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

16. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Greece.

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 413, I hereby certify that the furnishing to Greece of upgrade package for converting an existing F-16 Block 30/50/52+ fleet to the F-16 Block V configuration is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, of which such justification constitutes a full explanation.

Rex W. Tillerson
Secretary of State

[FR Doc. 2017–24622 Filed 11–13–17; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0114]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Generic Application Package for Departmental Generic Grant Programs

AGENCY: Office of the Secretary (OS), 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 December 14, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0114. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–32, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

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: Generic Application Package for Departmental Generic Grant Programs.

OMB Control Number: 1894–0006.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 9,861.

Total Estimated Number of Annual Burden Hours: 447,089.

Abstract: The Department is requesting an extension of the approval for the Generic Application Package that numerous ED discretionary grant programs use to provide to applicants the forms and information needed to apply for new grants under those grant program competitions. The Department will use this Generic Application package for discretionary grant programs that: (1) Use the standard ED or Federal-wide grant applications forms that have been cleared separately through OMB under the terms of this generic clearance as approved by OMB and (2) use selection criteria from the Education Department General Administrative Regulations (EDGAR); selection criteria that reflect statutory or regulatory provisions that have been developed under 34 CFR 75.209, or a combination of EDGAR, statutory or regulatory criteria or other provisions, as authorized under 34 CFR 75.200 and 75.209. The use of the standard ED grant application forms and the use of EDGAR and/or criteria developed under §§ 75.200 and 75.209 promotes the standardization and streamlining of ED discretionary grant application packages.

Dated: November 7, 2017.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–24578 Filed 11–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0137]

Agency Information Collection Activities; Comment Request; Lender's Application Process (LAP)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 16, 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–0137. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Lender's Application Process (LAP).

OMB Control Number: 1845–0032.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 2.

Abstract: The Lender's Application Process (LAP) is submitted by lenders who are eligible for reimbursement of interest and special allowance, as well as Federal Insured Student Loan (FISL) claims payment, under the Federal Family Education Loan Program. The information will be used by ED to update Lender Identification Numbers (LID's), lender names, addresses with 9 digit zip codes, and other pertinent information.

Dated: November 7, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–24556 Filed 11–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2154–007.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2017–11–07_Rate Schedule 34_SMMPA–RPU Joint Pricing Zone Agreement to be effective 12/1/2014.

Filed Date: 11/7/17.

Accession Number: 20171107–5158.

Comments Due: 5 p.m. ET 11/28/17.

Docket Numbers: ER16–1480–002.

Applicants: Midcontinent Independent System Operator, Inc., White Pine Electric Power L.L.C.

Description: Compliance filing: 2017–11–07_SA 6507 White Pine 1 SSR Agreement Reflecting Settlement to be effective 4/16/2016.

Filed Date: 11/7/17.

Accession Number: 20171107–5096.

Comments Due: 5 p.m. ET 11/28/17.

Docket Numbers: ER17–615–001.

Applicants: Albany Green Energy, LLC.

Description: Notice of Change in Status of Albany Green Energy, LLC.

Filed Date: 11/6/17.

Accession Number: 20171106–5350.

Comments Due: 5 p.m. ET 11/27/17.

Docket Numbers: ER17–2470–000; ER17–2457–000.

Applicants: Red Dirt Wind Project, LLC, Rock Creek Wind Project, LLC.

Description: Second Amendment to September 13, 2017 Red Dirt Wind Project, LLC tariff filing, et al.

Filed Date: 11/2/17.

Accession Number: 20171102–5148.

Comments Due: 5 p.m. ET 11/24/17.

Docket Numbers: ER18–255–000.

Applicants: Canton Mountain Wind, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence to be effective 11/7/2017.

Filed Date: 11/6/17.

Accession Number: 20171106–5338.

Comments Due: 5 p.m. ET 11/27/17.

Docket Numbers: ER18–256–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 4839, Queue No. AC2–009 to be effective 10/12/2017.

Filed Date: 11/7/17.

Accession Number: 20171107–5115.

Comments Due: 5 p.m. ET 11/28/17.

Docket Numbers: ER18–257–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Letter Agreements with Hecate Energy Johanna Facility LLC to be effective 11/8/2017.

Filed Date: 11/7/17.

Accession Number: 20171107–5129.

Comments Due: 5 p.m. ET 11/28/17.

Docket Numbers: ER18–258–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 1787, Queue S63 to be effective 10/5/2007.

Filed Date: 11/7/17.
Accession Number: 20171107–5150.
Comments Due: 5 p.m. ET 11/28/17.
Docket Numbers: ER18–260–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to SA Nos. 1570, 2510 and 2534 re: Dayton transfer to AES Ohio to be effective 5/17/2010.
Filed Date: 11/7/17.
Accession Number: 20171107–5179.
Comments Due: 5 p.m. ET 11/28/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 7, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–24580 Filed 11–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1894–208]

South Carolina Electric & Gas Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to change project boundary.
b. *Project No:* 1894–208.
c. *Date Filed:* July 10, 2017.
d. *Applicant:* South Carolina Electric & Gas Company.
e. *Name of Project:* Parr Shoals Hydroelectric Project.
f. *Location:* The affected project land is located on the Broad River in Fairfield County, South Carolina.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Applicant Contact:* William Argentieri, South Carolina Electric & Gas Company, 220 Operation Way, MC A221, Cayce, SC 29033–3701, (803) 217–9162.
i. *FERC Contact:* Hillary Berlin, (202) 502–8915, *hillary.berlin@ferc.gov.*
j. *Deadline for filing comments, motions to intervene, and protests:* December 7, 2017.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests 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. The first page of any filing should include docket number P–1894–208. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* South Carolina Electric & Gas Company (licensee) filed an application to remove 8.12 acres of land on the western side of Monticello Reservoir from the project boundary. This parcel is located away from the shoreline on Ladd Road, and has been leased to Fairfield County to construct a community center. The licensee states that the land is not needed for any project purpose.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site 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. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor 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 385.2010.

Dated: November 7, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–24584 Filed 11–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–465–002]

Notice of Filing; Northern Natural Gas Company

Take notice that on September 28, 2017, the Kansas Corporation Commission (KCC) made a filing styled as a Motion to Show Cause. In the filing, KCC alleges that Northern Natural Gas Company (Northern) has failed to comply with the Commission's June 2, 2010 Order regarding Northern's buffer zone around the Cunningham storage field in Pratt and Kingman Counties, Kansas.[1] KCC's filing is in response to an April 26–27, 2017 release of natural gas from a well within Northern's buffer zone around the Cunningham storage field. KCC asserts that Northern has failed to comply with the Commission's directive to halt the migration of gas from its Cunningham storage field in the Viola and Simpson formations. Specifically, KCC posits that Northern has failed to obtain control of wells within the buffer zone and that such wells are not properly maintained to protect the integrity of the storage field and prevent further migration of storage gas.

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 person wishing to obtain legal status by becoming a party to this proceeding should, on or before the comment date listed below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

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 original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on November 28, 2017.

Dated: November 7, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–24582 Filed 11–13–17; 8:45 am]

BILLING CODE 6717–01–P

[1] *Northern Natural Gas Company,* 131 FERC 61,209 (2010).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance at the Southwest Power Pool, Inc. Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the following Southwest Power Pool-related meetings:

- Transmission Working Group
  - November 7, 1:00 p.m.–5:00 p.m.; November 8, 8:00 a.m.–12:00 p.m.
- Economic Studies Working Group
  - November 8, 1:00 p.m.–5:00 p.m.; November 9, 8:00 a.m.–12:00 p.m.
  - December 14, 8:00 a.m.–3:00 p.m.
- Market Working Group
  - November 14, 8:15 a.m.–6:00 p.m.; November 15, 8:15 a.m.–12:00 p.m.
  - December 11, 1:00 p.m.–6:00 p.m.; December 12, 8:15 a.m.–5:00 p.m.
- Cost Allocation Working Group
  - November 14, 8:30 a.m.–12:00 p.m., Call-in
  - December 5, 8:30 a.m.–2:00 p.m.
- Regional Tariff Working Group
  - November 16, 8:30 a.m.–2:30 p.m.
  - December 13, 8:30 a.m.–2:30 p.m.
- Corporate Governance Committee
  - November 28, 10:00 a.m.–3:00 p.m.
- Operating Reliability Working Group
  - December 7, 8:30 a.m.–12:00 p.m., Call-in

Unless otherwise noted, all of the meetings above will be held at either:

Little Rock, Southwest Power Pool Corporate Office Auditorium, 201 Worthen Drive, Little Rock, AR 72223

Dallas, Renaissance Tower—AEP Offices, 1201 Elm Street, Dallas, Texas 75202

Further information and dial in instructions may be found at *https://spp.org/organizational-groups/.* All meetings are Central Time.

The discussions may address matters at issue in the following proceedings:

Docket No. ER12–1179, Southwest Power Pool, Inc.
Docket No. ER15–1809, ATX Southwest, LLC
Docket No. ER15–2028, Southwest Power Pool, Inc.
Docket No. ER15–2115, Southwest Power Pool, Inc.
Docket No. ER15–2236, Midwest Power Transmission Arkansas, LLC
Docket No. ER15–2237, Kanstar Transmission, LLC
Docket No. ER15–2324, Southwest Power Pool, Inc.
Docket No. ER15–2594, South Central MCN LLC
Docket No. EL16–91, Southwest Power Pool, Inc.
Docket No. EL16–108, Tilton Energy v. Midcontinent Independent System Operator, Inc.
Docket No. EL16–110, Southwest Power Pool, Inc.
Docket No. ER16–204, Southwest Power Pool, Inc.
Docket No. ER16–209, Southwest Power Pool, Inc.
Docket No. ER16–791, Southwest Power Pool, Inc.
Docket No. ER16–829, Southwest Power Pool, Inc.
Docket No. ER16–1341, Southwest Power Pool, Inc.
Docket No. ER16–1546, Southwest Power Pool, Inc.
Docket No. ER16–2522, Southwest Power Pool, Inc.
Docket No. ER16–2523, Southwest Power Pool, Inc.
Docket No. EL17–11, Alabama Power Co. v. Southwest Power Pool, Inc.
Docket No. EL17–21, Kansas Electric Co. v. Southwest Power Pool, Inc.
Docket No. EL17–86, Nebraska Public Power District v. Southwest Power Pool, Inc.
Docket No. EL17–69, Buffalo Dunes et al. v. Southwest Power Pool, Inc.
Docket No. ER17–358, Southwest Power Pool, Inc.
Docket No. ER17–426, Southwest Power Pool, Inc.
Docket No. ER17–428, Southwest Power Pool, Inc.
Docket No. ER17–772, Southwest Power Pool, Inc.
Docket No. ER17–889, Southwest Power Pool, Inc.
Docket No. ER17–906, Southwest Power Pool, Inc.
Docket No. ER17–953, South Central MCN LLC
Docket No. ER17–1092, Southwest Power Pool, Inc.
Docket No. ER17–1107, Southwest Power Pool, Inc.
Docket No. ER17–1110, Southwest Power Pool, Inc.
Docket No. ER17–1140, Southwest Power Pool, Inc.
Docket No. ER17–1333, Southwest Power Pool, Inc.
Docket No. ER17–1379, Southwest Power Pool, Inc.
Docket No. ER17–1406, South Central MCN LLC

Docket No. ER17–1482, Southwest Power Pool, Inc.
Docket No. ER17–1568, Southwest Power Pool, Inc.
Docket No. ER17–1575, Southwest Power Pool, Inc.
Docket No. ER17–1643, Southwest Power Pool, Inc.
Docket No. ER17–1741, Southwest Power Pool, Inc.
Docket No. ER17–1795, Southwest Power Pool, Inc.
Docket No. ER17–1936, Southwest Power Pool, Inc.
Docket No. ER17–2027, Southwest Power Pool, Inc.
Docket No. ER17–2042, Southwest Power Pool, Inc.
Docket No. ER17–2256, Southwest Power Pool, Inc.
Docket No. ER17–2257, Southwest Power Pool, Inc.
Docket No. ER17–2229, Southwest Power Pool, Inc.
Docket No. ER17–2306, Southwest Power Pool, Inc.
Docket No. ER17–2312, Southwest Power Pool, Inc.
Docket No. ER17–2388, Southwest Power Pool, Inc.
Docket No. ER17–2441, Southwest Power Pool, Inc.
Docket No. ER17–2442, Southwest Power Pool, Inc.
Docket No. ER17–2454, Southwest Power Pool, Inc.
Docket No. ER17–2523, Southwest Power Pool, Inc.
Docket No. ER17–2537, Southwest Power Pool, Inc.
Docket No. ER17–2543, Southwest Power Pool, Inc.
Docket No. ER17–2563, Southwest Power Pool, Inc.
Docket No. ER17–2583, Southwest Power Pool, Inc.
Docket No. ER18–11, Southwest Power Pool, Inc.
Docket No. ER18–16, Southwest Power Pool, Inc.
Docket No. ER18–24, Southwest Power Pool, Inc.
Docket No. ER18–25, Southwest Power Pool, Inc.
Docket No. ER18–194, Southwest Power Pool, Inc.
Docket No. ER18–195, Southwest Power Pool, Inc.
Docket No. ER18–223, Southwest Power Pool, Inc.
Docket No. ER18–232, Southwest Power Pool, Inc.
Docket No. EL18–9–000, Xcel Energy Services, Inc. v. Southwest Power Pool, Inc.
Docket No. EL18–20–000, Indicated SPP Transmission Owners v. Southwest Power Pool, Inc.
Docket No. EL18–26–000, Indicated EDF Renewable Energy, Inc. v. Southwest Power Pool, Inc.

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: November 7, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–24583 Filed 11–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–4–000.
Applicants: Alpine High Pipeline LLC.
Description: Tariff filing per 284.123(b), (e)/: Petition for NGPA Section 311 Rate Approval to be effective 9/26/2017; Filing Type: 990.
Filed Date: 10/26/17.
Accession Number: 201710265245.
Comments/Protests Due: 5 p.m. ET 11/16/17.

Docket Number: PR18–5–000.
Applicants: American Midstream (Bamagas Intrastate), LLC.
Description: Tariff filing per 284.123(b), (e)/: Blanket Certificate Order SoC to be effective 10/27/2017; Filing Type: 980.
Filed Date: 10/27/17.
Accession Number: 201710275192.
Comments/Protests Due: 5 p.m. ET 11/17/17.

Docket Numbers: RP18–121–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: Negotiated Rate Amendments to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5074.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–122–000.
Applicants: Great Lakes Gas Transmission Limited Partnership.
Description: § 4(d) Rate Filing: GLGT Negotiated Rate Agreement Filing to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5076.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–123–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Sequent Energy Neg Rate Agmts to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5078.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–124–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: OTRA—Winter 2017 to be effective 12/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5079.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–125–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Gulfport 34939, 35446 to various eff 11/1/17) to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5096.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–126–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (BHP 31591 to Tenaska 36709) to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5097.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–127–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to Sabine Pass Liquefaction Negotiated Rate to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5100.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–128–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—ConEd Ramapo releases 2 eff 11–1–2017 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5102.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–129–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Colonial 911449 and 911450 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5104.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–130–000.
Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—BUG Ramapo releases 2 eff 11–1–2017 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5105.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–131–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) Rate Filing: Vol. 2—Neg. and Non-Conforming Agreement—Tenaska Mktg Ventures—Amendment to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5106.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–132–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: 2017 Fuel Tracker Filing to be effective 4/1/2018.
Filed Date: 11/1/17.
Accession Number: 20171101–5108.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–133–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: § 4(d) Rate Filing: Establish Fuel Tracking Mechanism to be effective 4/1/2018.
Filed Date: 11/1/17.
Accession Number: 20171101–5110.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–134–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—11/1/2017 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5163.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–135–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Service Amendments to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5164.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–136–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—November 2017 Weatherly Oil & Gas 1010414 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5192.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–137–000.
Applicants: Enable Mississippi River Transmission, L.
Description: § 4(d) Rate Filing: MRT Housekeeping Filing Nov 2017 to be effective 12/4/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5219.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–138–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—November 2017 Chesapeake 1006966 & Spire 1005896 to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5243.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–139–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20171101 Negotiated Rate to be effective 11/2/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5263.
Comments Due: 5 p.m. ET 11/13/17.

Docket Numbers: RP18–140–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing: Direct Energy Relocation to be effective 11/1/2017.
Filed Date: 11/1/17.
Accession Number: 20171101–5275.
Comments Due: 5 p.m. ET 11/13/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 2, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–24581 Filed 11–13–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9970–62–OW]

Information Session; Implementation of the Water Infrastructure Finance and Innovation Act of 2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is announcing plans to hold an information session on January 17, 2018 in Washington, DC. The purpose the session is to provide prospective borrowers with a better understanding of the Water Infrastructure Finance and Innovation Act (WIFIA) program requirements and application process.

DATES: The session in Washington, DC will be held on January 17, 2018 from 9:00 a.m.–3:00 p.m. (MT).

ADDRESSES: The session in Washington, DC will be held at: U.S. EPA Headquarters, William Jefferson Clinton East Building, 1201 Constitution Avenue NW., Washington, DC 20004.

To Register: Registration information is available at *https://www.epa.gov/wifia.*

FOR FURTHER INFORMATION CONTACT: For further information about this notice, including registration information, contact Karen Fligger, EPA Headquarters, Office of Water, Office of Wastewater Management at tel.: 202–564–2992; or email: *WIFIA@epa.gov.*

Members of the public are invited to participate in the session as capacity allows.

SUPPLEMENTARY INFORMATION: Under WIFIA (33 U.S.C. 3901 *et seq.*), EPA can provide long-term, low-cost supplemental loans and loan guarantees for regionally and nationally significant water infrastructure projects. During the information session, EPA will provide an overview of the program's statutory and eligibility requirements, application and selection process, and creditworthiness assessment. It will also explain the financial benefits of WIFIA credit assistance and provide tips for completing the application materials. The intended audience is prospective borrowers including municipal entities, corporations, partnerships, and State Revolving Fund programs, as well as the private and non-governmental organizations that support prospective borrowers.

Authority: Water Infrastructure Finance and Innovation Act, 33 U.S.C. 3901 *et seq.*

Dated: November 2, 2017.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2017–24639 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1246]

Information Collection Approved by the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Nicole Ongele, Office of the Managing Director, at (202) 418–2991, or email: *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1246.

OMB Approval Date: October 23, 2017.

OMB Expiration Date: October 31, 2020.

Title: Reasonable Accommodation Requests.

Form Nos.: FCC Form 5626 and FCC Form 5627.

Respondents: Individuals.

Number of Respondents and Responses: 60 respondents; 60 responses.

Estimated Time per Response: 5 hours for FCC Form 5626 and 0.16 hours for FCC Form 5627.

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 312 hours.

Total Annual Cost: $900.

Obligation to Respond: Voluntary. Statutory authority for these collections are contained in 29 U.S.C. 791; Executive Order 13164 65 FR 46565 (Jul 28, 2000).

Privacy Act Impact Assessment: The FCC is drafting a Privacy Impact Assessment to cover the personally identifiable information (PIA) that will be collected, used, and stored.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC employees and applicants for employment who have a condition that qualifies as a disability may seek an accommodation to perform the essential functions of their position by completing FCC Form 5626 and FCC Form 5627.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–24615 Filed 11–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0190 and 3060–0340]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 16, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0190.

Title: Section 73.3544, Application To Obtain a Modified Station License.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 325 respondents and 325 responses.

Estimated Time per Response: 0.25–1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 306 hours.

Total Annual Cost: $75,000.

Privacy Impact Assessment(s): No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality and

respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: The information collection requirements contained in this collection are covered in 47 CFR 73.3544(b) requires an informal application, see Sec. 73.3511(b), may be filed with the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, to cover the following changes:

(1) A correction of the routing instructions and description of an AM station directional antenna system field monitoring point, when the point itself is not changed.

(2) A change in the type of AM station directional antenna monitor. See Sec. 73.69.

(3) A change in the location of the station main studio when prior authority to move the main studio location is not required.

(4) The location of a remote control point of an AM or FM station when prior authority to operate by remote control is not required.

Also, information collection requirements are contained in 47 CFR 73.3544(c) which requires a change in the name of the licensee where no change in ownership or control is involved may be accomplished by written notification by the licensee to the Commission.

OMB Control Number: 3060–0340.

Title: Section 73.51, Determining Operating Power.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 750 respondents; 834 responses.

Estimated Time per Response: 0.25 to 3.0 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 440 hours.

Total Annual Cost: None.

Privacy Impact Assessment(s): No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality and respondents are not being asked to submit confidential information to the Commission.

Needs and Uses: When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power might be used on a temporary basis. 47 CFR Section 73.51(d) requires that a notation be made in the station log indicating the dates of commencement and termination of measurement using the indirect method of power determination. 47 CFR Section 73.51(e) requires that AM stations determining the antenna input power by the indirect method must determine the value F (efficiency factor) applicable to each mode of operation and must maintain a record thereof with a notation of its derivation. FCC staff use this information in field investigations to monitor licensees' compliance with the FCC's technical rules and to ensure that licensee is operating in accordance with its station authorization. Station personnel use the value F (efficiency factor) in the event that measurement by the indirect method of power is necessary.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Office of the Secretary.

[FR Doc. 2017–24616 Filed 11–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0888]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before December 14, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper

performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0888.

Title: Section 1.221, Notice of hearing; appearances; Section 1.229 Motions to enlarge, change, or delete issues; Section 1.248 Prehearing conferences; hearing conferences; Section 76.7, Petition Procedures; Section 76.9, Confidentiality of Proprietary Information; Section 76.61, Dispute Concerning Carriage; Section 76.914, Revocation of Certification; Section 76.1001, Unfair Practices; Section 76.1003, Program Access Proceedings; Section 76.1302, Carriage Agreement Proceedings; Section 76.1513, Open Video Dispute Resolution.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 684 respondents; 684 responses.

Estimated Time per Response: 6.4 to 95.4 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154(i) and (j), 303(r), 338, 340, 534, 535, 536, 543, 548 and 573.

Total Annual Burden: 34,816 hours.

Total Annual Cost: $3,671,370.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: A party that wishes to have confidentiality for proprietary information with respect to a submission it is making to the Commission must file a petition pursuant to the pleading requirements in Section 76.7 and use the method described in Sections 0.459 and 76.9 to demonstrate that confidentiality is warranted.

Needs and Uses: Commission rules specify pleading and other procedural requirements for parties filing petitions or complaints under Part 76 of the Commission's rules, including petitions for special relief, cable carriage complaints, program access complaints, and program carriage complaints. Therefore, the information collection requirements contained in this collection are as follows:

47 CFR 1.221(h) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, each party, in person or by attorney, shall file a written appearance within five calendar days after the party informs the Chief Administrative Law Judge that it elects not to pursue alternative dispute resolution pursuant to § 76.7(g)(2) or, if the parties have mutually elected to pursue alternative dispute resolution pursuant to § 76.7(g)(2), within five calendar days after the parties inform the Chief Administrative Law Judge that they have failed to resolve their dispute through alternative dispute resolution. The written appearance shall state that the party will appear on the date fixed for hearing and present evidence on the issues specified in the hearing designation order.

47 CFR 1.229(b)(2) requires that, in a program carriage complaint proceeding filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, a motion to enlarge, change, or delete issues shall be filed within 15 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h), except that persons not named as parties to the proceeding in the designation order may file such motions with their petitions to intervene up to 30 days after publication of the full text or a summary of the designation order in the **Federal Register**.

47 CFR 1.229(b)(3) provides that any person desiring to file a motion to modify the issues after the expiration of periods specified in paragraphs (a), (b)(1), and (b)(2) of § 1.229, shall set forth the reason why it was not possible to file the motion within the prescribed period.

47 CFR 1.248(a) provides that the initial prehearing conference as directed by the Commission shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h) or within such shorter or longer period as the Commission may allow on motion or notice consistent with the public interest.

47 CFR 1.248(b) provides that the initial prehearing conference as directed by the presiding officer shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to § 76.1302 that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to § 1.221(h) or within such shorter or longer period as the presiding officer may allow on motion or notice consistent with the public interest.

47 CFR 76.7. Pleadings seeking to initiate FCC action must adhere to the requirements of Section 76.6 (general pleading requirements) and Section 76.7 (initiating pleading requirements). Section 76.7 is used for numerous types of petitions and special relief petitions, including general petitions seeking special relief, waivers, enforcement, show cause, forfeiture and declaratory ruling procedures.

47 CFR 76.7(g)(2) provides that, in a proceeding initiated pursuant to § 76.7 that is referred to an administrative law judge, the parties may elect to resolve the dispute through alternative dispute resolution procedures, or may proceed with an adjudicatory hearing, provided that the election shall be submitted in writing to the Commission and the Chief Administrative Law Judge.

47 CFR 76.9. A party that wishes to have confidentiality for proprietary information with respect to a submission it is making to the FCC must file a petition pursuant to the pleading requirements in Section 76.7 and use the method described in Sections 0.459 and 76.9 to demonstrate that confidentiality is warranted. The petitions filed pursuant to this provision are contained in the existing information collection requirement and are not changed by the rule changes.

47 CFR 76.61(a) permits a local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator to file a complaint with the FCC in accordance with the procedures set forth in Section 76.7.

Section 76.61(b) permits a qualified local noncommercial educational television station that believes a cable operator has failed to comply with the FCC's signal carriage or channel positioning requirements (Sections 76.56 through 76.57) to file a complaint with the FCC in accordance with the procedures set forth in Section 76.7.

47 CFR 76.61(a)(1) states that whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to Sections 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

47 CFR 76.61(a)(2) states that the cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

47 CFR 76.914(c) permits a cable operator seeking revocation of a franchising authority's certification to file a petition with the FCC in accordance with the procedures set forth in Section 76.7.

47 CFR 76.1003(a) permits any multichannel video programming distributor (MVPD) aggrieved by conduct that it believes constitute a violation of the FCC's competitive access to cable programming rules to commence an adjudicatory proceeding at the FCC to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1003.

47 CFR 76.1001(b)(2) permits any multichannel video programming distributor to commence an adjudicatory proceeding by filing a complaint with the Commission alleging that a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor, has engaged in an unfair act involving terrestrially delivered, cable-affiliated programming, which must be filed and responded to in accordance with the procedures specified in § 76.7, except to the extent such procedures are modified by §§ 76.1001(b)(2) and 76.1003. In program access cases involving terrestrially delivered, cable-affiliated programming, the defendant has 45 days from the date of service of the complaint to file an answer, unless otherwise directed by the Commission. A complainant shall have the burden of proof that the defendant's alleged conduct has the purpose or effect of hindering significantly or preventing the complainant from providing satellite cable programming or satellite broadcast programming to subscribers or consumers; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden. In addition, a complainant alleging that a terrestrial cable programming vendor has engaged in discrimination shall have the burden of proof that the terrestrial cable programming vendor is wholly owned by, controlled by, or under common control with a cable operator or cable operators, satellite cable programming vendor or vendors in which a cable operator has an attributable interest, or satellite broadcast programming vendor or vendors; an answer to such a complaint shall set forth the defendant's reasons to support a finding that the complainant has not carried this burden.

47 CFR 76.1003(b) requires any aggrieved MVPD intending to file a complaint under this section to first notify the potential defendant cable operator, and/or the potential defendant satellite cable programming vendor or satellite broadcast programming vendor, that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in Sections 76.1001 or 76.1002 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1003(c) describes the required contents of a program access complaint, in addition to the requirements of Section 76.7 of this part.

47 CFR 76.1003(c)(3) requires a program access complaint to contain evidence that the complainant competes with the defendant cable operator, or with a multichannel video programming distributor that is a customer of the defendant satellite cable programming or satellite broadcast programming vendor or a terrestrial cable programming vendor alleged to have engaged in conduct described in § 76.1001(b)(1).

47 CFR 76.1003(d) states that, in a case where recovery of damages is sought, the complaint shall contain a clear and unequivocal request for damages and appropriate allegations in support of such claim.

47 CFR 76.1003(e)(1) requires cable operators, satellite cable programming vendors, or satellite broadcast programming vendors whom expressly reference and rely upon a document in asserting a defense to a program access complaint filed or in responding to a material allegation in a program access complaint filed pursuant to Section 76.1003, to include such document or documents, such as contracts for carriage of programming referenced and relied on, as part of the answer. Except as otherwise provided or directed by the Commission, any cable operator, satellite cable programming vendor or satellite broadcast programming vendor upon which a program access complaint is served under this section shall answer within twenty (20) days of service of the complaint, provided that the answer shall be filed within forty-five (45) days of service of the complaint if the complaint alleges a violation of Section 628(b) of the Communications Act of 1934, as amended, or Section 76.1001(a).

47 CFR 76.1003(e)(2) requires an answer to an exclusivity complaint to provide the defendant's reasons for refusing to sell the subject programming to the complainant. In addition, the defendant may submit its programming contracts covering the area specified in the complaint with its answer to refute allegations concerning the existence of an impermissible exclusive contract. If there are no contracts governing the specified area, the defendant shall so certify in its answer. Any contracts submitted pursuant to this provision may be protected as proprietary pursuant to Section 76.9 of this part.

47 CFR 76.1003(e)(3) requires an answer to a discrimination complaint to state the reasons for any differential in prices, terms or conditions between the complainant and its competitor, and to specify the particular justification set forth in Section 76.1002(b) of this part relied upon in support of the differential.

47 CFR 76.1003(e)(4) requires an answer to a complaint alleging an unreasonable refusal to sell programming to state the defendant's reasons for refusing to sell to the complainant, or for refusing to sell to the complainant on the same terms and conditions as complainant's competitor, and to specify why the defendant's actions are not discriminatory.

47 CFR 76.1003(f) provides that, within fifteen (15) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1003(g) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three specified events occurs.

47 CFR 76.1003(h) sets forth the remedies that are available for violations of the program access rules, which include the imposition of damages, and/or the establishment of prices, terms, and conditions for the sale of programming to the aggrieved multichannel video programming distributor, as well as sanctions available under title V or any other provision of the Communications Act.

47 CFR 76.1003(j) states in addition to the general pleading and discovery rules contained in § 76.7 of this part, parties to a program access complaint may serve requests for discovery directly on opposing parties, and file a copy of the request with the Commission. The respondent shall have the opportunity to object to any request for documents that are not in its control or relevant to the dispute. Such request shall be heard, and determination made, by the Commission. Until the objection is ruled upon, the obligation to produce the disputed material is suspended. Any party who fails to timely provide discovery requested by the opposing party to which it has not raised an objection as described above, or who fails to respond to a Commission order for discovery material, may be deemed in default and an order may be entered in accordance with the allegations contained in the complaint, or the complaint may be dismissed with prejudice.

47 CFR 76.1003(l) permits a program access complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission.

47 CFR 76.1302(a) states that any video programming vendor or multichannel video programming distributor aggrieved by conduct that it believes constitute a violation of the regulations set forth in this subpart may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1302.

47 CFR 76.1302(b) states that any aggrieved video programming vendor or multichannel video programming distributor intending to file a complaint under this section must first notify the potential defendant multichannel video programming distributor that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in Section 76.1301 of this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1302(c) specifies the content of carriage agreement complaints, in addition to the requirements of Section 76.7 of this part.

47 CFR 76.1302(c)(1) provides that a program carriage complaint filed pursuant to § 76.1302 must contain the following: Whether the complainant is a multichannel video programming distributor or video programming vendor, and, in the case of a multichannel video programming distributor, identify the type of multichannel video programming distributor, the address and telephone number of the complainant, what type of multichannel video programming distributor the defendant is, and the address and telephone number of each defendant.

47 CFR 76.1302(d) sets forth the evidence that a program carriage complaint filed pursuant to § 76.1302 must contain in order to establish a prima facie case of a violation of § 76.1301.

47 CFR 76.1302(e)(1) provides that a multichannel video programming distributor upon whom a program carriage complaint filed pursuant to § 76.1302 is served shall answer within sixty (60) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1302(e)(2) states that an answer to a program carriage complaint shall address the relief requested in the complaint, including legal and documentary support, for such response, and may include an alternative relief proposal without any prejudice to any denials or defenses raised.

47 CFR 76.1302(f) states that within twenty (20) days after service of an answer, unless otherwise directed by the Commission, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1302(h) states that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1302(j)(1) states that upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, mandatory carriage of a video programming vendor's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of a video programming vendor's programming.

47 CFR 76.1302(k) permits a program carriage complainant seeking renewal of an existing programming contract to file a petition along with its complaint requesting a temporary standstill of the price, terms, and other conditions of the existing programming contract pending resolution of the complaint, to which the defendant will have the opportunity to respond within 10 days of service of the petition, unless otherwise directed by the Commission. To allow for sufficient time to consider the petition for temporary standstill prior to the expiration of the existing programming contract, the petition for temporary standstill and complaint shall be filed no later than thirty (30) days prior to the expiration of the existing programming contract.

47 CFR 76.1513(a) permits any party aggrieved by conduct that it believes constitute a violation of the FCC's regulations or in section 653 of the Communications Act (47 U.S.C. 573) to

commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint, which must be filed and responded to in accordance with the procedures specified in Section 76.7, except to the extent such procedures are modified by Section 76.1513.

47 CFR 76.1513(b) provides that an open video system operator may not provide in its carriage contracts with programming providers that any dispute must be submitted to arbitration, mediation, or any other alternative method for dispute resolution prior to submission of a complaint to the Commission.

47 CFR 76.1513(c) requires that any aggrieved party intending to file a complaint under this section must first notify the potential defendant open video system operator that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part or in Section 653 of the Communications Act. The notice must be in writing and must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1513(d) describes the contents of an open video system complaint.

47 CFR 76.1513(e) addresses answers to open video system complaints.

47 CFR 76.1513(f) states within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1513(g) requires that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of three events occurs.

47 CFR 76.1513(h) states that upon completion of the adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, the requiring carriage, awarding damages to any person denied carriage, or any combination of such sanctions. Such order shall set forth a timetable for compliance, and shall become effective upon release.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer Office of the Secretary.

[FR Doc. 2017–24632 Filed 11–13–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 48810.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, October 24, 2017 at 11:15 a.m. and its Continuation at the Conclusion of the Open Meeting on October 26, 2017.

CHANGES IN THE MEETING: This meeting was held on Tuesday, October 24 at 10:30 a.m. and continued on Tuesday, November 7, 2017 at 10:00 a.m.

* * * * *

CONTACT FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2017–24680 Filed 11–9–17; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL TRADE COMMISSION

[File No. 171 0196]

Red Ventures Holdco, LP and Bankrate, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 5, 2017.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''In the Matter of Red Ventures Holdco, LP and Bankrate, Inc., File No. 1710196'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/redventuresholdcoconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of Red Ventures Holdco, LP and Bankrate, Inc., File No. 1710196'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Joseph A. Lipinsky, Northwest Region, (206–220–4473), 915 Second Ave., Room 2896, Seattle, WA 98174.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 3, 2017), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 5, 2017. Write ''In the Matter of Red Ventures Holdco, LP and Bankrate, Inc., File No. 1710196'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/redventuresholdcoconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''In the Matter of Red Ventures Holdco, LP and Bankrate, Inc., File No. 1710196'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your

comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Web site at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 5, 2017. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') with Red Ventures Holdco, LP (''Red Ventures'') and Bankrate, Inc. (''Bankrate''). The Consent Agreement is intended to remedy the anticompetitive effects that likely would result from Red Ventures' proposed acquisition of Bankrate (the ''Transaction''). Under the Consent Agreement, Red Ventures will divest *Caring.com*, a subsidiary of Bankrate.

The Transaction, if consummated, would result in the likely lessening of competition between the two leading providers of third-party paid referral services for senior living facilities. Senior living facility operators use a variety of methods to find residents, including in-house marketing efforts, unpaid referrals from doctors or other professionals working with the elderly, and third-party paid referral services. The evidence shows that third-party paid referral services for senior living facilities represents a relevant product market, and that A Place for Mom (''APFM'') and *Caring.com* are the two largest third-party paid referral services for senior living facilities and each other's closest competitors. General Atlantic, LLC (''General Atlantic'') and Silver Lake Partners, LP (''Silver Lake'') jointly own all of APFM, own approximately 34 percent of Red Ventures, and have significant control over certain Red Ventures decisions.

The Proposed Order preserves competition between APFM and *Caring.com* by accepting a Consent Agreement under which Red Ventures will divest *Caring.com.*

II. The Parties

A. Red Ventures

Red Ventures is a marketing company providing proprietary internet content and customer leads in a variety of industries. Two of its largest shareholders are private equity firms General Atlantic and Silver Lake Partners. They control two of the seven positions on the board of Red Ventures GP, LLC, the entity that manages Red Ventures, and they have approval rights for two other positions. They also must approve significant capital expenditures by Red Ventures. General Atlantic and Silver Lake jointly own APFM, which is the largest third-party paid referral service company for senior living facilities.

B. Bankrate

Bankrate is a marketing company providing proprietary internet content and customer leads for providers in a variety of industries. In connection with the market for providing leads for senior living facilities, Bankrate owns and operates *Caring.com*, the second largest third-party referral service company for senior living facilities after APFM.

III. The Proposed Transaction

Pursuant to an agreement executed on July 2, 2017, Red Ventures agreed to acquire 100 percent of Bankrate.

IV. The Relevant Market

The Commission's Complaint alleges that the relevant product market within which to analyze the Transaction is third-party paid referral services for senior living facility operators.

Senior living facilities provide a range of specialized long-term residential living options tailored to the needs of senior consumers. Referral services companies generate and collect customer leads for senior living facilities. While many small referral services companies generate leads through marketing and networking efforts similar to those used by real estate agents, APFM and *Caring.com* use the Internet to generate and collect leads. They attract these leads to their Web sites through both paid search advertising and search engine optimization, which includes, among other things, creating compelling free content to help the Web sites appear higher in search engine result pages.

Once the referral services companies qualify the leads, they provide the customer leads to the senior living facilities operators. The senior living facilities' sales staff then contacts the leads and seeks to consummate sales. When a consumer moves into a senior living facility, the senior living facility operator pays the referral services company a referral fee, typically based on a percentage of the first month's rent and care.

The Commission's Complaint alleges that the relevant geographic market in which to analyze the effects of the Merger is the United States. Although

each senior's search for a senior living facility is highly localized, APFM and *Caring.com* operate, compete and contract with senior living facility operators on a national basis.

V. Market Structure

The Commission's Complaint alleges that *Caring.com* is APFM's closest competitor, they are the two largest third-party paid referral services companies for seniors, and they have similar business models. APFM and *Caring.com* are internet-based referral services providers that compete to attract consumers via Web sites with national reach, and they enter into contracts with senior living facility operators both locally and nationally. Other than APFM and *Caring.com*, there is a fringe of small regional and local companies that act as third-party paid referral services companies.

VI. Effects of the Transaction

The Commission's Complaint alleges that the Transaction, if consummated, may substantially lessen present and future competition between APFM and *Caring.com* by increasing the likelihood that Red Ventures would unilaterally exercise market power and increasing the likelihood of coordinated interaction between APFM and *Caring.com*.

General Atlantic and Silver Lake have the ability to influence or control the management of *Caring.com*. They are both active investors with board representation on, and other substantial rights over, Red Ventures. General Atlantic and Silver Lake's ownership of APFM may create incentives for them to exercise influence or control over Red Ventures in a manner that could substantially reduce competition between APFM and *Caring.com*.

VII. Entry Conditions

Entry into the relevant market would not be timely, likely, or sufficient to deter or counteract the anticompetitive effects of the Transaction. The primary barrier to entry is the network and scale needed to acquire and convert qualified leads into actual move-ins at senior living facilities. This requires the ability not only to compete effectively in search engine optimization and marketing, but also to establish contracts with hundreds of senior living facilities nationwide, and have the necessary infrastructure, including experienced senior advisors, to convert leads into paying referrals.

VIII. The Agreement Containing Consent Order

The Proposed Order resolves the anticompetitive concerns raised by the Transaction by eliminating the only overlap between Red Ventures/Bankrate and APFM. The Proposed Order restores current and potential competition by accepting a divestiture of the *Caring.com* business. *Caring.com* was independent before it was acquired by *Bankrate.com* in 2014, and it continues to operate semi-autonomously. The Proposed Order gives the Commission the right to approve a buyer, and prevents General Atlantic and Silver Lake from being involved in the divestiture process.

The Proposed Order allows the Commission to appoint a monitor to ensure compliance with the terms of the Proposed Order, including the provision of transition services to an acquirer and firewalls related to *Caring.com*'s confidential business information. The Proposed Order also prevents Red Ventures from possessing or seeking any confidential business information from APFM or providing any services to APFM for six months after the divestiture of *Caring.com*. The Commission may appoint a trustee if Red Ventures has not divested *Caring.com* and its related assets within the prescribed time-period.

The Commission does not intend this analysis to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–24588 Filed 11–13–17; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[September 1, 2017 thru September 30, 2017]

09/01/2017		
20171512	G	Legrand S.A.; Server Technology Inc.; Legrand S.A.
09/05/2017		
20171785	G	Mitsubishi Chemical Holdings Corporation; NeuroDerm, Ltd.; Mitsubishi Chemical Holdings Corporation.
20171811	G	K3 Private Investors, L.P.; SecureAuth Corporation; K3 Private Investors, L.P.
20171826	G	Cargill, Incorporated; Southern States Cooperative, Incorporated; Cargill, Incorporated.
20171827	G	The Resolute Fund III, L.P.; Roadrunner Transportation Systems, Inc.; The Resolute Fund III, L.P.
20171836	G	Sonic Financial Corporation; Steve Hall; Sonic Financial Corporation.
20171841	G	Lindsay Goldberg IV L.P.; WCF Holdings I, LLC; Lindsay Goldberg IV L.P.
20171842	G	Heritage Insurance Holdings, Inc.; NBIC Holdings, Inc.; Heritage Insurance Holdings, Inc.
20171847	G	Centerbridge Capital Partners III, L.P.; Highmark Health; Centerbridge Capital Partners III, L.P.
20171850	G	The Danny Umansky Revocable Living Trust; Kenneth E. Brown; The Danny Umansky Revocable Living Trust.
20171851	G	The Danny Umansky Revocable Living Trust; William E. Schuiling; The Danny Umansky Revocable Living Trust.

EARLY TERMINATIONS GRANTED—Continued

[September 1, 2017 thru September 30, 2017]

20171854	G	ArcLight Energy Partners Fund VI, L.P.; Mitsubishi Corporation; ArcLight Energy Partners Fund VI, L.P.
20171856	G	V.F. Corporation; Williamson-Dickie Holding Company; V.F. Corporation.
20171857	G	Wolverine Acquisition Holdings, LLC; Jeffrey H. Loria; Wolverine Acquisition Holdings, LLC.
20171864	G	Signet Jewelers Ltd.; R2NET Inc.; Signet Jewelers Ltd.
20171867	G	Berkshire Fund IX, L.P.; ABRY Senior Equity IV, L.P.; Berkshire Fund IX, L.P.
20171869	G	B&G Foods, Inc.; Back to Nature Foods Company, LLC; B&G Foods, Inc.
20171871	G	Husky Energy Inc.; Calumet Specialty Products Partners, L.P.; Husky Energy Inc.
20171877	G	Michael E. Upchurch; Trilliant Holdings L.P.; Michael E. Upchurch.
20171884	G	Green Equity Investors Side VII, L.P.; KTG Holdings, LLC; Green Equity Investors Side VII, L.P.
09/06/2017		
20171838	G	PayPal Holdings, Inc.; Swift Financial Corporation; PayPal Holdings, Inc.
20171880	G	Republic Services, Inc.; RE Community Holdings, LP; Republic Services, Inc.
09/07/2017		
20171764	G	Berkshire Fund IX, L.P.; Advanced Drainage Systems, Inc.; Berkshire Fund IX, L.P.
20171791	G	Verizon Communications Inc.; WideOpenWest, Inc.; Verizon Communications Inc.
20171825	G	Corvex Master Fund LP; Envision Healthcare Corporation; Corvex Master Fund L.P.
20171861	G	TPG Partners VII, LP; Greenbriar Equity Fund III, L.P.; TPG Partners VII, L.P.
20171862	G	Cannae Holdings, Inc.; J. Alexander's Holdings, Inc.; Cannae Holdings, Inc.
09/11/2017		
20171853	G	Warburg Pincus Private Equity XII (NDF) L.P.; Tata Motors Limited; Warburg Pincus Private Equity XII (NDF) L.P.
20171875	G	GSR Electric Vehicle, L.P.; Nissan Motor Co. Ltd.; GSR Electric Vehicle, L.P.
20171876	G	ICG Strategic Secondaries Fund II LP; Quadriga Capital Private Equity Fund III L.P.; ICG Strategic Secondaries Fund II L.P.
20171882	G	Kirin Holdings Company, Limited; The Coca-Cola Company; Kirin Holdings Company, Limited.
20171889	G	Griffon Corporation; Emerson Electric Co.; Griffon Corporation.
20171890	G	SoftBank Vision Fund (AIV M1) L.P.; WeWork Companies Inc.; SoftBank Vision Fund (AIV M1) L.P.
20171893	G	Packaging Corporation of America; Joseph LeRoy; Packaging Corporation of America.
20171896	G	Hawk Holding Company, LLC; Royal Street Corporation; Hawk Holding Company, LLC.
20171900	G	Partners Group Access 906 L.P.; Green Equity Investors VI, L.P.; Partners Group Access 906 L.P.
20171909	G	Vistria Fund II, LP; Clearview Capital Fund III, L.P.; Vistria Fund II, LP.
20171914	G	Newco; LEP Realization Feeder, L.P.; Newco.
09/12/2017		
20171822	G	Heico Corporation; Yosef and Camela Klein; Heico Corporation.
20171824	G	Dermira, Inc.; Roche Holding Ltd; Dermira, Inc.
20171855	G	Apax IX USD L.P.; Neville Roy Singham; Apax IX USD L.P.
20171912	G	Omron Corporation; Spectris plc; Omron Corporation.
20171916	G	The PNC Financial Services Group, Inc.; Windjammer Senior Equity Fund III, L.P.; The PNC Financial Services Group, Inc.
09/13/2017		
20171844	G	Vista Equity Partners Fund VI, L.P.; Applause App Quality, Inc.; Vista Equity Partners Fund VI, L.P.
20171886	G	The Resolute Fund III, L.P.; Odyssey Logistics & Technology Corporation; The Resolute Fund III, L.P.
20171891	G	AMP Capital Global Infrastructure Fund (Non-US), LP; Carlyle Infrastructure Partners, L.P.; AMP Capital Global Infrastructure Fund (Non-US), LP.
20171892	G	venBio Select Fund Ltd.; Immunomedics, Inc.; venBio Select Fund Ltd.
20171897	G	Avista Healthcare Public Acquisition Corp.; Envigo International Holdings, Inc.; Avista Healthcare Public Acquisition Corp.
20171906	G	Daimler AG; Via Transportation, Inc.; Daimler AG.
20171913	G	American Securities Partners VII, L.P.; Genstar Capital Partners V, L.P.; American Securities Partners VII, L.P.
09/14/2017		
20171835	G	Discovery Communications, Inc.; Extreme Ventures, LLC; Discovery Communications, Inc.
20171915	G	TCV VIII, L.P.; AI Global Investments & Cy S.C.A.; TCV VIII, L.P.
20171923	G	GC Lighthouse Holdings, Inc.; Vestar/ISS Investments I, L.P.; GC Lighthouse Holdings, Inc.
09/15/2017		
20171870	G	Recology Employee Stock Ownership Plan; The Ratto Group of Companies Inc.; Recology Employee Stock Ownership Plan.
20171917	G	Teleflex Incorporated; NeoTract, Inc.; Teleflex Incorporated.
20171920	G	Tilman J. Fertitta; Leslie Alexander; Tilman J. Fertitta.
20171922	G	Genstar Capital Partners VIII, L.P.; American Securities Partners VI, L.P.; Genstar Capital Partners VIII, L.P.
20171925	G	Vistria Fund II, LP; Andrew L. Sandler; Vistria Fund II, LP.

EARLY TERMINATIONS GRANTED—Continued

[September 1, 2017 thru September 30, 2017]

20171926	G	Wang Laichun; ZF Friedrichshafen AG; Wang Laichun.
20171927	G	Wang Laisheng; ZF Friedrichshafen AG; Wang Laisheng.
20171928	G	North Haven CA Aggregator, LLC; Tenex Capital Partners, L.P.; North Haven CA Aggregator, LLC.
20171929	G	Golden Gate Capital Opportunity Fund LP; PBP Holdco, Inc.; Golden Gate Capital Opportunity Fund LP.
20171936	G	Quintiles IMS Holdings Incorporated; HighPoint Solutions, LLC; Quintiles IMS Holdings Incorporated.
20171952	G	Ronald O. Perelman; MaxPoint Interactive, Inc.; Ronald O. Perelman.
09/18/2017		
20171833	G	MTN Infrastructure Sidecar 1 SCSp; SCTG, LLC; MTN Infrastructure Sidecar 1 SCSp.
20171918	G	SoftBank Vision Fund (AIV M1) L.P.; Plenty Unlimited Inc.; SoftBank Vision Fund (AIV M1) L.P.
20171937	G	Silver Run Acquisition Corporation II; KFM Holdco, LLC; Silver Run Acquisition Corporation II.
20171938	G	Silver Run Acquisition Corporation II; High Mesa, Inc.; Silver Run Acquisition Corporation II.
20171949	G	Platinum Equity Capital Partners International IV (Cayman); Exponent Private Equity Partners II, LP; Platinum Equity Capital Partners International IV (Cayman).
09/19/2017		
20171843	G	The Walt Disney Company; MLB Media Holdings, L.P.; The Walt Disney Company.
20171863	G	Providence Equity Partners VII–A L.P.; DoubleVerify Inc.; Providence Equity Partners VII–A L.P.
20171942	G	Snow Phipps III, L.P.; DecoPac, Inc.; Snow Phipps III, L.P.
20171953	G	Forum Energy Technologies, Inc.; Global Tubing, LLC; Forum Energy Technologies, Inc.
09/20/2017		
20171934	G	Primavera Capital Fund II L.P.; Warburg Pincus Private Equity XI, L.P.; Primavera Capital Fund II L.P.
20171935	G	Seattle Genetics, Inc.; Immunomedics, Inc.; Seattle Genetics, Inc.
20171946	G	Ellie Mae, Inc.; Velocify, Inc.; Ellie Mae, Inc.
20171960	G	Capri Acquisitions Topco Limited; Redtop Holdings Limited; Capri Acquisitions Topco Limited.
09/21/2017		
20171846	G	RealPage, Inc.; On-Site Manager, Inc.; RealPage, Inc.
20171865	G	United Rentals, Inc.; Wayzata Opportunities Fund II, L.P.; United Rentals, Inc.
09/22/2017		
20171963	G	Zenith Energy U.S., L.P.; Arc Logistics Partners LP; Zenith Energy U.S., L.P.
20171974	G	Carl C. Icahn; Herbalife Ltd.; Carl C. Icahn
20171978	G	Madison Dearborn Capital Partners VII–B, L.P.; Platinum Equity Capital Partners III, L.P.; Madison Dearborn Capital Partners VII–B, L.P.
20171979	G	Voting Trust Agreement dated November 18; Bridgestone Corporation; Voting Trust Agreement dated November 18.
20171982	G	RCAF VI AIV I–A, L.P.; James K. Waldroop; RCAF VI AIV I–A, L.P.
09/25/2017		
20171970	G	Apax IX USD L.P.; Tom and Ruth Chapman; Apax IX USD L.P.
20171980	G	Marlin Equity IV AIV, L.P.; AppRiver Holdings, LLC; Marlin Equity IV AIV, L.P.
09/26/2017		
20171944	G	Trian Partners Strategic Investment Fund-N L.P.; The Procter & Gamble Company; Trian Partners Strategic Investment Fund-N L.P.
20171976	G	Trident VII, L.P.; Hellman & Friedman Capital Partners VII, L.P.; Trident VII, L.P.
20171977	G	Trident VII Parallel Fund, L.P.; Hellman & Friedman Capital Partners VII, L.P.; Trident VII Parallel Fund, L.P.
09/27/2017		
20170803	G	Integra LifeSciences Holdings Corporation; Johnson & Johnson; Integra LifeSciences Holdings Corporation.
20171939	G	Volt Parent, LP; Calpine Corporation; Volt Parent, LP.
20171948	G	K3 Private Investors, L.P.; K2 Private Investors, L.P.; K3 Private Investors, L.P.
20171958	G	Riva Capital Partners IV, L.P.; JLL Partners Fund VI, L.P.; Riva Capital Partners IV, L.P.
20171962	G	Gulf Pacific Power, LLC; Enel S.p.A.; Gulf Pacific Power, LLC.
20171964	G	Pitney Bowes Inc.; Littlejohn Fund IV, L.P.; Pitney Bowes Inc.
20171968	G	Patterson-UTI Energy, Inc.; Denham Commodity Partners Fund V LP; Patterson-UTI Energy, Inc.
20171972	G	Dr. Leonard S. Schleifer; Regeneron Pharmaceuticals, Inc.; Dr. Leonard S. Schleifer.
20171986	G	One Rock Capital Partners, II LP; FXI Holdings, Inc.; One Rock Capital Partners, II LP.
20171987	G	Accenture plc; Imran A. Shah and Farvah Shah (spouses); Accenture plc.
09/28/2017		
20160815	G	Abbott Laboratories; Alere Inc.; Abbott Laboratories.
20170357	G	Showa Denko K.K.; SGL Carbon SE; Showa Denko K.K.

EARLY TERMINATIONS GRANTED—Continued

[September 1, 2017 thru September 30, 2017]

20171693	G	Crown Castle International Corp.; LTS Group Holdings LLC; Crown Castle International Corp.
20171992	G	Quidel Corporation; Alere Inc.; Quidel Corporation.
09/29/2017		
20171818	G	Grubhub Inc.; Yelp Inc.; Grubhub Inc.
20171985	G	Nathan Zommer; Littelfuse, Inc.; Nathan Zommer.
20171989	G	Centene Corporation; New York State Catholic Health Plan, Inc.; Centene Corporation.
20171991	G	RhythmOne plc; YuMe, Inc.; RhythmOne plc.
20171993	G	Thomas C. Foley; J.L. Holloway; Thomas C. Foley.
20171995	G	EQT Mid Market US Limited Partnership; TP Group-CI LLC; EQT Mid Market US Limited Partnership.
20171996	G	TGP Investors, LLC; TopGolf International, Inc.; TGP Investors, LLC.
20171998	G	Capgemini SE; Richard B. Lyons; Capgemini SE.
20172000	G	Summit Partners Growth Equity Fund IX–A, L.P.; RCAF VI AIV I–A, L.P.; Summit Partners Growth Equity Fund IX–A, L.P.
20172003	G	Carl C. Icahn; Caesars Entertainment Corporation; Carl C. Icahn.
20172017	G	Mitsubishi Corporation; Cargill Incorporated; Mitsubishi Corporation.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–24589 Filed 11–13–17; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[October 1, 2017 through October 31, 2017]

10/02/2017		
20171788	G	Agnaten SE; Louis Marie Stanislas Le Duff; Agnaten SE.
20171950	G	H.B. Fuller Company; American Securities Partners VI, L.P.; H.B. Fuller Company.
20171984	G	Littelfuse, Inc.; IXYS Corporation; Littelfuse, Inc.
20172006	G	Fortive Corporation; Landauer, Inc.; Fortive Corporation.
10/03/2017		
20171921	G	Pi Jersey Topco Limited; Paysafe Group PLC; Pi Jersey Topco Limited.
20171930	G	Welltok, Inc.; j2 Global, Inc.; Welltok, Inc.
20171997	G	Holly Energy Partners, L.P.; Plains All American Pipeline, L.P.; Holly Energy Partners, L.P.
20171999	G	CenterPoint Energy, Inc.; Tailwater Energy Fund II LP; CenterPoint Energy, Inc.
20172031	G	Snow Phipps III, L.P.; RFE Investment Partners VII, L.P.; Snow Phipps III, L.P.
10/04/2017		
20171975	G	Aon plc; Colony NorthStar, Inc.; Aon plc.
20171994	G	The Cooper Companies, Inc.; Teva Pharmaceutical Industries Ltd.; The Cooper Companies, Inc.
10/05/2017		
20172020	G	L Catterton VIII, L.P.; J.H. Whitney VII, L.P.; L Catterton VIII, L.P.
20172022	G	Hainan Cihang Charitable Foundation; Glencore plc; Hainan Cihang Charitable Foundation.
20172029	G	H.I.G. Advantage Buyout Fund, L.P.; The Resolute Fund II, L.P.; H.I.G. Advantage Buyout Fund, L.P.
10/06/2017		
20172018	G	MSouth Equity Partners III, L.P.; Trivest Fund IV, L.P.; MSouth Equity Partners III, L.P.

EARLY TERMINATIONS GRANTED—Continued

[October 1, 2017 through October 31, 2017]

20172028	G	SA Compagnie Industrielle de Delle; Michael W. Smith Trust Agreement dated 10/29/2010; SA Compagnie Industrielle de Delle.
10/10/2017		
20172052	G	Fortum Oyj; Uniper SE; Fortum Oyj.
10/11/2017		
20172033	G	IAC/InterActiveCorp.; Livestream Inc.; IAC/InterActiveCorp.
20172036	G	Wijnand Nicolaas Pon; Todd L. Blue; Wijnand Nicolaas Pon.
20172043	G	Albatros Holdco SAS; Desmarais Family Residuary Trust; Albatros Holdco SAS.
20172047	G	Aurora Equity Partners V L.P.; VLS Recovery Services, LLC; Aurora Equity Partners V L.P.
20172056	G	SAP SE; Gigya, Inc.; SAP SE.
20180008	G	Anthem, Inc.; Highland Investor Holdings, LLC; Anthem, Inc.
10/12/2017		
20172030	G	40 North Latitude Fund LP; Clariant Ltd.; 40 North Latitude Fund LP.
20172042	G	j2 Global, Inc.; Humble Bundle, Inc.; j2 Global, Inc.
20180004	G	Korea Electric Power Corporation; Canadian Solar Inc.; Korea Electric Power Corporation.
20180005	G	KEPCO Woori Sprott Global Private Equity Fund; Canadian Solar Inc.; KEPCO Woori Sprott Global Private Equity Fund.
20180007	G	GIP III Trophy Acquisition Partners, L.P.; The Energy & Minerals Group Fund II, LP; GIP III Trophy Acquisition Partners, L.P.
10/16/2017		
20180009	G	Quad-C Partners IX, L.P.; AIT Worldwide Logistics, Inc.; Quad-C Partners IX, L.P.
20180015	G	The Resolute Fund III, L.P.; H.I.G. Advantage Buyout Fund, L.P.; The Resolute Fund III, L.P.
20180019	G	ZMC II, L.P.; Mostafa Aghamiri; ZMC II, L.P.
20180020	G	Kellogg Company; Chicago Bar Company LLC; Kellogg Company.
20180021	G	Giovanni Ferrero; CP FCC Holdings, LLC; Giovanni Ferrero.
20180023	G	Apax IX USD L.P.; Tosca Services, LLC; Apax IX USD L.P.
20180024	G	Conagra Brands, Inc.; TPG Growth II DE AIV II, L.P.; Conagra Brands, Inc.
20180029	G	Kuraray Co., Ltd.; Calgon Carbon Corporation; Kuraray Co., Ltd.
20180031	G	The Resolute Fund III, L.P.; Young Innovations Holdings LLC; The Resolute Fund III, L.P.
10/17/2017		
20172001	G	Verizon Communications Inc.; Deutsche Telekom AG; Verizon Communications Inc.
20172002	G	Deutsche Telekom AG; Verizon Communication Inc.; Deutsche Telekom AG.
20172055	G	Foundation Holdings, LLC; Teva Pharmaceutical Industries Ltd.; Foundation Holdings, LLC.
20180028	G	Littlejohn Fund V, L.P.; Willis Stein & Partners, III, L.P.; Littlejohn Fund V, L.P.
10/18/2017		
20171802	G	Jacobs Engineering Group Inc.; CH2M Hill Companies, Ltd.; Jacobs Engineering Group Inc.
20171820	G	Motorola Solutions, Inc.; Airbus SE; Motorola Solutions, Inc.
20172014	G	Catalent, Inc.; Cook Group Incorporated; Catalent, Inc.
20172045	G	Bunge Limited; IOI Corporation Berhad; Bunge Limited.
20180003	G	Trian Partners Strategic Investment Fund-N L.P.; Sysco Corporation; Trian Partners Strategic Investment Fund-N L.P.
20180006	G	EQT VII (No. 1) Limited Partnership; Chicago Growth Partners II, LP; EQT VII (No. 1) Limited Partnership.
20180034	G	Lindsay Goldberg IV–A L.P.; J. Carey Smith; Lindsay Goldberg IV–A L.P.
20180038	G	Canyon Consolidated Resources, LLC; Galena Private Equity Resources Fund LP; Canyon Consolidated Resources, LLC.
20180042	G	Dialog Semiconductor Plc; Silego Technology Inc.; Dialog Semiconductor Plc.
10/19/2017		
20172064	G	The Varde Fund XII (Master), L.P.; Newco LLC; The Varde Fund XII (Master), L.P.
20180001	G	Trian Partners Strategic Investment Fund-N L.P.; DowDuPont Inc.; Trian Partners Strategic Investment Fund-N L.P.
20180032	G	Safran SA; Zodiac Aerospace; Safran SA.
20180035	G	Carlisle Companies Incorporated; Accella Performance Materials LLC; Carlisle Companies Incorporated.
20180053	G	Vista Equity Partners Fund VI, L.P.; JAMF Holdings, Inc.; Vista Equity Partners Fund VI, L.P.
10/20/2017		
20172019	G	Berkshire Fund IX, L.P.; Iowa State University Foundation; Berkshire Fund IX, L.P.
20172024	G	SoftBank Vision Fund (AIV M1) L.P.; Mapbox, Inc.; SoftBank Vision Fund (AIV M1) L.P.
20180027	G	Olympus Growth Fund VI, L.P.; Quad-C Partners VIII, L.P.; Olympus Growth Fund VI, L.P.
20180033	G	LKQ Corporation; Dover Corporation; LKQ Corporation.
10/23/2017		
20172015	G	Sierra Wireless, Inc.; Numerex Corp.; Sierra Wireless, Inc.

EARLY TERMINATIONS GRANTED—Continued

[October 1, 2017 through October 31, 2017]

20180036	G	American Midstream Partners, LP; Destin Pipeline Company, L.L.C.; American Midstream Partners, LP.
20180051	G	CCMP Capital Investors III, L.P.; Ali D. Azadi; CCMP Capital Investors III, L.P.
20180054	G	Audax Private Equity Fund V–A, L.P.; Ecolab Inc.; Audax Private Equity Fund V–A, L.P.
20180057	G	New Mountain Partners V, L.P.; Cytel Inc.; New Mountain Partners V, L.P.
20180063	G	bpost naamloze vennootschap van publiek recht/societe anoym; Radial I, L.P.; bpost naamloze vennootschap van publiek recht/societe anoym.
20180064	G	Avista Capital Partners IV, L.P.; Miraca Holdings Inc.; Avista Capital Partners IV, L.P.
20180066	G	AVIC International Holding (HK) Limited; Aviation Industry Corporation of China; AVIC International Holding (HK) Limited.
20180067	G	Bison Capital Partners V, L.P.; TA X L.P.; Bison Capital Partners V, L.P.
20180069	G	Blackstone Capital Partners (Cayman) VII; S-Process Equipment International S.a.r.l.; Blackstone Capital Partners (Cayman) VII.
20180075	G	Guidewire Software, Inc.; Cyence Inc.; Guidewire Software, Inc.
10/24/2017		
20180046	G	Lovell Minnick Equity Partners IV LP; The Bank of New York Mellon Corporation; Lovell Minnick Equity Partners IV LP.
20180059	G	Oaktree European Principal Fund IV, L.P.; AGC Integrated Defense Holdings LLC; Oaktree European Principal Fund IV, L.P.
20180065	G	Rond Point Immobilier SAS; Exa Corporation; Rond Point Immobilier SAS.
10/25/2017		
20180012	G	Invesco Ltd.; Guggenheim Capital, LLC; Invesco Ltd.
20180037	G	BlueFocus Communication Group Co., Ltd.; Cogint, Inc.; BlueFocus Communication Group Co., Ltd.
20180058	G	Navient Corporation; Earnest Inc.; Navient Corporation.
20180073	G	Office Depot, Inc.; Thomas H. Lee Equity Fund VI, L.P.; Office Depot, Inc.
10/26/2017		
20180050	G	Adventist Health System/West; The Fremont-Rideout Health Group; Adventist Health System/West.
20180113	G	DigiCert Parent, Inc.; Symantec Corporation; DigiCert Parent, Inc.
20180114	G	Symantec Corporation; DigiCert Parent, Inc.; Symantec Corporation.
10/27/2017		
20171965	G	Inception Topco, Inc.; Datapipe Holdings, LLC; Inception Topco, Inc.
10/30/2017		
20180045	G	Sentinel Capital Partners V, L.P.; Wingate Partners IV, L.P.; Sentinel Capital Partners V, L.P.
20180055	G	Yuanxi Ye; LIXIL Group Corporation; Yuanxi Ye.
20180082	G	Alphabet Inc.; Warburg Pincus Private Equity X, L.P.; Alphabet Inc.
20180091	G	RWS Holdings Plc; Clarion Investors II, LP; RWS Holdings Plc.
20180092	G	Novacap Industries IV, L.P.; Series B Investco Limited; Novacap Industries IV, L.P.
20180093	G	Novacap Industries IV, L.P.; Strategic Value Special Situations Feeder Fund, L.P.; Novacap Industries IV, L.P.
20180096	G	Aloha Parent, Inc.; Housatonic Equity Investors IV, L.P.; Aloha Parent, Inc.
20180101	G	Cooke, Inc.; Omega Protein Corporation; Cooke, Inc.
20180102	G	HollyFrontier Corporation; Holly Energy Partners, L.P.; HollyFrontier Corporation.
20180105	G	TGP Investors II, LLC; TopGolf International, Inc.; TGP Investors II, LLC.
20180112	G	William R. Berkley; W.R. Berkley Corporation; William R. Berkley.
20180117	G	ArcLight Energy Partners Fund VI, L.P.; GEPI Bravo AIV, L.P.; ArcLight Energy Partners Fund VI, L.P.
20180118	G	ArcLight Energy Partners Fund VI, L.P.; John Mork; ArcLight Energy Partners Fund VI, L.P.
10/31/2017		
20171904	G	Nabors Industries Ltd.; Tesco Corporation; Nabors Industries Ltd.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–24590 Filed 11–13–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Job Search Assistance (JSA) Strategies Evaluation—Extension.

OMB No.: 0970–0440.

Description: The Administration for Children and Families (ACF), is proposing the extension without changes to an existing data collection activity as part of the Job Search Assistance (JSA) Strategies Evaluation. The JSA evaluation will aim to determine which JSA strategies are most effective in moving TANF applicants and recipients into work and will produce impact and implementation findings. To date, the study has randomly assigned individuals to contrasting JSA approaches. The study will next compare participant

employment and earnings to determine the relative effectiveness of these strategies. The project will also report on the implementation of these strategies, including measures of services participants receive under each approach, as well as provide operational lessons gathered directly from practitioners.

Data collection efforts previously approved for JSA, include: Data collection activities to document program implementation, a staff survey, a baseline information form for program participants, and a follow-up survey for JSA participants approximately 6 months after program enrollment. Approval for these activities expires on February 28, 2018.

This **Federal Register** Notice provides the opportunity to comment on the extension of the 6-month follow-up survey to allow follow-up data to be collected for all study participants. Although the enrollment period was originally estimated to span 12 months, it took 18 months to complete enrollment, leaving insufficient time to complete the 6-month follow-up survey. A four-month extension is requested in order to allow individuals randomly assigned between June and August 2017 to complete the follow-up survey in the same timeframe as earlier enrollees. The purpose of the survey is to follow-up with study participants and document their job search assistance services and experiences including their receipt of job search assistance services, their knowledge and skills for conducting a job search, the nature of their job search process, including tools and services used to locate employment, and their search outputs and outcomes, such as the number of applications submitted, interviews attended, offers received and jobs obtained. In addition, the survey will provide an opportunity for respondents to provide contact data for possible longer-term follow-up. There are no changes to the currently approved instruments.

Respondents: JSA study participants.

Annual Burden Estimates: This extension is specific to the 6-month survey. All other information collection under 0970–0440 will be complete by the original OMB expiration date of February 28, 2018.

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Extension of Previously Approved Information Collection				
6-Month Follow-Up Survey	1,200	1	.333	400

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–24587 Filed 11–13–17; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Family Violence Prevention and Services: Grants to States; Native American Tribes and Alaskan Native Villages; and State Domestic Violence Coalitions.

OMB No.: 0970–0280.

Description: The Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10401 *et seq.,* authorizes the Department of Health and Human Services to award grants to States, Territories, Tribes or Tribal Organizations, and State Domestic Violence Coalitions for family violence prevention and intervention activities. The proposed information collection activities will be used to make grant award decisions and to monitor grant performance.

Respondents: State Agencies and Territories Administering FVPSA Grants; Tribal Governments and Tribal Organizations; and State Domestic Violence Coalitions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Grant Application	52	1	10	520
Tribal Grant Application	150	1	5	750
State Domestic Violence Coalition Application	56	1	10	560
State FVPSA Grant Performance Progress Report	52	1	10	520
Tribal FVPSA Grant Performance Progress Report	150	1	10	1,500

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Domestic Violence Coalition Performance Progress Report	56	1	10	560

Estimated Total Annual Burden Hours: 4,410.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attention Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project. Email: *OIRA_SUBMISSION@OMB.EOP.GOV.*

Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017–24609 Filed 11–13–17; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of 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 Advisory Committee to the Director, National Institutes of Health.

The meeting will be open to the public, 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.

Name of Committee: Advisory Committee to the Director, National Institutes of Health.

Date: December 14, 2017.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: NIH Director's Report, ACD Working Group Reports.

Place: National Institutes of Health, Building 31, 6th Floor Conference Room 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *Woodgs@od.nih.gov.*

Name of Committee: Advisory Committee to the Director, National Institutes of Health.

Date: December 15, 2017.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: Other Business of the Committee.

Place: National Institutes of Health, Building 31, 6th Floor Conference Room 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *Woodgs@od.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: *http://acd.od.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 7, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24603 Filed 11–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Prokaryotic Biology and Molecular Genetics.

Date: December 5, 2017.

Time: 1:00 p.m. to 6:00 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: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2022, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Signaling and Interactions.

Date: December 7, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 5201, MSC 7840, Bethesda, MD 20892, 301–435–1175, *berestm@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular and Cellular Neuroscience.

Date: December 7, 2017.

Time: 12:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Cellular and Molecular Biology of Neurodegeneration.

Date: December 8, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Fogarty HIV Research Training Programs for Low- and Middle-Income Country Institutions.

Date: December 12, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24571 Filed 11–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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 Scientific Review Special Emphasis Panel; Member Conflicts and PAR: Biobehavioral Applications on Substance Abuse and Reward.

Date: December 8, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24570 Filed 11–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, 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.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: December 7–8, 2017.

Time: December 7, 2017, 1:00 p.m. to 5:00 p.m.

Agenda: Evaluate sleep and circadian research activities; discuss plans for the proposed revision of the NIH Sleep Disorders Research Plan, and potential opportunities for the inter-agency coordination activities.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9112–9116, 6701 Rockledge Drive, Bethesda, MD 20892.

Time: December 8, 2017, 8:00 a.m. to 3:00 p.m.

Agenda: Evaluate sleep and circadian research activities; discuss plans for the proposed revision of the NIH Sleep Disorders Research Plan, and potential opportunities for the inter-agency coordination activities.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9112–9116, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Michael J. Twery, Ph.D., Director, National Center on Sleep Disorders, Research Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10170, Bethesda, MD 20892–7952, 301–435–0199, *twerym@nhlbi.nih.gov*.

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/committees/sdrab/*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 7, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24572 Filed 11–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel; Parkinsonism Biomarker Review.

Date: December 4, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Joel Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *joel.saydoff@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; TOP–NT Review Meeting.

Date: December 6, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Arlington Capital View Hotel, 2800 South Potomac, Arlington, VA 22202.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–0288, *natalia.strunnikova@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trial Readiness for Rare Neurological and Neuromuscular Diseases.

Date: December 7, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ana Olariu, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *Ana.olariu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 8, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–24602 Filed 11–13–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4338–DR; Docket ID FEMA–2017–0001]

Georgia; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–4338–DR), dated September 15, 2017, and related determinations.

DATES: This amendment was issued October 26, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 15, 2017.

DeKalb and Haralson Counties for Public Assistance [Categories C–G] (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Brock Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–24618 Filed 11–13–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee management; notice of open Federal Advisory Committee meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet in person on November 28–30, 2017 in Washington, DC. The meeting will be open to the public.

DATES: The NAC will meet Tuesday, November 28, 2017 from 8:00 a.m. to 5:00 p.m., Wednesday, November 29, 2017 from 8:30 a.m. to 5:00 p.m., and Thursday, November 30, 2017 from 8:30 a.m. to 1:00 p.m. Eastern Standard Time (EST). Please note that the meeting may close early if the NAC has completed its business.

ADDRESSES: The meeting will be held at The National Association of Counties located at 660 North Capitol Street NW., Washington, DC 20001. It is recommended that attendees register with FEMA by November 21 by providing their name, telephone number, email address, title, and organization to the person listed in **FOR FURTHER INFORMATION CONTACT** below.

For information on facilities or services for people with disabilities and others with access and functional needs, or to request assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the NAC. The ''Agenda'' section below outlines these issues. The full agenda and any related documents for this meeting will be posted by Friday, November 17 on the NAC Web site at *http://www.fema.gov/national-advisory-council.* Written comments must be submitted and received by 5:00 p.m. EST on November 17, 2017, identified by Docket ID FEMA–2007–0008, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA-RULES@fema.dhs.gov.* Include the docket number in the subject line of the message.

• *Fax:* (540) 504–2331. Please include a cover sheet addressing the fax to ATTN: Deana Platt.

• *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received, including any personal information provided, will be posted without alteration at *http://www.regulations.gov.*

Docket: For access to the docket to read comments received by the NAC, go to *http://www.regulations.gov,* and search for Docket ID FEMA–2007–0008.

A public comment period will be held on Wednesday, November 29 from 1:30 p.m. to 1:45 p.m. EST. All speakers must limit their comments to 5 minutes. Comments should be addressed to the NAC. Any comments not related to the agenda topics will not be considered by the NAC. To register to make remarks during the public comment period, contact the individual listed in **FOR FURTHER INFORMATION CONTACT** by November 17, 2017. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Deana Platt, Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3184, telephone (202) 646–2700, fax (540) 504–2331, and email *FEMA-NAC@fema.dhs.gov.* The NAC Web site is: *http://www.fema.gov/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates state, local, and tribal government, and private sector input in the development and revision of FEMA plans and strategies. The NAC includes a cross-section of officials, emergency managers, and emergency response providers from state, local, and tribal governments, the private sector, and nongovernmental organizations.

Agenda: On Tuesday, November 28, the NAC will hear about priorities across FEMA regions from the Region III team and receive briefings on federal insurance and mitigation as well as protection and national preparedness.

On Wednesday, November 29, the NAC will hear from the Office of Response and Recovery and will engage in an open discussion with the FEMA Administrator. The three NAC subcommittees (Federal Insurance and Mitigation Subcommittee, Preparedness and Protection Subcommittee, and Response and Recovery Subcommittee) will provide reports to the NAC about their work, whereupon the NAC will deliberate on any recommendations presented in the subcommittees' reports, and, if appropriate, vote on recommendations for the FEMA Administrator. Potential recommendation topics include (1) disaster housing and (2) disaster costs.

On Thursday, November 30, the NAC will review potential topics for research before the next in-person meeting, review agreed upon recommendations, and confirm charges for the subcommittees.

The full agenda and any related documents for this meeting will be posted by Friday, November 17 on the NAC Web site at *http://www.fema.gov/national-advisory-council.*

Dated: November 6, 2017.

William B. ''Brock'' Long,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–24619 Filed 11–13–17; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24565; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before October 21, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 29, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 21, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

CONNECTICUT

Tolland County

South Willington Historic District, River Rd., roughly Battye Rd. to Fisher Hill Rd.; Pinney Hill Rd., Village & Center Sts., Willington, SG100001860

FLORIDA

Broward County

North Woodlawn Cemetery, 1936 NW 9th St., Fort Lauderdale, SG100001861

Indian River County

Heiser, Frank and Stella, House, 11055 138th Ave., Fellsmere vicinity, SG100001862

ILLINOIS

Cook County

Kuppenheimer, Louis B., Jr., House, Winnetka, Winnetka, 98000980

OKLAHOMA

Cleveland County

Park Etude, 1028 Connelly Ln., Norman, SG100001864

Kay County

101 Rodeo Arena, 2600 N Ash St., Ponca City, SG100001865

Attucks Community Center, 1001 S 12th St., Ponca City, SG100001866

McGraw, James J., House, 400 N. 4th St., Ponca City, SG100001867

Roosevelt Elementary School, 815 E. Highland Ave., Ponca City, SG100001868

Logan County

Benedictine Heights Hospital, 2000 W. Warner St., Guthrie, SG100001869

Oklahoma County

Richardson, Edward, Building, 101 Main St., Arcadia, SG100001870

Woods County

First Congregational Church, 1887 Cecil St., Waynoka, SG100001871

TEXAS

Comanche County

St. Louis and San Francisco Railway Depot (Frisco Depot), 304 S. Austin St., Comanche, SG100001872

WISCONSIN

Manitowoc County

TUBAL CAIN (barque) Shipwreck, (Great Lakes Shipwreck Sites of Wisconsin MPS), 1.33 mi. NE of Two Rivers harbor entrance in L. Michigan, Two Rivers vicinity, MP100001873

Milwaukee County

GRACE A. CHANNON (canaller) Shipwreck, (Great Lakes Shipwreck Sites of Wisconsin MPS), 12.75 Mi. NE of the Bender Park boat launch in L. Michigan, Oak Creek vicinity, MP100001874

A request to move has been received for the following resource:

ARKANSAS

Faulkner County

Springfield Bridge, CR 222 at Cadron Creek, Springfield vicinity, MV88000660

Additional documentation has been received for the following resource:

MONTANA

Lewis and Clark County

Western Clay Manufacturing Company, 2915 Country Club Rd., Helena, AD85001052

Authority: 60.13 of 36 CFR part 60.

Dated: October 27, 2017.

Christopher Hetzel,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–24611 Filed 11–13–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24577; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before October 28, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 29, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 28, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ALABAMA

Chambers County

Bethlehem Baptist Church, S corner of River & White's Mill Rds., Valley, SG100001875

Colbert County

St. John's Episcopal Church, 300 N Dickson St., Tuscumbia, SG100001876

Lauderdale County

Lindsay, Maud, Free Kindergarten, 227 Enterprise St., Florence, SG100001877

Mobile County

Dauphin Island School, 1300 Bienville Blvd., Dauphin Island, SG100001878

ARKANSAS

Pulaski County

Governor's Mansion Historic District (Boundary Increase III), Roughly bounded by Wright Ave., W Roosevelt Rd., S State, W 22nd & S Chester Sts., Little Rock, BC100001888

INDIANA

Allen County

Lakeside Historic District, (Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by St. Joe Blvd., Edgewater, Tennessee, Crescent & California Aves., Fort Wayne, MP100001879

Lake County

Hobart First Methodist Episcopal Church, 650 & 654 E. 4th St., Hobart, SG100001880

Whitley County

South Whitley Historic District, Roughly bounded by Broad, Calhoun, Wayne & Line Sts., South Whitley, SG100001881

NEW MEXICO

Colfax County

Casa del Gavilan, 570 NM 21 S, 5.7 mi. S of Cimmaron, Cimmaron vicinity, SG100001882

NEW YORK

Erie County

Kreiner Malt House and Grain Elevator, (Buffalo Grain and Materials Elevator MPS), 50 Elk St., Buffalo, MP100001883

Shea's Seneca Building, 2178 Seneca St., Buffalo, SG100001884

Lewis County

Talcottville Cemetery, 2052 NY 12–D, Talcottville, SG100001885

Monroe County

Fairport Public Library, 18 Perrin St., Fairport, SG100001886

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

RHODE ISLAND

Providence County

United States Post Office Annex, 2 Exchange Terrace, Providence, SG100001887

Authority: 60.13 of 36 CFR part 60.

Dated: October 30, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2017–24613 Filed 11–13–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24491;

[PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before October 14, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 29, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 14, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ILLINOIS

Cook County

Marshall Hotel, (Residential Hotels in Chicago, 1880–1930 MPS), 1232 N LaSalle St., Chicago, MP100001833

IOWA

Dubuque County

Eagle Point Park Historic District, 2601 Shiras Ave., Dubuque, SG100001834

MICHIGAN

Alpena County

GRECIAN Shipwreck Site, L. Huron, Alpena vicinity, SG100001835

Genesee County

Genesee County Savings Bank Building, 352 S Saganaw St., Flint, SG100001836

Kent County

Keeler Building, 56 N Division Ave., Grand Rapids, 80004806

Presque Isle County

JOSEPH S. FAY Shipwreck Site, Off of Forty Mile Point Lighthouse in L. Huron, Rogers City vicinity, SG100001838

Wayne County

Edson, Moore and Company Building, 1702 W Fort St., Detroit, SG100001839

McKinley Elementary School, 640 Plum St., Wyandotte, SG100001840

MINNESOTA

Houston County

Ballard Hotel, 163 W. Main St., Spring Grove, SG100001841

Nobles County

Worthington Armory and Community Building, 225 9th St., Worthington, SG100001844

St. Louis County

LaSalle Apartments, 201 N 5th Ave., Virginia, SG100001845

MISSOURI

New Madrid County

Howardville School, 6916 US 61, Howardville, SG100001847

VIRGINIA

Accomack County

Saxis Island Historic District, Saxis Rd. & feeder lanes, Saxis, SG100001848

Alleghany County

Clifton Forge Commercial Historic District (Boundary Increase), 321 Commercial Ave., Clifton Forge, BC100001850

Amherst County

St. Luke's Episcopal Church, 3788 Buffalo Springs Tpk., Monroe vicinity, SG100001849

Harrisonburg Independent City

Bethel AME Church and Dallard—Newman House Historic District, 184–192 Kelly St., Harrisonburg (Independent City), SG100001851

Loudoun County

Shiloh Baptist Church, 304 E Marshall St., Middleburg, SG100001852

Mecklenburg County

South Hill Commercial Historic District, Mecklenburg Ave., Franklin & W Danville Sts., South Hill, SG100001853

Richmond Independent City

Tower Building, 3212 Cutshaw Ave., Richmond (Independent City), SG100001854

Surry County

Town of Surry Historic District, Generally along Colonial Trail E, Rolfe Hwy., Lebanon Rd. & Beechland Rds., Bank, School& Church Sts., Surry, SG100001855

WISCONSIN

Monroe County

Tomah Boy Scout Cabin, 415 E Council St., Tomah, SG100001856

Price County

Prentice Boy Scout Cabin, 1600 blk. of Washington St., Prentice, SG100001857

A request for removal has been made for the following resources:

MINNESOTA

Kandiyohi County

Spicer, John M., House, 515 Seventh St. NW., Willmar, OT86001545

Nobles County

Adrian State Bank, (Nobles County MRA), Main St. and 2nd Ave., Adrian, OT80002093

Wilkin County

Tenney Fire Hall, (Wilkin County MRA), Concord Ave., Tenney, OT80002186

Additional documentation has been received for the following resources:

ARKANSAS

Faulkner County

Springfield Bridge, CR 222 at Cadron Creek, Springfield vicinity, AD88000660

Jefferson County

Pine Bluff Commercial Historic District, Roughly bounded by US 65B, Walnut St., 10th Ave. & S. Alabama St., Pine Bluff, AD08000438

Pope County

Russellville Downtown Historic District, Roughly bounded by W. 2nd St., Arkansas Ave., Missouri—Pacific RR tracks and El Paso St., Russellville, AD96000941

Authority: 60.13 of 36 CFR part 60.

Dated: October 17, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2017–24612 Filed 11–13–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA104000]

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the Bureau of Ocean Energy Management (BOEM) regulatory restrictions on joint bidding, the Director of the BOEM is publishing a List of Restricted Joint Bidders. Each entity within one of the following groups is restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period November 1, 2017, through April 30, 2018.

DATES: This List of Restricted Joint Bidders will cover the period November 1, 2017, through April 30, 2018, and replace the prior list published on April 28, 2017 (82 FR 19750), which covered the period of May 1, 2017, through October 31, 2017.

Group I

BP America Production Company
BP Exploration & Production Inc.
BP Exploration (Alaska) Inc.

Group II

Chevron Corporation
Chevron U.S.A. Inc.
Chevron Midcontinent, L.P.
Unocal Corporation
Union Oil Company of California
Pure Partners, L.P.

Group III

Eni Petroleum Co. Inc.
Eni Petroleum US LLC
Eni Oil US LLC
Eni Marketing Inc.
Eni BB Petroleum Inc.
Eni US Operating Co. Inc.
Eni BB Pipeline LLC

Group IV

Exxon Mobil Corporation
ExxonMobil Exploration Company

Group V

Petroleo Brasileiro S.A.
Petrobras America Inc.

Group VI

Shell Oil Company
Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
SOI Finance Inc.
Shell Gulf of Mexico Inc.

Group VII

Statoil ASA
Statoil Gulf of Mexico LLC
Statoil USA E&P Inc.
Statoil Gulf Properties Inc.

Group VIII

Total E&P USA, Inc.

Authority: 30 CFR 556.511–556.515.

Dated: November 8, 2017.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2017–24630 Filed 11–13–17; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–052]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 17, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–589 and 731–TA–1394–1396 (Preliminary) (Forged Steel Fittings from China, Italy, and Taiwan). The Commission is currently scheduled to complete and file its determinations on November 20, 2017; views of the Commission are currently scheduled to be completed and filed on November 28, 2017.
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: November 8, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–24709 Filed 11–9–17; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0096]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Environmental Information—ATF Form 5000.29

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register**, on September 6, 2017, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until December 14, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact Shawn Stevens, ATF Industry Liaison, Federal Explosives Licensing Center, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *FELC@atf.gov,* or by telephone at 1–877–283–3352. Written comments and/or suggestions can also be directed 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 agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection:* Environmental Information.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 5000.29.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: The data provided by the applicant on ATF F 5000.29, Environmental Information, allows ATF to identify any waste product(s) generated as a result of the operations by the applicant and the disposal of the products. The information is then reviewed in order to determine if there is any adverse impact on the environment. Information may be disclosed to other Federal, State and local law enforcement and regulatory personnel to verify information on the form and to aid in the enforcement of environmental laws.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 680 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 340 hours, which is equal to 680 (the total number of respondents) * .5 (30 minutes).

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: November 8, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–24608 Filed 11–13–17; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 7, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *Dover Chemical Corporation,* Civil Action No. 5:17–cv–02335.

The proposed consent decree resolves claims by the United States in the associated complaint under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') against Dover Chemical Corporation (''Dover Chemical'') for response actions and past and future response costs relating to Operable Unit 2 of the Dover Chemical Corporation Superfund Site in Dover, Ohio. Under the proposed consent decree, Dover Chemical agrees to perform the remedial actions, estimated to cost $7.4 million, selected by EPA. Dover also agrees to pay past and future response costs incurred by the United States. The proposed consent decree includes a covenant not to sue Dover Chemical under sections 106 and 107 of CERCLA or under section 7003 of the Resource Conservation and Recovery Act (''RCRA''), conditioned upon the satisfactory performance by Dover Chemical of its obligations under the proposed consent decree.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Dover Chemical Corporation,* D.J. Ref. No. 90–11–3–11517. 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.

Under Section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $51.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $8.75.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–24592 Filed 11–13–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2018–005]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when agencies no longer need them for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register**

for records schedules in which agencies propose to destroy records they no longer need to conduct agency business. NARA invites public comments on such records schedules.

DATES: NARA must receive requests for copies in writing by December 13, 2017. Once NARA finishes appraising the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send to you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Appraisal and Agency Assistance (ACRA) using one of the following means:

Mail: NARA (ACRA), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Appraisal and Agency Assistance (ACRA), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: NARA publishes notice in the **Federal Register** for records schedules they no longer need to conduct agency business. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing records retention periods and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the agency to dispose of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it creates or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is expressly limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without Archivist of the United States' approval. The Archivist approves destruction only after thoroughly considering the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records (or notes that the schedule has agency-wide applicability when schedules cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of the Air Force, Air National Guard (DAA–AFU–2017–0004, 2 items, 1 temporary item). Records lacking historical value in a collection of records relating to actions of the Northeast Air Defense Sector (NEADS) on the day of the terrorist attacks of September 11, 2001, and several years afterwards. Included are records showing availability of personnel for December 2001 through May 2002, air tasking order printouts for 2002 through 2004, and electronic and audiovisual records that are duplicates, unreadable, or pertaining to non-significant matters unrelated to the terrorist attacks or their aftermath. Proposed for permanent retention are briefings, reports, emails, correspondence, audio recordings, and other records relating to NEADS operations, procedures, and policies regarding the terrorist attacks and their aftermath.

2. National Indian Gaming Commission, Agency-wide (DAA–0600–2017–0013, 2 items, 2 temporary items). Master files of two electronic information systems containing results, notes, checklists, and working papers for gaming minimum control standards, tribal facilities, and tribal financial statement audits.

3. National Indian Gaming Commission, Agency-wide (DAA–0600–2017–0014, 1 item, 1 temporary item). Master files of an electronic information system used to track the costs and billing for background investigations of casino management contractors.

4. National Indian Gaming Commission, Agency-wide (DAA–0600–2017–0015, 2 items, 2 temporary items). Master files of an electronic information system used as a workflow system to store information on tribal gaming casino contacts and third-party gaming management contracts review data.

5. National Indian Gaming Commission, Agency-wide (DAA–0600–2017–0016, 1 item, 1 temporary item). Master files of an electronic information system used to record, process, and report tribal fees and payments for internal accounting and external reporting of Class II and Class III tribal gaming operations.

6. Securities and Exchange Commission, Office of Legislative and Intergovernmental Affairs (DAA–0266–2016–0005, 2 items, 1 temporary item). Routine Congressional correspondence regarding constituent issues. Proposed for permanent retention are Congressional and intergovernmental records concerning proposed legislation, amendments to various acts, drafts of bills, and Congressional testimonies.

7. United States International Trade Commission, Office of the Secretary (DAA–0081–2017–0003, 13 items, 9 temporary items). Records to include master files of an electronic information system that maintains investigative case files for violations of import injuries, intellectual property-based imports, and related case exhibits. System also serves as a repository for violations of protective orders, action jackets related to operational matters, and mediation program records. Proposed for permanent retention are action jackets

related to rulemaking, publications, and minutes of the Commission.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2017–24573 Filed 11–13–17; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, November 16, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Corporate Stabilization Fund Quarterly Report.
2. NCUA's Rules and Regulations, Corporate Credit Unions.
3. NCUA's 2018—2019 Operating Fund Budget.
4. Overhead Transfer Rate Methodology.

RECESS: 11:30 a.m.

TIME AND DATE: 11:45 a.m., Thursday, November 16, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supervisory Action. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).
2. Supervisory Action. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–24711 Filed 11–9–17; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of Meetings.

SUMMARY: The National Endowment for the Humanities will hold eleven meetings of the Humanities Panel, a federal advisory committee, during December, 2017. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center at 400 7th Street SW., Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. *Date:* December 1, 2017. This meeting will discuss applications on the subject of Linguistics, for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.
2. *Date:* December 1, 2017. This meeting will discuss applications for Humanities Connections Implementation Grants, submitted to the Division of Education Programs.
3. *Date:* December 4, 2017. This meeting will discuss applications for Humanities Connections Planning Grants, submitted to the Division of Education Programs.
4. *Date:* December 5, 2017. This meeting will discuss applications for Humanities Connections Planning Grants, submitted to the Division of Education Programs.
5. *Date:* December 6, 2017. This meeting will discuss applications for Humanities Connections Planning Grants, submitted to the Division of Education Programs.
6. *Date:* December 7, 2017. This meeting will discuss applications for Humanities Connections Planning Grants, submitted to the Division of Education Programs.
7. *Date:* December 8, 2017. This meeting will discuss applications for Humanities Connections Planning Grants, submitted to the Division of Education Programs.
8. *Date:* December 11, 2017. This meeting will discuss applications to the Dialogues on the Experience of War grant program, submitted to the Division of Education Programs.
9. *Date:* December 12, 2017. This meeting will discuss applications to the Dialogues on the Experience of War grant program, submitted to the Division of Education Programs.
10. *Date:* December 13, 2017. This meeting will discuss applications to the Dialogues on the Experience of War grant program, submitted to the Division of Education Programs.
11. *Date:* December 14, 2017. This meeting will discuss applications to the Fellowship Programs at Independent Research Institutions grant program, submitted to the Division of Research Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: November 7, 2017.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2017–24558 Filed 11–13–17; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting December 7–8, 2017, 11545 Rockville Pike, Rockville, Maryland 20852.

THURSDAY, DECEMBER 7, 2017, CONFERENCE ROOM T–2B1, 11545 ROCKVILLE PIKE, ROCKVILLE, MARYLAND 20852

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Annual Reactor Operating Experience (Open)—The Committee will hear briefings by and discussion with the Subcommittee Chairman on power reactor operating experience.

10:45 a.m.–12:00 p.m.: Assessment of the Quality of Selected NRC Research Projects (Open)—The Committee will hear discussions of the assessment of the quality of the selected NRC research projects.

2:00 p.m.–3:30 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

3:30 p.m.–6:00 p.m.: Biennial Review of NRC Research Projects (Open)—The Committee will hear discussions of the biennial review of NRC research projects.

FRIDAY, DECEMBER 8, 2017, CONFERENCE ROOM T–2B1, 11545 ROCKVILLE PIKE, ROCKVILLE, MARYLAND 20852

8:30 a.m.–6:00 p.m.: ACRS Retreat (Open/Closed)—The Committee will hear discussions on topics of interest to the Committee. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html or http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–6702), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, this 8th day of November, 2017.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Advisory Committee Management Officer.

[FR Doc. 2017–24595 Filed 11–13–17; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; comments request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is modifying an existing information collection for OMB review and approval and requests public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of OPIC's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar days of publication of this Notice.

ADDRESSES: Mail all comments and requests for copies of the subject form to OPIC's Agency Submitting Officer: James Bobbitt, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. See **SUPPLEMENTARY INFORMATION** for other information about filing.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: James Bobbitt, (202) 336–8558.

SUPPLEMENTARY INFORMATION: OPIC received no comments in response to the sixty (60) day notice published in **Federal Register,** volume 82, pages 42365–42366 on September 7, 2017. All mailed comments and requests for copies of the subject form should include form number OPIC–255 on both the envelope and in the subject line of the letter. Electronic comments and requests for copies of the subject form may be sent to *James.Bobbitt@opic.gov,* subject line OPIC–255.

Summary Form Under Review

Type of Request: Revision of a currently approved information collection.

Title: Aligned Capital Investee Opt-In.

Form Number: OPIC–255.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution.

Standard Industrial Classification Codes: All.

Description of Affected Public: Companies investing overseas.

Reporting Hours: 37.5 hours (.5 hours per project).

Number of Responses: 75 per year.

Federal Cost: $0.

Authority for Information Collection: Sections 231 and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Aligned Capital Investee Opt-In is a document used by companies seeking investments or grant funding to place their information into OPIC's Aligned Capital Program. The Aligned Capital Program is designed to align development finance with other capital, including philanthropic, socially responsible and impact investment, to enable effective deployment of that capital towards projects in the countries and sectors in which OPIC works.

Dated: November 8, 2017.

Nichole Skoyles,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2017–24601 Filed 11–13–17; 8:45 am]

BILLING CODE 3210–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

[OMB 3420–0034; OPIC–253]

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an existing information collection for OMB review and approval and requests public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of OPIC's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar days of publication of this Notice.

ADDRESSES: Mail all comments and requests for copies of the subject form to OPIC's Agency Submitting Officer: James Bobbitt, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. See **SUPPLEMENTARY INFORMATION** for other information about filing.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: James Bobbitt, (202) 336–8558.

SUPPLEMENTARY INFORMATION: OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 82 page 42366 on September 7, 2017. All mailed comments and requests for copies of the subject form should include form number OPIC–253 on both the envelope and in the subject line of the letter. Electronic comments and requests for copies of the subject form may be sent to *James.Bobbitt@opic.gov,* subject line OPIC–253.

Summary Form Under Review

Type of Request: Revision of a currently approved information collection.

Title: Aligned Capital Investor Screener.

Form Number: OPIC–253.

Frequency of Use: Once per investor.

Type of Respondents: Foundations, non-profit entities; investment fund managers, investment companies; US Government Agencies.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies interested in making investments in companies investing overseas.

Reporting Hours: 16.5 hours (.33 hours per investor).

Number of Responses: 50 per year.

Federal Cost: $0.

Authority for Information Collection: Sections 231 and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Aligned Capital Investor Screener is a document used to screen potential investors interested in participating in OPIC's Aligned Capital Program and, if they qualify, to place their information into the program. The Aligned Capital Program is designed to align development finance with other capital, including philanthropic, socially responsible and impact investment, to enable effective deployment of that capital towards projects in the countries and sectors in which OPIC works. In order to participate, investors must be U.S. entities and meet the additional specified criteria.

Dated: November 8, 2017.

Nichole Skoyles,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2017–24600 Filed 11–13–17; 8:45 am]

BILLING CODE 3210–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 12:00 p.m. on Wednesday, November 15, 2017.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Chairman Clayton, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: November 8, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–24681 Filed 11–9–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82027; File No. SR–NYSEAMER–2017–15]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE American Rule 980NY To Clarify the Priority of Electronic Complex Orders and To Modify Aspects of the Complex Order Auction Process

November 7, 2017.

I. Introduction

On September 8, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend NYSE American Rule 980NY to clarify and provide greater specificity to its rules governing the trading of Electronic Complex Orders (''ECOs''), and to correct inaccuracies in those rules.[4] The proposed rule change was published for comment in the **Federal Register** on September 27, 2017.[5] The Commission received no comment letters regarding the proposal. On October 26, 2017, NYSE American filed Amendment No. 1 to the proposal, which supersedes the original filing in its entirety.[6] The Commission is publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change

NYSE American Rule 980NY governs the trading of ECOs in the Exchange's Complex Matching Engine (''CME''). As described more fully in the Notice, NYSE American proposes to amend NYSE American Rule 980NY to provide additional specificity, transparency, and clarity to its processing of ECOs. The proposal also corrects inaccuracies in NYSE American Rule 980NY.

Execution of ECOs During Core Trading Hours

The proposal amends NYSE American Rule 980NY(c), ''Execution of Complex Orders,'' to indicate that ECOs may be executed not only without consideration of prices of the same complex order that might be available on other exchanges, as the rule currently provides, but also without consideration of the prices of single-legged orders that might be available on other exchanges. In addition, the proposal revises and reorganizes current NYSE American Rule 980NY(c) by replacing current text and adding new paragraphs (ii), ''Execution of Electronic Complex Orders During Core Trading,'' and (iii), ''Electronic Complex Orders in the Consolidated Book.'' [7] The changes to NYSE American Rules 980NY(c)(ii) and (iii) are designed to describe the processing of ECOs during Core Trading in a more concise and logical manner, with NYSE American Rule 980NY(c)(ii) governing the execution of ECOs that are marketable on arrival and NYSE American Rule 980NY(c)(iii) governing how ECOs would be ranked in the Consolidated Book and executed as resting interest on the Consolidated Book.[8] New NYSE American Rule 980NY(c)(ii) indicates that the CME would accept an incoming marketable ECO and automatically execute it against the best-priced contra-side interest resting in the Consolidated Book.[9] If, at a price, the leg markets can trade against an incoming ECO in full (or in a permissible ratio), and each leg includes Customer interest, the leg markets—including both Customer and non-Customer interest—would have first priority at that price to trade with the incoming ECO pursuant to NYSE American Rule 964NY(b), followed by resting ECOs in price/time priority.[10]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For purposes of NYSE American Rule 980NY, an Electronic Complex Order is any Complex Order, as defined in NYSE American Rule 900.3NY(e) that is entered into the Exchange System. *See* NYSE American Rule 980NY. The Exchange System (''System'') is the Exchange's electronic order delivery, execution and reporting system for designated option issues through which orders and quotes of Users are consolidated for execution and/or display. Market Makers must submit quotes to the System in their appointed classes electronically. *See* NYSE American Rule 900.2NY(48). A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different option series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. *See* NYSE American Rule 900.3NY(e).

[5] *See* Securities Exchange Act Release No. 81676 (September 21, 2017), 82 FR 45085 (''Notice'').

[6] Amendment No. 1 modifies the original filing to (1) add specificity to NYSE American Rule 980NY(c)(ii) by indicating that both Customer and non-Customer leg market interest will have first priority to trade with an incoming ECO when the leg markets can execute against an incoming ECO in full (or in a permissible ratio), and each leg includes Customer interest; (2) clarify the provision in NYSE American Rule 980NY(e)(2) indicating that a Complex Order Auction (''COA'')-eligible order may trade immediately in full (or in a permissible ratio) with a resting ECO priced equal to the contra-side Complex BBO, unless each leg of the contra-side Complex BBO includes Customer interest; (3) add a provision to NYSE American Rule 980NY(e)(7)(A) indicating that ECOs on behalf of Customers will have priority over same-priced ECOs for non-Customers when allocating orders at the conclusion of a COA; (4) clarify the requirement NYSE American Rule 980NY, Commentary .02 to provide price improvement on at least one leg of the ECO when each leg of the contra-side Complex BBO for the components of the ECO includes Customer interest; (5) remove a superfluous reference in Commentary .02 to Commentary .01; and (6) delete language in the description section indicating that the proposal removes references to Customer ECO priority. To promote transparency of its proposed amendment, when NYSE American filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–NYSEAMER–2017–15 (available at *https://www.sec.gov/comments/sr-nyseamer-2017-15/nyseamer201715-2656362-161384.pdf*). The Exchange also posted a copy of its Amendment No. 1 on its Web site (available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-american/rule-filings/filings/2017/NYSEAmer-2017-15,%20Am.%201.pdf.*

[7] The title of NYSE American Rule 980NY(c)(ii) remains unchanged, except for the addition of the word ''Electronic'' prior to ''Complex Orders.'' NYSE American Rule 900.2NY(15) defines Core Trading Hours as ''the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange; provided, however, that transactions may be effected on the Exchange until the regular time set for the normal close of trading in the primary markets with respect to equity option classes and ETF option classes, and 15 minutes after the regular time set for the normal close of trading in the primary markets with respect to index option classes, or such other hours as may be determined by the Exchange from time to time.''

[8] *See* Notice, 82 FR at 45086.

[9] *See id.* NYSE American Rule 980NY(c)(ii) states that ''The CME will accept an incoming marketable Electronic Complex Order and automatically execute it against the best-priced contra-side interest resting in the Consolidated Book. If, at a price, the leg markets can execute against an incoming Electronic Complex Order in full (or in a permissible ratio), and each leg includes Customer interest, the leg markets (Customer and non-Customer interest) will have first priority at that price and will trade with the incoming Electronic Complex Order pursuant to Rule 964NY(b) before Electronic Complex Orders resting in the Consolidated Book can trade at that price.'' *See* Amendment No. 1.

[10] *See* Amendment No. 1. *See also* Notice, 82 FR at 45087. The proposal amends NYSE American Rule 980NY(a) to add a defined term, ''leg markets,'' to refer to individual quotes and orders in the Consolidated Book. In addition, the proposal revises NYSE American Rule 980NY(c) to add the word ''strategy'' following the term ''complex order,'' and to add references to ''Electronic'' Complex Orders to the titles of NYSE American

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New NYSE American Rule 980NY(c)(iii), which incorporates existing paragraphs (c)(ii)(B) and (C) and renumbers them as (iii)(A) and (B), addresses incoming ECOs that are not marketable. New NYSE American Rule 980NY(c)(iii)(A) makes clear that an ECO, or portion thereof, that is not executed on arrival will be ranked in the Consolidated Book and that any incoming orders and quotes that can trade with a resting ECO would execute according to NYSE American Rule 980NY(c)(ii).[11] New NYSE American Rule 980NY(c)(iii)(B) clarifies that orders that trade against ECOs in the Consolidated Book will be allocated pursuant to NYSE American Rule 964NY(b), rather than pursuant to NYSE American Rule 964NY.[12]

Electronic Complex Order Auction Rules

Because of the number of modifications to current NYSE American Rule 980NY(e), ''Electronic Complex Order Auction (''COA'') Process,'' the proposal deletes the existing rule in its entirety and replaces it with new NYSE American Rule 980NY(e), which is designed to describe the COA process more clearly, accurately, and logically.[13] New NYSE American Rule 980NY(e) indicates that, upon entry into the System, an ECO may be executed immediately in full, or in a permissible ratio, as provided in NYSE American Rule 980NY(e)(2), or may be subject to a COA.[14] New NYSE American Rule 980NY(e)(1) defines a ''COA-eligible order'' to mean an ECO that is entered in a class designated by the Exchange and is (i) designated by the ATP Holder as COA-eligible; and (ii) received during Core Trading Hours.[15] New NYSE American Rule 980NY(e)(1) preserves existing provisions in current NYSE American Rule 980NY(e)(1) and (2) that allow the Exchange to determine COA eligibility on a class-by-class basis and require an ATP Holder to provide direction that an auction be initiated.[16] The proposal eliminates from the new definition of COA-eligible order several features of ECOs that are included in the current definition of COA-eligible order, but that, according to the Exchange, are not determinative of COA eligibility on NYSE American, including the ''size, number of series, and complex order origin types (*i.e.,* Customers, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange).'' [17]

New NYSE American Rule 980NY(e)(2) provides that, upon entry into the System, a COA-eligible order will trade immediately, in full or in a permissible ratio, with any ECOs resting in the Consolidated Book that are priced better than the contra-side Complex BBO.[18] A COA-eligible order may trade with any ECOs resting in the Consolidated Book priced equal to the contra-side Complex BBO, unless each leg of the contra-side Complex BBO includes Customer interest.[19] Any portion of a COA-eligible order that does not trade immediately upon entry into the System may start a COA.[20] A COA-eligible order that does not trade immediately upon entry into the System will start a COA, provided that the limit price of the COA-eligible order to buy (sell) is: (i) Higher (lower) than the best-priced, same side interest in both the leg markets and any ECOs resting in the Consolidated Book; and (ii) within a given number of ticks away from the current, contra-side market, as determined by the Exchange.[21] NYSE American notes that, because a COA-eligible order may be a certain number of ticks away from the current contra-side market, it is possible that a COA could be initiated even if the limit price of the COA-eligible order is not at or within the NYSE American best bid/offer for each leg of the order.[22] NYSE American notes, however, that a COA-eligible order must execute at a price that is at or within the NYSE American best bid/offer for each leg of the order, consistent with NYSE American Rule 980NY(c).[23] A COA-eligible order will reside on the Consolidated Book until it meets the requirements of NYSE American Rule 980NY(e)(3)(i) and (ii) and can initiate a COA.[24]

New NYSE American Rule 980NY(e)(3) provides that NYSE American will initiate a COA by sending a request for response (''RFR'') message to all ATP Holders that subscribe to RFR messages. RFR messages will identify the component series, the size and side of the market of the order and any contingencies.[25] These provisions are consistent with current NYSE American Rule 980NY(e)(2). New NYSE American Rule 980NY(e)(3) further provides that only one COA may be conducted at a time for any given complex order strategy.[26] Finally, new NYSE American Rule 980NY(e)(3) states that, at the time the COA is initiated, NYSE American will record the Complex BBO (the ''initial Complex BBO'') for purposes of determining whether the COA should end early pursuant to new NYSE American Rule 980NY(e)(6). As discussed more fully below, NYSE American believes that the use of the initial Complex BBO ensures that the COA respects the leg markets and the principles of price-time priority.[27]

New NYSE American Rule 980NY(e)(4) defines the ''Response Time Interval'' (''RTI'') as the period of time during which RFR Responses may be entered. The rule further provides that NYSE American will determine the length of the RTI, provided, however, that the duration will not be less than 500 milliseconds and will not exceed one second. These provisions are consistent with current NYSE American Rule 980NY(e)(3). Finally, new NYSE American Rule 980NY(e)(4) indicates

Rules 980NY(c)(i) and (ii). *See id.,* 82 FR at 45086, n. 7.

[11] *See* Notice, 82 FR at 45087.

[12] *See id.*

[13] *See id.* NYSE American notes that it is not proposing to modify the functionality of the COA. *See id.*

[14] *See id.* Current NYSE American Rule 980NY(e) states that ''Upon entry into the System, eligible Electronic Complex Orders may be subject to an automated request for responses ('RFR') auction.''

[15] Core Trading Hours are ''the regular trading hours for business set forth in the rules of the primary markets underlying those option classes listed on the Exchange; provided, however, that transactions may be effected on the Exchange until the regular time set for the normal close of trading in the primary markets with respect to equity option classes and ETF option classes, and 15 minutes after the regular time set for the normal close of trading in the primary markets with respect to index option classes, or such other hours as may be determined by the Exchange from time to time.'' *See* NYSE American Rule 900.2NY(15).

[16] *See* Notice, 82 FR at 45087. Current NYSE American Rule 980NY(e)(1) defines COA-eligible order as ''an Electronic Complex Order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, number of series, and complex order origin types (*i.e.,* Customers, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange).'' NYSE American currently allows COA-eligible orders to be entered in every class. *See* Notice, 82 FR at 45087, n. 24.

[17] *See id.*

[18] The Complex BBO is ''the BBO for a given complex order strategy as derived from the best bid on OX and the best offer on OX for each individual component series of a Complex Order.'' *See* NYSE American Rule 900.2NY(7)(b).

[19] *See* new NYSE American Rule 980NY(e)(2) and Amendment No. 1.

[20] *See* new NYSE American Rule 980NY(e)(2).

[21] *See* new NYSE American Rule 980NY(e)(3).

[22] *See* Notice, 82 FR 45088.

[23] *See id.*

[24] *See* new NYSE American Rule 980NY(e)(3).

[25] *See id.*

[26] The Exchange believes that this provision can be inferred from current NYSE American Rule 980NY(e)(8), which describes the impact of COA-eligible orders that arrive during a COA. *See* Notice, 82 FR at 45088, n. 29. The Commission notes that current NYSE American Rule 980NY(e)(8)(D) states that incoming COA-eligible orders received during the Response Time Interval that are one same side of the market and priced better than the initiating order will cause the auction to end.

[27] *See* Notice, 82 FR at 45088.

that, at the end of the RTI, the COA-eligible order will be allocated pursuant to new NYSE American Rule 980NY(e)(7).

New NYSE American Rule 980NY(e)(5), which describes the characteristics of RFR Responses, retains some provisions of current NYSE American Rules 980NY(e)(4) and (e)(7) and modifies other aspects of those rules. Specifically, new NYSE American Rule 980NY(e)(5) retains the following provisions in current NYSE American Rules 980NY(e)(4) and (7): Any ATP Holder may submit RFR Responses during the RTI;[28] RFR Responses are ECOs with a time-in-force contingency for the duration of the COA and will expire at the end of the COA;[29] RFR Responses may be submitted in $0.01 increments and may be modified during the RTI;[30] RFR Responses must be on the opposite side of the COA-eligible order, while RFR Responses on the same side as the COA-eligible order will be rejected;[31] and RFR Responses will not be ranked or displayed in the Consolidated Book.[32] New NYSE American Rule 980NY(e)(5)(A) adds new detail by indicating that an RFR Response must specify the price, size, and side of the market. Current NYSE American Rule 980NY(e)(7) states that RFR Response may not be withdrawn prior to the end of the RTI. New NYSE American Rule 980NY(e)(5)(C), however, indicates that RFR Responses may be cancelled during the RTI, which NYSE American states is consistent with its current functionality.[33]

Impact of Incoming Trading Interest on the COA Process

New NYSE American Rules 980NY(e)(6)(A) and (B) replace existing NYSE American Rule 980NY(e)(8), and new NYSE American Rule 980NY(e)(6)(C) replaces existing NYSE American Rule 980NY(e)(9). As noted above, the new rules introduce and incorporate the concept of the initial Complex BBO—the BBO for a given complex order strategy derived from the best bid (''BB'') and best offer (''BO'') for each individual component series of a complex order as recorded at the start of the RTI—as a benchmark against which incoming interest is measured to determine whether a COA should end early.[34] New NYSE American Rules 980NY(e)(6)(A) and (B) address the impact on the COA of incoming ECOs and COA-eligible orders. New NYSE American Rule 980NY(e)(6)(C) addresses the impact of leg market updates on the COA. New NYSE American Rule 980NY(e)(6)(B) provides that when a COA ends early, or at the end of the RTI, the initiating COA-eligible order will execute pursuant to new NYSE American Rule 980NY(e)(7) ahead of any interest that arrived during the COA.

New NYSE American Rule 980NY(e)(6)(A)(i) provides that incoming opposite-side ECOs or COA-eligible orders that lock or cross the initial Complex BBO will cause the COA to end early. If the incoming ECO or COA-eligible order is also executable against the limit price of the initiating COA-eligible order, it will be ranked with RFR Responses to execute with the COA-eligible order pursuant to new NYSE American Rule 980NY(e)(7).[35] NYSE American believes that ending the COA early under these circumstances would allow an initiating COA-eligible order to execute (ahead of the incoming order) against any RFR Responses or ECOs received during the RTI until that point, while preserving the priority of the incoming order to trade with the resting leg markets.[36] NYSE American also states that early conclusion of the COA would avoid disturbing priority in the Consolidated Book and allow the Exchange to appropriately handle the incoming orders.[37]

New NYSE American Rule 980NY(e)(A)(ii) provides that incoming opposite-side ECOs or COA-eligible orders that are executable against the limit price of the COA-eligible order, but do not lock or cross the initial Complex BBO, will not cause the COA to end early and will be ranked with RFR Responses to execute with the COA-eligible order pursuant to NYSE American Rule 980NY(e)(7). NYSE American Rule 980NY(e)(6)(A)(iii) provides that incoming opposite-side ECOs or COA-eligible orders that are either not executable on arrival against the limit price of the initiating COA-eligible order or do not lock or cross the initial Complex BBO will not cause the COA to end early.

New NYSE American Rules 980NY(e)(6)(A)(iv) and (v) describe the treatment of incoming opposite-side ECOs and COA-eligible orders that do not execute with the initiating COA-eligible order or were not executable on arrival. An incoming opposite-side ECO that did not execute against the initiating COA-eligible order or was not executable on arrival will trade pursuant to NYSE American Rule 980NY(c)(ii) or (iii).[38] An incoming opposite-side COA-eligible order(s) that did not execute against the initiating COA-eligible order or was not executable on arrival will initiate subsequent COA(s) in price-time priority.[39]

New NYSE American Rule 980NY(e)(6)(B)(i) indicates that an incoming ECO or COA-eligible order on the same side of the market as the initiating COA-eligible order that is priced higher (lower) than the initiating COA-eligible order to buy (sell) will cause the COA to end early.[40] In addition, new NYSE American Rule 980NY(e)(6)(B)(ii) states that an incoming same-side ECO or COA-eligible order that is priced equal to or lower (higher) than the initiating COA-eligible order to buy (sell), and that also locks or crosses the contra-side initial Complex BBO, will cause the COA to end early. NYSE American believes that ending the COA early under the circumstances would ensure that the COA interacts seamlessly with the Consolidated Book, and would allow the COA-eligible order to execute (ahead of the incoming order) against any RFR Responses or ECOs received during the RTI until that point, while preserving the priority of the incoming order to trade with the resting leg markets.[41] New NYSE American Rule 980NY(e)(6)(B)(ii) also helps to correct an inaccuracy in current NYSE American Rules 980NY(e)(8)(B) and (C), which indicate that incoming same-side COA-eligible orders received during the RTI that are priced equal to or worse than the initiating COA-eligible order will join the COA. Instead, an incoming

[28] *See* new NYSE American Rule 980NY(e)(5). ATP Holders also may submit RFR Responses on behalf of Customers. *See* Notice, 82 FR at 45088, n. 31.

[29] *See* new NYSE American Rules 980NY(e)(5)(A) and (C).

[30] *See id.*

[31] *See* new NYSE American Rule 980NY(e)(5)(B).

[32] *See* new NYSE American Rule 980NY(e)(5)(C).

[33] *See* Notice, 82 FR at 45089. NYSE American notes that all orders may be cancelled. *See id.*

[34] *See* Notice, 82 FR at 45089 and new NYSE American Rule 980NY(e)(3). *See also* note 28, *supra,* and accompanying text.

[35] *See* new NYSE American Rule 980NY(e)(6)(A)(i).

[36] *See* Notice, 82 FR at 45090.

[37] *See id.*

[38] *See* new NYSE American Rule 980NY(e)(6)(A)(iv). NYSE American notes that this provision is consistent with current NYSE American 980NY(e)(8)(A), but provides additional detail regarding the ability for any balance of the incoming opposite-side ECO to trade with the best-priced resting contra-side interest before, or instead of, being ranked in the Consolidated Book. *See* Notice, 82 FR at 45089–90.

[39] *See* new NYSE American Rule 980NY(e)(6)(A)(v).

[40] Current NYSE American Rule 980NY(e)(8)(D) also provides that an incoming same-side, better-priced COA-eligible order will cause the COA to end.

[41] *See* Notice, 82 FR at 45091.

same-side equal-priced or worse-priced COA-eligible order that locks or crosses the contra-side initial Complex BBO would not execute during the COA in progress, as the current rules suggest, but could trade with RFR Responses or ECOs that do not execute in the COA and, if any balance remains, would initiate a new COA.[42] An incoming same-side equal-priced or worse-priced ECO that locks or crosses the contra-side initial Complex BBO could trade with RFR Responses or ECOs that do not execute in the COA and, if any balance remains, would trade pursuant to NYSE American Rule 980NY(c)(ii) or (iii).[43] New NYSE American Rule 980NY(e)(6)(B)(iii) states that an incoming same-side ECO or COA-eligible order that is priced equal to, or lower (higher) than the initiating COA-eligible order to buy (sell), but does not lock or cross the contra-side initial Complex BBO, will not cause the COA to end early.

New NYSE American Rule 980NY(e)(6)(C)(i) provides that updates to the leg markets that cause the same-side Complex BBO to lock or cross any RFR Response(s) and/or ECOs received during the RTI, or ECOs resting in the Consolidated Book, will cause the COA to end early.[44] The Exchange believes that providing for a COA to terminate early under these circumstances would allow a COA-eligible order to trade against any RFR Responses or ECOs received during the RTI up until that point, while preserving the priority of the updated leg markets to trade with any eligible contra-side interest, including any ECOs resting in the Consolidated Book.[45] Updates to the leg markets that cause the same-side Complex BBO to be priced higher (lower) than the COA-eligible order to buy (sell), but do not lock or cross any RFR Response(s) and/or Electronic Complex Order(s) received during the RTI, or ECOs resting in the Consolidated Book, will not cause the COA to end early.[46] Updates to the leg markets that cause the contra-side Complex BBO to lock or cross the same-side initial Complex BBO will cause the COA to end early.[47] Updates to the leg markets that cause the contra-side Complex BB (BO) to improve (*i.e.,* become higher (lower)), but do not lock or cross the same-side initial Complex BBO, will not cause the COA to end early.[48] NYSE American believes that new NYSE American Rules 980NY(e)(6)(C)(i)–(iv) respect the COA process while maintaining the priority of orders and quotes on the Consolidated Book as they update.[49] NYSE American notes that new NYSE American Rule 980NY(e)(6)(C) is based in part on current NYSE American Rules 980NY(e)(9)(A) and (B).[50] NYSE American states that the new rule provides additional clarity and transparency by indicating on which side the leg markets have updated.[51]

New NYSE American Rule 980NY(e)(7), which describes the allocation of COA-eligible orders at the conclusion of a COA, will replace current NYSE American Rule 980NY(e)(6) in its entirety.[52] New NYSE American Rule 980NY(e)(7)(A) provides that RFR Responses and ECOs to buy (sell) that are priced higher (lower) than the initial Complex BBO will be eligible to trade first with the COA-eligible order, beginning with the highest (lowest) at each price point, on a Size Pro Rata basis, as defined in NYSE American Rule 964(b)(3), provided that ECOs on behalf of Customers will have priority over same-priced ECOs for non-Customers.[53] After COA allocations pursuant to NYSE American Rule 980NY(e)(7)(A), the COA-eligible order will trade with best-priced contra-side interest pursuant to NYSE American Rule 980NY(c)(ii) or (iii).[54] Thus, after the COA-eligible order trades with price-improving interest received during the RTI, any remainder of the COA-eligible order will follow NYSE American's regular allocation rules for an incoming marketable ECO.[55] NYSE American believes that this provision makes clear that a COA-eligible order would trade against the leg markets only after any auction allocations have been made.[56] Any unexecuted portion of the COA-eligible order will be ranked in the Consolidated Book.[57]

NYSE American also proposes to modify Commentary .02 to NYSE American Rule 980NY to make clear that the price improvement requirement provided in Commentary .02 applies if each leg of the contra-side Complex BBO for the components of the ECO includes Customer interest.[58] NYSE American believes that these changes add clarity and internal consistency to its rules.[59]

III. Discussion and Commission Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[60] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[61] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the proposed rules are substantially similar to rules recently adopted by NYSE Arca, Inc., except that NYSE American's rules reflect its Customer priority allocation model.[62]

Execution of Complex Orders During Core Trading Hours

NYSE American Rule 980NY(c) currently provides that ECOs submitted

[42] *See* new NYSE American Rules 980NY(e)(6)(B)(iv) and (vi). *See also* Notice, 82 FR at 45091, n. 48 and accompanying text. New NYSE American Rule 980NY(e)(6)(B)(iv) provides that an incoming ECO or COA-eligible order that caused a COA to end early, if executable, will trade against any RFR Responses and/or ECOs received during the RTI that did not trade with the initiating COA-eligible order. New NYSE American Rule 980NY(e)(6)(B)(vi) provides that the remaining balance of any incoming COA-eligible order(s) that does not trade against any remaining RFR Responses or ECOs will initiate new COA(s) in price-time priority.

[43] *See* new NYSE American Rules 980NY(e)(6)(B)(iv) and (v). NYSE American Rule 980NY(e)(6)(B)(v) provides that any incoming same-side ECO, or the remaining balance of such an ECO, that did not trade against any remaining RFR Responses or ECOs will trade pursuant to new NYSE American Rule 980NY(c)(ii) or (iii).

[44] Current NYSE American Rule 980NY(e)(9)(A) similarly provides that leg market interest that causes the derived Complex Best Bid/Offer to be better than the COA-eligible order and to cross the best-priced RFR Response will cause the auction to end.

[45] *See* Notice, 82 FR at 45091.

[46] *See* new NYSE American Rule 980NY(e)(6)(C)(ii).

[47] *See* new NYSE American Rule 980NY(e)(6)(C)(iii).

[48] *See* new NYSE American Rule 980NY(e)(6)(C)(iv).

[49] *See* Notice, 82 FR at 45091.

[50] *See* Notice, 82 FR at 45091–45092.

[51] *See* Notice, 82 FR at 45092.

[52] *See* Notice, 82 FR at 45092 and Amendment No. 1.

[53] *See* Amendment No. 1.

[54] *See* new NYSE American Rule 980NY(e)(7)(B).

[55] *See* Notice, 82 FR at 45092.

[56] *See id.*

[57] *See* new NYSE American Rule 980NY(e)(7).

[58] *See* Amendment No. 1.

[59] *See* Notice, 82 FR at 45093.

[60] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[61] 15 U.S.C. 78(b)(5).

[62] *See* Securities Exchange Act Release No. 80138 (March 1, 2017), 82 FR 12869 (March 7, 2017) (order approving File No. SR–NYSEArca–2016–149).

to NYSE American may be executed without consideration of prices of the same complex order that might be available on other exchanges. The proposal revises NYSE American Rule 980NY(c) to state that ECOs submitted to the Exchange may be executed without consideration not only of the prices of the same complex order strategy that might be available on other exchanges, but also of the prices of other single-legged orders that might be available on other exchanges. The Commission believes that expanding NYSE American Rule 980NY(c) to include single-legged orders on other exchanges is consistent with the rules of other options exchanges.[63] In addition, the Commission notes that this change is consistent with the Options Order Protection and Locked/Crossed Markets Plan, which excepts transactions effected as part of a ''complex trade'' from the requirement that exchanges establish, maintain, and enforce written policies and procedures reasonably designed to prevent trade-throughs.[64]

The Commission believes that the proposal to add new NYSE American Rules 980NY(c)(ii) and (iii), and the accompanying changes to delete certain existing rule text, will benefit market participants by more clearly describing, respectively, the treatment of incoming marketable ECOs (which are executed immediately) and incoming non-marketable ECOs (which are routed to the Consolidated Book) during Core Trading Hours. In particular, new NYSE American Rule 980NY(c)(ii) specifies that an incoming marketable ECO would trade against the best-priced contra-side interest resting in the Consolidated Book. New NYSE American Rule 980NY(c)(ii) further provides that if, at a price, the leg markets can execute against an incoming ECO in full (or in a permissible ratio), and each leg includes Customer interest, the leg markets (Customer and non-Customer interest) will have first priority at that price and will trade with the incoming ECO pursuant to NYSE American Rule 964NY(b) before ECOs resting in the Consolidated Book can trade at that price.[65] The Commission believes that new NYSE American Rule 980NY(c)(ii) is consistent with current NYSE American Rule 980NY(c)(ii)(A).[66] The Commission believes that new NYSE American Rule 980NY(c)(iii) adds clarifying detail to NYSE American's rules by indicating that an ECO or portion of an ECO that is not executed on arrival will be ranked in the Consolidated Book and by providing that resting ECOs will be executed against new interest entered into the Consolidated Book according to NYSE American Rule 980NY(c)(ii), thereby providing market participants with more precise information concerning NYSE American's handling of these orders.[67] In addition, new NYSE American Rule 980NY(c)(iii)(B) provides additional specificity by indicating that complex trades are allocated among ATP Holders pursuant to NYSE American Rule 964NY(b), rather than pursuant to NYSE American Rule 964NY, as provided in current NYSE American Rule 980NY(c)(ii)(C).

Changes Related to the COA Process

The Commission believes that the introductory language in new NYSE American Rule 980NY(e) is similar to the text of current NYSE American Rule 980NY(e), but provides additional clarity by indicating that an incoming ECO could execute immediately against interest resting in the Consolidated Book pursuant to NYSE American Rule 980NY(c)(ii), or be subject to a COA.[68] The Commission believes that the definition of COA-eligible order in new NYSE American Rule 980NY(e)(1) will make clear that an ECO will be COA-eligible only if it is submitted during Core Trading Hours.[69] The definition of COA-eligible order retains the requirement that the ATP Holder designate the order as COA-eligible.[70] The Commission believes that eliminating the provision in current NYSE American Rule 980NY(e)(1) that allows NYSE American to restrict COA eligibility based on an order's size, number of series, or order origin type could benefit investors by helping to make more orders eligible for a COA and, therefore, able to receive potential price improvement during a COA.

New NYSE American Rule 980NY(e)(2) provides that, upon entry into the System, a COA-eligible order will trade immediately, in full or in a permissible ratio, with any ECOs resting in the Consolidated Book that are priced better than the contra-side Complex BBO. NYSE American believes that the immediate price improvement opportunity for an incoming COA-eligible order from ECOs resting in the Consolidated Book obviates the need to start a COA.[71] The Commission believes that, under these circumstances, executing a COA-eligible order against resting interest that is priced better than the contra-side Complex BBO will provide the COA-eligible order with an immediate execution at an improved price, and could benefit both the sender of the COA-eligible order and the sender of the resting better-priced ECO. NYSE American Rule 908NY(e)(2) further provides that a COA-eligible order may trade with any ECOs resting in the Consolidated Book that are priced equal to the contra-side Complex BBO, unless each leg of the contra-side Complex

[63] *See, e.g.,* NYSE Arca Rule 6.91–O(a)(2) (substantively identical to new NYSE American Rule 980NY(c)); ISE Rule 722(b)(3) (stating that complex orders may be executed without consideration of the prices that might be available on other options exchanges trading the same contracts); and Phlx Rules 1098(e)(i)(B) and (f)(iii) (providing that COLA-eligible orders and complex orders in the CBOOK will be executed without consideration of any prices that might be available on other exchanges trading the same contracts).

[64] *See* Options Order Protection and Locked/Crossed Markets Plan, Section V(b)(viii) (available at *http://www.optionsclearing.com/components/docs/clearing/services/options_order_protection_plan.pdf*). The proposal also revises NYSE American Rule 980NY(a) to add the defined term ''leg markets'' to refer to individual quotes and orders in the Consolidated Book. The Commission believes that adding this defined term could help to enhance the clarity and readability of NYSE American Rule 980NY.

[65] *See* Amendment No. 1.

[66] Current NYSE American Rule 980NY(c)(ii)(A) states that ''The CME will accept an incoming marketable Electronic Complex Order and will automatically execute it against Electronic Complex Orders in the Consolidated Book, or, if not marketable against another Electronic Complex Order, against individual orders or quotes residing in the Consolidated Book, provided the Electronic Complex Order can be executed in full (or in a permissible ratio) by the individual orders or quotes in the Consolidated Book. Notwithstanding the foregoing, if individual Customer orders residing in the Consolidated Book can execute the incoming Electronic Complex Order in full (or in a permissible ratio) at the same total or net debit or credit as an Electronic Complex Order in the Consolidated Book, the individual Customer orders will have priority. The allocation of orders or quotes residing in the Consolidated Book that execute against an Electronic Complex Order shall be done pursuant to Rule 964NY.'' NYSE American notes that, under its current rule, the leg markets have first priority to trade against an incoming ECO if (i) there are no better priced ECOs in the Consolidated Book, (ii) the leg markets can trade in full or permissible ratio against an ECO, and (iii) each leg contains Customer interest. *See* Notice, 82 FR at 45086.

[67] *See* new NYSE American Rule 980NY(c)(iii)(A). Current NYSE American Rule 980NY(c)(ii)(B) provides that ''An Electronic Complex Order that is not marketable will rest in the Consolidated Book. If an Electronic Complex Order is being held in the Consolidated Book, the CME will monitor the bids and offers in the leg markets, and if a new order(s) or quote(s) entered into the Consolidated Book can execute the Electronic Complex Order in full (or in a permissible ratio), the Electronic Complex Order will be executed against such new order(s) or quote(s).''

[68] *See* note14, *supra,* and accompanying text.

[69] *See* note 15, *supra,* for the current definition of COA-eligible order.

[70] *See* new NYSE American Rule 980NY(e)(1)(i). Current NYSE American Rule 980NY(e)(2) provides, in part, that NYSE American will initiate an auction for a COA-eligible order upon direction from the entering ATP Holder that an auction be initiated.

[71] *See* Notice, 82 FR at 45088.

BBO includes Customer interest.[72] The Commission believes that this provision is consistent with new NYSE American Rule 980NY(c)(ii), which, as described above, gives contra-side leg market interest first priority to trade with an incoming ECO only if, at a price, the contra-side leg market interest includes Customer interest for each component leg of the ECO.

The Commission believes that new NYSE American Rule 980NY(e)(3)(i) could enhance competition by encouraging market participants to submit aggressively priced COA-eligible orders because only COA-eligible orders priced better than the same-side leg market and ECO interest would be able to initiate a COA. The Commission believes that new NYSE American Rule 980NY(e)(3)(ii) will provide NYSE American with flexibility to determine when the price of a COA-eligible order, based on the number of ticks away from the current contra-side market, warrants the initiation of a COA. The Commission believes that permitting only one COA at a time for any complex order strategy will help to provide for the orderly processing of trading interest on NYSE American.[73] The Commission notes that although a COA could be initiated even if the limit price of the COA-eligible order is not at or within the NYSE American best bid/offer for each leg of the order, the COA-eligible order must execute at a price that is at or within the NYSE American best bid/offer for each leg of the order, consistent with NYSE American Rule 980NY(c).[74]

As noted above,[75] the definition of RTI in new NYSE American Rule 980NY(e)(4) is based on current NYSE American Rule 980NY(e)(3), with the addition of new rule text providing that, at the end of an RTI, a COA-eligible order would be allocated pursuant to new NYSE American Rule 980NY(e)(7). The Commission believes that the new rule text will benefit market investors by clarifying how these two provisions interact with one another.

As discussed more fully above, new NYSE American Rule 980NY(e)(5), which describes the characteristics of RFR Responses, retains features of the current provisions addressing RFR Responses,[76] but adds new detail by indicating that an RFR Response must specify the price, size, and side of the market.[77] The Commission believes that this change will make clear to market participants the information that they must include in an RFR Response. In addition, new NYSE American Rule 980NY(e)(5)(C) indicates that RFR Responses may be cancelled during the RTI, replacing language in current NYSE American Rule 980NY(e)(7) that states that RFR Responses may not be withdrawn prior to the end of the RTI. The Commission believes that new NYSE American Rule 980NY(e)(5)(C) will correct an inaccuracy in NYSE American's current rules and make clear to ATP Holders that they may cancel their RFR Responses during the RTI. The Commission notes that two other options exchanges also permit the withdrawal or cancellation of RFR Responses during the RTI.[78]

Impact of Incoming Trading Interest on the COA Process

New NYSE American Rule 980NY(e)(6)(A)(i) provides that incoming opposite-side ECOs or COA-eligible orders that lock or cross the initial Complex BBO will cause the COA to end early.[79] NYSE American believes that ending the COA early under these circumstances will allow an initiating COA-eligible order to execute, ahead of the incoming order, against RFR Responses or ECOs received during the RTI until that point, while preserving the priority of the incoming order to trade with the resting leg markets.[80] NYSE American also believes that the early conclusion of the COA would avoid disturbing the priority in the Consolidated Book.[81] The Commission believes that ending the COA early when an incoming contra-side ECO or COA-eligible order locks or crosses the initial Complex BBO will allow NYSE American to maximize order executions and provide for the orderly processing of trading interest on NYSE American. The early termination of the COA will allow the COA-eligible order to execute against trading interest received during the RTI, including the order that caused the COA to end early, while preserving the ability of the resting leg market orders that comprise the initial Complex BBO to trade with the incoming interest that locked or crossed the initial Complex BBO.

New NYSE American Rule 980(e)(6)(A)(ii) provides that incoming opposite-side ECO or COA-eligible orders that are executable against the limit price of the COA-eligible order, but do not lock or cross the initial Complex BBO, will not cause the COA to end early and will be ranked with RFR Responses to execute with the COA-eligible order pursuant to NYSE American Rule 980NY(e)(7). The Commission believes that allowing the COA to continue under these circumstances could provide the potential for the COA-eligible order to receive price improvement as the auction continues. The Commission notes that, in this case, the incoming contra-side interest does not raise leg market priority concerns that would require an early termination of the COA because the incoming contra-side interest does not lock or cross the initial Complex BBO.

NYSE American Rule 980NY(e)(6)(A)(iii) provides that incoming opposite-side ECOs or COA-eligible orders that are either not executable on arrival against the limit price of the initiating COA-eligible order or do not lock or cross the initial Complex BBO will not cause the COA to end early. The Commission believes that because the incoming contra-side interest does not lock or cross the initial Complex BBO, it is not necessary to end the COA early to protect the priority of interest in the leg market under these circumstances.

New NYSE American Rules 980NY(e)(6)(A)(iv) and (v) describe the treatment of incoming opposite-side ECOs and COA-eligible orders that did not execute with the initiating COA-eligible order or were not executable on arrival. Such an incoming opposite-side ECO would trade pursuant to NYSE American Rule 980NY(c)(ii) or (iii), and an incoming opposite-side COA-eligible order would initiate a subsequent COA. The Commission believes that allowing these incoming ECOs and COA-eligible orders to trade with interest resting in the Consolidated Book, or to initiate a new COA, as applicable, will allow NYSE American to provide additional execution opportunities for these orders. In addition, the Commission believes that new NYSE American Rules 980NY(e)(6)(A)(iv) and (v) will enhance the transparency of NYSE American's rules by providing additional detail regarding the treatment of incoming opposite-side ECOs and COA-eligible

[72] *See* Amendment No. 1.

[73] *See* NYSE American Rule 980NY(e)(3).

[74] *See* Notice, 82 FR at 45088.

[75] *See* note 29, *supra,* and accompanying text.

[76] *See* notes 30–36, *supra,* and accompanying text.

[77] *See* new NYSE American Rule 980NY(e)(5)(A).

[78] *See* NYSE Arca Rule 6.91–O(c)(5)(C) (stating that RFR Responses may be modified or cancelled during the RTI); and CBOE Rule 6.53C(d)(vii) (stating that RFR Responses represent non-firm interest that can be modified or withdrawn at any time prior to the end of the RTI).

[79] If the incoming opposite-side ECO or COA-eligible order is also executable against the limit price of the initiating COA-eligible order, it will be ranked with RFR Responses to execute with the COA-eligible order. *See* new NYSE American Rule 980NY(e)(6)(A)(i).

[80] *See* Notice, 82 FR at 45090. If no RFRs are received during the RTI, the COA-eligible order will execute against the best-priced contra-side interest, including the order that caused the COA to terminate early. *See id.*

[81] *See id.*

orders that did not trade with the initiating COA-eligible order or were not executable on arrival.

New NYSE American Rule 980NY(e)(6)(B) states that when a COA ends early, or at the end of the RTI, the initiating COA-eligible order will execute pursuant to new NYSE American Rule 980NY(e)(7) ahead of any interest that arrived during the COA. The Commission believes that this provision establishes the priority of the initiating COA-eligible order to trade before trading interest that arrives during the auction. The Commission notes that the rules of two other options exchanges similarly establish the priority of the auctioned order to trade prior to interest that arrives during the auction.[82]

New NYSE American Rule 980NY(e)(6)(B)(i) indicates that an incoming ECO or COA-eligible order on the same side of the market as the initiating COA-eligible order that is priced higher (lower) than the initiating COA-eligible order to buy (sell) will cause the COA to end early.[83] The Commission believes that ending the COA early under these circumstances provides a means to maximize execution opportunities by allowing the COA-eligible order to execute against interest received during the auction and allowing the incoming better-priced ECO or COA-eligible order to trade with interest resting in the Consolidated Book (in the case of an ECO), or to initiate a new auction (in the case of a COA-eligible order).

New NYSE American Rule 980NY(e)(6)(B)(ii) provides that an incoming same-side ECO or COA-eligible order that is priced equal to or lower (higher) than the initiating COA-eligible order to buy (sell), and that also locks or crosses the contra-side initial Complex BBO, will cause the COA to end early. NYSE American states that ending the COA early under these circumstances will allow the COA-eligible order to execute, ahead of the incoming order, against RFR Responses or ECOs received during the RTI until the point, while preserving the priority of the incoming order to trade with the resting leg markets.[84] The Commission believes that ending the COA early under these circumstances is designed to maximize execution opportunities and provide for the orderly processing of trading interest on NYSE American by allowing the COA-eligible order to execute against trading interest received during the RTI, while preserving the ability of the resting leg market orders that comprise the initial Complex BBO to trade with the incoming interest that locked or crossed the initial Complex BBO.

New NYSE American Rules 980NY(e)(6)(B)(iv), (v), and (vi) further describe the treatment of incoming same-side COA-eligible orders or ECOs received during the RTI. An incoming same-side ECO or COA-eligible order that caused a COA to end early, if executable, will trade against any RFR Responses and/or ECOs received during the RTI that did not trade with the initiating COA-eligible order.[85] Any incoming same-side ECO, or the remaining balance of such an ECO, that did not trade against any remaining RFR Responses or ECOs will trade pursuant to new NYSE American Rule 980NY(c)(ii) or (iii).[86] The balance of any incoming COA-eligible order(s) that did not trade against any remaining RFR Responses or ECOs will initiate new COA(s) in price-time priority.[87] The Commission believes that these provisions could benefit investors by potentially maximizing the execution opportunities for incoming same-side ECOs and COA-eligible orders, which may execute against remaining RFR Responses or ECOs, execute against interest resting in the Consolidated Book (in the case of an ECO), or initiate a new COA (in the case of a COA-eligible order).

New NYSE American Rule 980NY(e)(6)(B)(iii) states that an incoming same-side ECO or COA-eligible order that is priced equal to, or lower (higher) than the initiating COA-eligible order to buy (sell), but does not lock or cross the contra-side initial Complex BBO, will not cause the COA to end early. The Commission believes that, under these circumstances, the incoming same-side interest does not raise leg market priority concerns that would require an early termination of the COA because the incoming interest does not lock or cross the contra-side initial Complex BBO.

The Commission believes that new NYSE American Rule 980NY(e)(6)(C) will provide greater clarity and specificity regarding the impact of leg market updates on the COA. The Commission believes that providing for an early end to the COA when the leg market updates cause the same-side Complex BBO to lock or cross RFR Responses or ECOs received during the RTI, or ECOs resting in the Consolidated Book,[88] or cause the contra-side Complex BBO to lock or cross the same-side initial Complex BBO,[89] will allow the COA-eligible order to execute against interest received during the auction and permit the updated leg markets to execute against available trading interest, thereby maximizing execution opportunities for trading interest in the COA and in the leg markets, and providing for the orderly processing of trading interest on NYSE American. The Commission believes that allowing the COA to continue when leg market updates do not result in an execution opportunity—*i.e.,* when leg market updates cause the same-side Complex BBO to be priced higher (lower) than the COA-eligible order to buy (sell), but do not lock or cross any RFR Responses or ECOs received during the RTI, or ECOs resting in the Consolidated Book,[90] or when leg market updates cause the contra-side Complex BB (BO) to improve, but do not lock or cross the same-side initial Complex BBO [91]—will allow for the submission of additional trading interest that might result in an execution or price improvement for the COA-eligible order.

New NYSE American Rule 980NY(e)(7), which describes the allocation of COA-eligible orders at the conclusion of a COA, will replace current NYSE American Rule 980NY(e)(6) in its entirety.[92] The Commission believes that new NYSE American Rule 980NY(e)(7)(A) protects leg market interest resting in the Consolidated Book at the beginning of the COA by providing that the COA-eligible order will be eligible to trade first with RFR Responses and ECOs priced better than the initial Complex BBO. In addition, new NYSE American Rule 980NY(e)(7)(A) clarifies the

[82] *See* NYSE Arca Rule 6.91–O(c)(6)(B) (substantively identical to new NYSE American Rule 980NY(e)(6)(B)); and Phlx Rule 1098(e)(viii)(B) (stating, in part, with respect to the Phlx's Complex Order Live Auction (''COLA''): ''Incoming Complex Orders that were received during the COLA Timer for the same Complex Order Strategy as the COLA-eligible order that are on the same side of the market will join the COLA. The original COLA-eligible order has priority at all price points (*i.e.,* multiple COLA Sweep Prices) over the incoming Complex Order(s), regardless of the price of the incoming Complex Order. The incoming Complex Order shall not be eligible for execution against interest on the opposite side of the market from the COLA-eligible order until the COLA-eligible order is executed to the fullest extent possible'').

[83] The Commission notes that current NYSE American Rule 980NY(e)(8)(D) also provides that an incoming same-side, better-priced COA-eligible order will cause the COA to end.

[84] *See* Notice, 82 FR at 45091.

[85] *See* new NYSE American Rule 980NY(e)(6)(B)(iv).

[86] *See* new NYSE American Rule 980NY(e)(6)(B)(v).

[87] *See* new NYSE American Rule 980NY(e)(6)(B)(vi).

[88] *See* NYSE American Rule 980NY(e)(6)(C)(i).

[89] *See* NYSE American Rule 980NY(e)(6)(C)(iii).

[90] *See* NYSE American Rule 980NY(e)(6)(C)(ii).

[91] *See* NYSE American Rule 980NY(e)(6)(C)(iv).

[92] *See* Notice, 82 FR at 45092.

allocation priority of Customer orders by indicating that ECOs on behalf of Customers will have priority over same-priced ECOs for non-Customers.[93] New NYSE American Rule 980NY(e)(7)(B) provides that, after allocations pursuant to NYSE American Rule 980NY(e)(7)(A), a COA-eligible order will trade with best-priced contra-side interest pursuant to NYSE American Rule 980NY(c)(ii) or (iii). NYSE American Rule 980NY(e)(7) states that any unexecuted portion of a COA-eligible order will be ranked in the Consolidated Book. The Commission believes that these provisions establish additional execution opportunities for a COA-eligible order, or portion of a COA-eligible order, that does not execute during the COA, and provide clarity regarding the handling of these orders.

The Commission believes that the proposed changes to Commentary .02 to NYSE American Rule 980NY clarify the circumstances under which an ECO that executes against another ECO must trade at a price that is better than leg market interest. Specifically, Commentary .02 indicates that the ECOs must trade at an improved price when each leg of the contra-side Complex BBO for the components of the ECO includes Customer interest.[94] The Commission notes that Commentary .02 is consistent with the Customer priority provisions of new NYSE American Rules 980NY(c)(ii) and (e)(2).[95]

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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–2017–15 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–2017–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing 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–2017–15, and should be submitted on or before December 5, 2017.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, NYSE American revises its original proposal to make the changes discussed in detail above.[96] Notably, in Amendment No. 1, NYSE American revises its proposal to provide additional clarity to the Customer priority provisions of the proposed rules. In this regard, Amendment No. 1 makes clear that when allocating orders at the conclusion of a COA, ECOs on behalf of Customers have priority over same-priced ECOs for non-Customers. In addition, Amendment No. 1 indicates that a COA-eligible order may trade immediately in full (or in a permissible ratio) with a resting ECO priced equal to the contra-side Complex BBO, unless each leg of the contra-side Complex BBO includes Customer interest. Amendment No. 1 also clarifies the circumstances under which ECOs that execute against each other must trade at a price that is better than the corresponding leg market interest. The Commission believes that Amendment No. 1 does not raise any novel regulatory issues and instead provides additional clarity in the rule text. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[97] that the proposed rule change (File No. SR–NYSEAMER–2017–15), as modified by Amendment No. 1, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[98]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24576 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[93] *See* Amendment No. 1.

[94] *See id.*

[95] As described more fully above, new NYSE American Rule 980NY(c)(ii) provides the leg markets first priority to trade against an incoming marketable ECO only when the contra-side leg market interest for each component leg of the ECO includes Customer interest. New NYSE American Rule 980NY(e)(2) provides that a COA-eligible order may execute against ECOs resting in the Consolidated Book that are priced equal to the contra-side Complex BBO, unless each leg of the contra-side Complex BBO includes Customer interest.

[96] *See* footnote 6, *supra.*

[97] 15 U.S.C. 78s(b)(2).

[98] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32898; File No. 812–14775]

Meeder Funds Trust, et al.

November 8, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act.

The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies that are outside of the same group of investment companies as the acquiring investment companies, in

excess of the limits in section 12(d)(1) of the Act.

APPLICANTS: Meeder Funds Trust (the ''Trust''), a Massachusetts business trust registered under the Act as an open-end investment company with multiple series; Meeder Asset Management, Inc., an Ohio corporation registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Adviser,''), and Adviser Dealer Services, Inc. (the ''Distributor''), an Ohio corporation registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on May 16, 2017 and amended on September 15, 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 December 4, 2017 and should be accompanied by proof of service on the 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 Street NE., Washington, DC 20549–1090. Applicants: Michael Wible, Thompson Hine LLP, 41 South High Street, Suite 1700, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: James D. McGinnis, Senior Counsel, at (202) 551–3025, or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (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 Web site 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 to permit (a) registered open-end management investment companies (the ''Investing Funds'') that are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Trust, to acquire shares in series of the Trust (the ''Funds'') [1] in excess of the limits in section 12(d)(1)(A) of the Act [2] and (b) the Funds, any principal underwriter for a Fund, and any broker or dealer registered under the Exchange Act (a ''Broker'') to sell shares of the Funds to the Investing Funds in excess of the limits of section 12(d)(1)(B) of the Act. Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit a Fund to sell its shares to, and redeem its shares from, an Investing Fund.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the Application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or in connection with certain services, 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.

3. 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. 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24628 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[1] Applicants request that the relief apply to: (1) Each registered, open-end management investment company or series thereof that currently or subsequently is part of the same 'group of investment companies,' within the meaning of Section 12(d)(1)(G)(ii) of the Act, as the Trust and is advised by the Adviser (included in the term 'Funds'); (2) each Investing Fund that enters into a Participation Agreement (as defined in the Application) with a Fund to purchase shares of the Fund; and (3) any principal underwriter to a Fund or Broker selling shares of a Fund.

[2] Certain of the Funds created in the future may be registered under the Act as open-end management investment companies and may have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82028; File No. SR–NYSE–2017–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt New Equity Trading Rules To trade Securities Pursuant to Unlisted Trading Privileges, Including Orders and Modifiers, Order Ranking and Display, and Order Execution and Routing on Pillar, the Exchange's New Trading Technology Platform

November 7, 2017.

I. Introduction

On July 28, 2017, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new equity trading rules to allow the Exchange to trade securities pursuant to unlisted trading privileges (''UTP Securities'') [3] on Pillar, the Exchange's new trading technology platform. The proposed rule change was published for comment in the **Federal Register** on August 9, 2017.[4] On September 18, 2017, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NYSE Rules define ''UTP Security'' as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* NYSE Rule 1.1(ii).

[4] *See* Securities Exchange Act Release No. 81310 (Aug. 3, 2017), 82 FR 37257 (Aug. 9, 2017) (''Notice'').

should be disapproved.[5] The Commission received no comments on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act[6] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to adopt equities trading rules to implement Pillar, a new trading technology platform, in order to introduce trading of UTP Securities on the Exchange. Under the proposal, the Pillar platform rules, as set forth in NYSE Rules 1P–13P, would govern trading in UTP Securities on the Exchange.[7] The Exchange proposes rule changes relating to clearly erroneous executions; the limit up-limit down plan; short sales; halts; orders and modifiers; order ranking, display, execution, and routing; odd and mixed lots; the tick size pilot plan. The Exchange also proposes to specify the current Exchange rules that would not be operative under Pillar.

Pursuant to the proposal, UTP Securities would trade under the Exchange's current parity allocation model.[8] Designated market makers (''DMMs'') would not be assigned UTP Securities on Pillar.[9] Supplemental Liquidity Providers[10] would be eligible to be assigned UTP Securities, and member organizations operating floor broker operations that are physically located on the floor would also be eligible to trade UTP Securities,[11] but UTP Securities would not be available for floor-based point-of-sale trading. Finally, the Exchange would not conduct auctions in UTP Securities.[12] The Exchange represents that it will continue to trade NYSE-listed securities on its current trading platform.[13]

The Exchange represents that the proposal to trade UTP Securities on Pillar is based in part on the equity trading rules of NYSE Arca, Inc. (''NYSE Arca'') and NYSE American LLC (''NYSE American''), with the following substantive differences. First, as noted earlier, the Exchange would use a parity allocation model with a setter priority allocation for the participant that sets the best bid or offer on the Exchange (''BBO'').[14] Second, the Exchange would not offer a Retail Liquidity Program or the associated order types—Retail Orders and Retail Price Improvement Orders. Third, as noted above, the Exchange would not conduct auctions. Fourth, the Exchange would offer only two trading sessions—an Early Trading Session and a Core Trading Session. Finally, the Exchange's order types and modifiers would differ from the order types and modifiers offered by NYSE Arca and NYSE American.

The Exchange represents that it will announce the implementation of trading UTP Securities on Pillar by a Trader Update. The Exchange anticipates that the implementation will occur in the first quarter of 2018. If the Exchange begins trading UTP Securities on Pillar, certain current NYSE trading rules would not be applicable. The Exchange proposes to mark the affected Exchange rules with a preamble to state that the rules are not applicable to trading UTP Securities on Pillar.

The Notice contains a detailed description of the proposal. The following section briefly summarizes the proposal.

A. NYSE Rule 7P—Equities Trading

The Exchange proposes several new rules and changes to existing rules in NYSE Rule 7P. Currently, Section 1 of NYSE Rule 7P sets forth general provisions relating to equities trading on Pillar, such as hours of business and clearance and settlement. The Exchange proposes to add NYSE Rules 7.10 (clearly erroneous executions); 7.11 (limit up-limit down); and 7.16 (short sales) to Section 1 of NYSE Rule 7P and amend NYSE Rule 7.18 (halts).

Section 3 of NYSE Rule 7P sets forth the rules for trading on Pillar. The Exchange proposes to add to this section new NYSE Rules 7.31 (orders and modifiers); 7.34 (trading sessions); 7.36 (order ranking and display); 7.37 (order execution and routing); and 7.38 (odd and mixed lots). Finally, the Exchange proposes to add new NYSE Rule 7.46 to Section 5 of NYSE Rule 7P to establish rules to implement the Tick Size Pilot Plan.

1. General Provisions

The Exchange proposes to establish rules relating to clearly erroneous executions, the limit up-limit down plan, short sales, and trading halts with respect to UTP Securities.

Proposed NYSE Rule 7.10 would set forth the Exchange's rules governing clearly erroneous executions.[15] The proposed rule would set forth how a member organization could request a review of an order that was submitted erroneously, the timing of Exchange review, thresholds for determining clearly erroneous execution, review procedures, and other rules governing clearly erroneous executions.

The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.10–E and NYSE American Rule 7.10E, except that the proposed rule would omit references to: (1) The Late Trading Session,[16] since the Exchange would not offer a late trading session; (2) Cross Orders,[17] since the Exchange would not offer cross orders; and (3) executions in the Trading Halt Auction, since the Exchange would not conduct auctions for UTP Securities.[18]

Proposed NYSE Rule 7.11 would establish rules governing how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility (''LULD Plan''). The LULD Plan addresses extraordinary market volatility and is intended to prevent trades in NMS securities from occurring outside of specified price bands, and the proposed rule would implement the LULD Plan on the Exchange's Pillar platform. The Exchange represents that the proposed rule is based on NYSE American 7.11E with the following differences: (1) There would be no option for member organizations to enter an instruction to cancel Limit Orders that cannot be traded or routed at prices within the price bands; (2) there would be no provisions and references relating to Q Orders, Limit IOC Cross Orders, or orders with specific routing instructions because the Exchange will not offer these order types;[19] (3) there would be no provision on reopenings since the

[5] *See* Securities Exchange Act Release No. 81641 (Sept. 18, 2017), 82 FR 44483 (Sept. 22, 2017) (''Extension'').

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 76803 (Dec. 30, 2015), 81 FR 536 (Jan. 6, 2016) (SR–NYSE–2015–67) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change) (adopting a framework of rule numbering based on NYSE Arca rules in advance of the NYSE adopting Pillar).

[8] The Pillar platform on NYSE Arca and NYSE American uses a price-time allocation model. *See* NYSE Arca Rule 7.37–E(a) and NYSE American Rule 7.37E(a).

[9] *See* Notice, *supra* note 3, 82 FR at 37258.

[10] *See* Proposed NYSE Rule 107B.

[11] According to the Exchange, member organizations trading UTP Securities would be required to comply with Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), and with any exceptions that are currently applicable to trading on the Exchange. *See* Notice, *supra* note 3, 82 FR at 37258 n.12.

[12] *See* Notice, *supra* note 3, 82 FR at 37258.

[13] The Exchange states that it plans to transition trading in NYSE-listed securities to Pillar at a later date, and will file separate proposed rule changes to implement that transition. *See* Notice, *supra* note 3, 82 FR at 37258 n.9.

[14] *See* NYSE Rule 1.1(h) (defining ''BBO'' as the best bid or offer on the Exchange).

[15] *See* Proposed NYSE Rule 7.10.

[16] *See* Proposed NYSE Rule 7.34 and *see infra* the related discussion below.

[17] *See* Proposed NYSE Rule 7.31 and *see infra* the related discussion below.

[18] The Exchange proposes that current NYSE Rule 128 (Clearly Erroneous Executions For NYSE Equities) would not be applicable for trading in UTP Securities on Pillar.

[19] *See* Proposed NYSE Rule 7.31 and the related discussion below.

Exchange will not conduct auctions; and (4) the proposed rules would not include references to Day ISO orders, an order type that NYSE American does not offer.

Proposed NYSE Rule 7.16 would set forth the Exchange's short sale rule, which would govern short sales and compliance with Regulation SHO. The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.16–E and NYSE American Rule 7.16E with two substantive differences. First, because the proposed rule would not apply to the Exchange's listed securities, the Exchange would not evaluate the triggering of the short sale price restrictions pursuant to Rule 201 of Regulation SHO for covered securities in which the Exchange is not the listing market.[20] Second, the Exchange is not proposing a rule that relates to Tracking Orders, Cross Orders, or the Proactive if Locked/Crossed Modifier because the Exchange would not offer these order types for UTP Securities.[21]

Current NYSE Rule 7.18 governs trading halts in an UTP Security. The Exchange proposes to add proposed Rule 7.18(b), which would set forth how the Exchange would process new and existing orders in an UTP Security during an UTP Regulatory Halt.[22] The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.18–E(b) and subparagraphs (1)–(6), as well as NYSE American Rule 7.18E(b) and subparagraphs (1)–(6), except that the Exchange would not refer to ''Primary Only'' order types because the Exchange would not offer this order type. The Exchange also proposes to add NYSE Rule 7.18(d)(1)(A), which would allow the Exchange to continue to trade an UTP Exchange Traded Product for the remainder of the Early Trading Session in certain situations.[23] The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.18–E(d)(1)(A) and NYSE American Rule 7.18E(d)(1)(A), with no substantive differences.[24]

2. Trading Rules for Pillar

The Exchange proposes trading rules for Pillar, including a description of order types and modifiers, trading sessions, how orders are displayed and ranked, how orders are executed and routed, and how odd lots and mixed lots are ranked and executed.

Proposed NYSE Rule 7.31 would set forth the primary order types, as well as time-in-force modifiers, auction-only orders, orders with conditional or undisplayed price and/or size, orders with instructions not to route, pegged orders, and other order instructions and modifiers that would be available on Pillar. The Exchange represents that the proposed orders and modifiers are a subset of those offered on NYSE Arca and NYSE American, with several substantive differences.

The proposed NYSE rule differs from the NYSE Arca and NYSE American rules as follows: (1) NYSE would not offer auctions in UTP Securities (Auction-Only Orders would be routed to the primary listing markets); (2) Limit Orders entered before the Core Trading Session would be designated for both the Early and Core Trading Sessions; (3) the Exchange would not offer the option to designate certain orders with a Non-Display Remove Modifier; (4) Intermarket Sweep Orders would not be available to floor brokers; (5) Pegged Orders would be available only to floor brokers;[25] and (6) the Exchange would not offer certain order types.[26] The proposed rule also sets forth how Self Trade Prevention Modifiers would function consistent with the Exchange's proposed allocation model.[27]

Proposed NYSE Rule 7.34 would specify that the Exchange would operate Early and Core Trading Sessions. The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.34–E and NYSE American Rule 7.34E, except for the following substantive differences: (1) The Exchange would offer two trading sessions—an Early Trading Session and a Core Trading Session—instead of three trading sessions;[28] (2) the Early Trading Session would start at 7:00 a.m. Eastern Time (rather than 4:00 a.m. Eastern Time on NYSE Arca); (3) the Exchange would deem an order entered before or during the Early or Core Trading Session as designated for both trading sessions;[29] (4) the Exchange would not reference current NYSE Rule 7.44 because the Exchange would not offer a retail liquidity program; (5) in the Early Trading Session, Market Orders would be treated like Auction-Only Orders and would be routed to the primary listing market on arrival, instead of being rejected; and (6) the Exchange would not include provisions involving auctions and would not refer to order types that it does not offer (*e.g.,* Cross Orders).

Proposed NYSE Rule 7.36 would set forth how orders are ranked and displayed, and the priority of orders. As noted earlier, the Exchange would use a parity allocation model for the trading of UTP securities. The Exchange represents that proposed subsections NYSE Rule 7.36(a)–(g) are based on NYSE Arca Rule 7.36–E(a)–(g) and NYSE American Rule 7.36(a)–(g) with several substantive differences. The Exchange would add the term ''Participant'' based on the term ''individual participant'' in current NYSE Rule 72(c)(ii), and a new term ''Aggressing Order.''[30] Proposed NYSE Rule 7.36(b)(2) would not include the

[20] As a result, the Exchange would not include rules based on NYSE Arca Rules 7.16–E(f)(3), 7.16–E(f)(4)(A), or 7.16–E(f)(4)(B) or NYSE American Rules 7.16E(f)(3), 7.16E(f)(4)(A), or 7.16E(f)(4)(B).

[21] Current NYSE Rule 440B (Short Sales) would not be applicable to trading UTP Securities on Pillar.

[22] *See* Proposed NYSE Rule 7.18(b). UTP Regulatory Halt is defined in current NYSE Rule 1.1(kk) to mean a trade suspension, halt, or pause called by the UTP Listing Market in an UTP Security that requires all market centers to halt trading in that security. NYSE Rule 1.1(jj) defines the term ''UTP Listing Market'' as the primary listing market for an UTP Security.

[23] *See* Proposed NYSE Rule 7.18(d)(1)(A). Specifically, this rule would apply if an UTP Exchange Traded Product begins trading on the Exchange in the Early Trading Session and a temporary interruption occurs in a major market vendor's calculation or wide dissemination of either the Intraday Indicative Value or the value of the underlying index to the UTP Exchange Traded Product, as applicable.

[24] The Exchange proposes two non-substantive changes: (1) Amend NYSE Rule 7.18(a) to update a cross-reference and (2) amend NYSE Rule 7.18(d)(1)(B) to replace the phrase ''Normal Trading Hours'' with the phrase ''Core Trading Session.'' *See* Proposed NYSE Rule 7.34(a)(2) (defining Core Trading Session).

[25] Currently, NYSE only offers pegged orders for floor brokers. *See* NYSE Rule 13(f)(1) (stating that pegging interest ''must be an e-Quote or d-Quote''). *See* NYSE Rule 70 for more information on e-Quote and d-Quote.

[26] The Exchange would not offer Tracking Orders, Cross Orders, Q Orders, orders that include specific routing instructions (which includes Primary Only Orders), Inside Limit Orders, Limit IOC Cross Orders, Market Pegged Orders, Discretionary Pegged Orders, or the Proactive if Locked/Crossed Modifier. However, the Exchange would offer the order type Non-Displayed Primary Pegged Order, which NYSE Arca does not offer. The Exchange would also offer order types and modifiers not offered by NYSE American (Primary Pegged Orders, ALO Orders, Day ISO Orders, IOC ISO Orders, and MPL Orders with an ALO Modifier).

[27] The Exchange proposes additional rules addressing how the self-trade prevention modifiers STP Cancel Newest and STP Cancel Oldest orders would interact with resting orders in a priority category that allocates orders based on parity. The Exchange proposes that current NYSE Rules 13 (Orders and Modifiers) and 70 (Execution of Floor Broker Interest) would not be applicable for trading in UTP Securities on Pillar.

[28] NYSE Arca and NYSE American also offer a Late Trading Session. *See* NYSE Arca Rule 7.34–E(a)(3) and NYSE American Rule 7.34E(a)(3). NYSE would not offer a Late Trading Session.

[29] Proposed NYSE Rule 7.34(b) would also provide that an order would be deemed designated with a day time-in-force modifier if that order did not have a time-in-force designation.

[30] *See* Proposed NYSE Rule 7.36(a)(6). An Aggressing Order is a buy (sell) order that is or becomes marketable against sell (buy) interest on the Exchange Book.

reference to NYSE Arca Rule 7.7–E—which prohibits ETP Holders from transmitting through the facilities of the Exchange information regarding a bid, offer, indication of an order, or the ETP Holder's identity unless the originating ETP Holder grants permission or affirmatively elects to disclose its identity—because all non-marketable displayed Limit Orders would be displayed on an anonymous basis. Proposed NYSE Rule 7.36(c) would not include a reference to price-time priority since the Exchange would operate under its existing parity allocation model, and there would be three priority categories for orders instead of four categories on NYSE Arca and NYSE American.[31]

Proposed NYSE Rule 7.36(h) sets forth the rules for Setter Priority. The Exchange represents that the proposed rule is based in part on current NYSE Rule 72, with several substantive differences: (1) In addition to establishing the BBO,[32] an order would have to either establish a new national best bid or offer (''NBBO'') [33] or join an Away Market NBBO to be eligible for Setter Priority; (2) unlike current NYSE Rule 72(a)(ii), Setter Priority would not be available for a resting order solely because that order is the only interest at a given price when that price becomes the BBO; (3) Setter Priority would not be available for reserve quantities that replenish the display quantity of a Reserve Order; [34] and (4) orders that are routed and return unexecuted would be eligible for Setter Priority consistent with proposed NYSE Rules 7.16(f)(5)(H), 7.36(f)(1)(A) and (B), and 7.38(b)(2), which govern the working time assigned to the return quantity of an order.[35] In addition, the Exchange proposes that an order would be evaluated for Setter Priority when the order becomes eligible to trade for the first time upon the transition to a new trading session; [36] that an order would retain Setter Priority when transitioning from one trading session to another; [37] and that an order would lose Setter Priority if it is assigned a new display price.[38]

Proposed NYSE Rule 7.37 would govern how orders would execute and route. Proposed NYSE Rule 7.37(a) would govern order execution. Proposed NYSE Rule 7.37(b) would govern order allocation, as described further below. And proposed NYSE Rule 7.37(c)–(g) would govern routing, the data feeds the Exchange would use, the prohibition on quotations that lock or cross the protected best bid or offer, and exceptions to the Commission's Order Protection Rule.

The Exchange represents that proposed Rule 7.37 is based on NYSE Arca Rule 7.37–E(a)–(f) and NYSE American Rule 7.37E(a)–(f), with the following substantive differences. The proposed rule would not include references to Inside Limit Orders and orders with specific routing instructions since the Exchange will not offer these order types. Proposed NYSE Rule 7.37 would not include rule text from NYSE Arca Rules 7.37–E(b)(3) or (d)(1) [39] because, like NYSE American, the Exchange would neither use data feeds from broker-dealers nor route to away markets that do not display protected quotations. Also, in proposed NYSE Rule 7.37(a), the Exchange would use the proposed new term ''Aggressing Order'' instead of ''incoming marketable order'' when referring to orders that would be matched for execution.[40]

Proposed NYSE Rule 7.37(b) would establish how Aggressing Orders are allocated against contra-side orders. The Exchange represents that the proposed rule is based in part on current NYSE Rule 72(c) with the following substantive differences: (1) The Exchange would maintain separate allocation wheels at each price for displayed and non-displayed orders on each side of the market; [41] (2) allocations to a Floor Broker Participant would be allocation to orders represented by that Floor Broker on parity; (3) the proposed rule would not reference DMM allocations as there would be no DMMs assigned to UTP Securities; (4) the Exchange would offer Mid-Point Liquidity Orders (''MPL'') with a Minimum Trading Size (''MTS''), and the orders would be allocated based on MTS size and time; [42] (5) if resting orders on one side of the market are repriced and become marketable against contra-side orders on the Exchange book, the Exchange would rank the re-priced orders as described in proposed NYSE Rule 7.36(c) and trade them as Aggressing Orders consistent with their ranking; and (6) proposed NYSE Rule 7.37(b)(9) would provide that if resting orders on both sides of the market are repriced and become marketable against one another, the Exchange would rank the orders based on proposed NYSE Rule 7.36(c) and determine which orders are the Aggressing Orders based on their ranking.[43]

Proposed NYSE Rule 7.38 sets forth how odd-lot and mixed-lot orders would be ranked and executed. The Exchange represents that the proposed rule is based on NYSE Arca Rule 7.38–E and NYSE American 7.38E, except that, if the display price of an odd-lot order to buy (sell) is greater than (less than) its working price, the order would be ranked and allocated based on its display price.[44]

3. Tick Size Pilot Plan

Proposed NYSE Rule 7.46 sets forth the rules for the Tick Size Pilot Plan. The Exchange represents that the proposed rule is based on NYSE American Rule 7.46E, except that: (1) The Exchange would not include text relating to Market Pegged Orders or Limit IOC Cross Orders (as the Exchange would not offer these orders); (2)

[31] *See* Proposed NYSE Rule 7.36(e). The proposed priority categories are Priority 1—Market Orders, Priority 2—Display Orders, and Priority 3—Non-Displayed Orders. The category Tracking Orders, which appears as a Priority 4 category in NYSE Arca 7.36–E and NYSE American 7.36E, is not included in the Exchange's proposed rule.

[32] *See* NYSE Rule 1.1(h).

[33] *See* NYSE Rule 1.1(dd) (defining NBBO as the national best bid or offer) and Rule 600(b)(42) of Regulation NMS (''National best bid and national best offer means, with respect to quotations for an NMS security, the best bid and best offer for such security that are calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system plan; provided, that in the event two or more market centers transmit to the plan processor pursuant to such plan identical bids or offers for an NMS security, the best bid or best offer (as the case may be) shall be determined by ranking all such identical bids or offers (as the case may be) first by size (giving the highest ranking to the bid or offer associated with the largest size), and then by time (giving the highest ranking to the bid or offer received first in time)''). 17 CFR 242.600(b)(42).

[34] *See* Proposed NYSE Rule 7.36(h)(4)(B). The Exchange proposes that resting orders that are the only interest at the price when that price becomes the BBO, and the replenished portion of a Reserve Order, would not be eligible for Setter Priority on Pillar in order to encourage displayed orders that are aggressively priced.

[35] The Exchange proposes that NYSE Rules 72(a), (b), and (c)(xii) would not be applicable to trading UTP Securities on Pillar.

[36] *See* Proposed NYSE Rule 7.36(h)(1)(B).

[37] *See* Proposed NYSE Rule 7.36(h)(2)(E).

[38] *See* Proposed NYSE Rule 7.36(h)(3)(B).

[39] NYSE Arca Rule 7.37–E(b)(3) provides ETP Holders the option to bypass away markets that are not displaying protected quotations. NYSE Arca Rule 7.37–E(d)(1) states that NYSE Arca receives data feeds directly from broker-dealers for the purpose of routing interest to away markets that are not displaying protected quotations.

[40] *See supra* note 37.

[41] Current NYSE Rule 72(c)(viii) sets forth a single allocation wheel for each security. According to the Exchange, the proposed NYSE Rule for Pillar would permit a member organization to establish a position at each price point, instead of simply adding the order to a single allocation wheel with multiple price points.

[42] *See* Proposed NYSE Rule 7.37(b)(1)(E)).

[43] The Exchange proposes that NYSE Rules 15A, 19, 72(c), 1000, 1001, 1002, and 1004 would not apply to trading UTP Securities on Pillar. As NYSE Rule 72(d) would also not apply to trading UTP Securities on the Pillar trading platform, the Exchange proposes that NYSE Rule 72 in its entirety would not apply to trading UTP Securities on Pillar.

[44] The Exchange proposes that current NYSE Rule 61 (Recognized Quotations) would not be applicable to trading UTP Securities on Pillar.

proposed NYSE Rules 7.46(f)(5)(A) and (B) would govern ranking and allocation for Pilot Securities in Test Group Three instead of Rules 7.36(e) and 7.37(b)(1), respectively;[45] and (3) proposed NYSE Rules 7.46(f)(5)(F)(i)(a) and (b) are based on NYSE Arca Rules 7.46–E(f)(5)(F)(i)(a) and (b) because NYSE American does not offer Day ISO orders. Proposed NYSE Rules 7.46(f)(5)(F)(ii) and (iii) include ALO orders, which, like Day ISO orders, are not offered by NYSE American.[46]

B. Amendments to NYSE Rules 103B and 107B

The Exchange proposes to amend NYSE Rule 103B(I) (Security Allocation and Reallocation) to state that UTP Securities will not be allocated to a DMM Unit. Also, the Exchange proposes to amend NYSE Rule 107B (Supplemental Liquidity Providers) to change ''NYSE-listed securities'' to ''NYSE-traded securities.'' According to the Exchange, the change reflects that UTP Securities would be eligible for assignment to Supplemental Liquidity Providers.

C. Retail Liquidity Program Not Available on Pillar

The Exchange does not plan to offer a retail liquidity program for UTP Securities on Pillar. For this reason, the Exchange proposes that NYSE Rule 107C would not apply to trading UTP Securities on Pillar. Also, proposed rules based on NYSE Arca rules that cross reference NYSE Arca Rule 7.44–E would not include that rule reference.

D. Current NYSE Rules Not Applicable to Pillar

Under the Exchange's proposal, several current NYSE rules would not apply to trading in UTP Securities as they are superseded by the proposed rules. Several additional rules, which do not have counterparts in the proposed Pillar rules, would not apply to trading in UTP Securities as they are related to auctions and floor-based point-of-sale trading. Further information about current NYSE rules that would not apply to UTP trading on the Pillar platform can be found in the Notice.[47]

III. Proceedings To Determine Whether To Approve or Disapprove the Proposal

The Commission is instituting proceedings pursuant to Section 19(b)(2) of the Act[48] to determine whether the Exchange's proposed rule change should be approved or disapproved. The Commission believes it is appropriate to institute proceedings at this time in view of the legal and policy issues raised by the proposal, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. In particular, the Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Sections 6(b)(5) and 6(b)(8) of the Act.[49] Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed ''to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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.''[50] In addition, Section 6(b)(5) of the Act prohibits the rules of an exchange from being ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers.''[51] Section 6(b)(8) of the Act, requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].''[52]

As discussed above, NYSE proposes to commence UTP trading of Tape B and C securities and to do so on its new Pillar trading platform. There would be no DMM assigned to UTP Securities; there would be no Floor-based point of sale for UTP Securities; the Exchange would not conduct auctions in UTP Securities; and the Exchange would allocate executions in UTP Securities using a modified version of its parity allocation system, granting one place on the allocation wheel to each Floor Broker Participant and one place on the allocation wheel to orders collectively represented in the Exchange Book. Additionally, Floor Brokers would be able to use certain order types, such as Pegging Orders, that would not be available to other market participants.[53]

The Commission seeks commenters' views on whether the Exchange's proposal is consistent with Section 6(b)(5) and Section 6(b)(8) of the Act. In particular, the Commission seeks commenters' view on the following questions.

- Unlike the Exchange's existing trading model for its listed securities, there would be no DMM assigned to UTP Securities, no Floor-based point of sale for UTP Securities, no Crossing Orders, and no auction in UTP Securities. Given these differences from the market structure in which Floor Brokers currently operate, what are commenters' views on the role that Floor Brokers would play in trading UTP Securities on the Exchange?
- What benefits or costs, if any, would the activities of Floor Brokers create for trading of UTP Securities on the Exchange? What benefits or costs, if any, would accrue to the customers of the Floor Brokers? Would these benefits or costs vary depending on the type of Floor Broker customer or the means the customer used to submit an order through a Floor Broker? What benefits or costs, if any, would accrue to participants on the Exchange that are not customers of a Floor Broker?
- Would providing Floor Brokers with parity allocation in UTP Securities, or providing them with exclusive use of certain order instructions, unfairly discriminate against market participants who do not submit orders through a Floor Broker? Would providing parity to Floor Brokers, or providing them with exclusive use of certain order instructions, impose a burden on competition that is not necessary or appropriate?

IV. Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the concerns identified above, as well as any others they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is inconsistent with Section 6(b)(5), Section 6(b)(8), or any other provision of the Act, or the rules and regulation

[45] The Exchange did not provide a reason for this rule change.

[46] The Exchange proposes that current NYSE Rule 67 (Tick Size Pilot Plan) would not be applicable for trading in UTP Securities on Pillar.

[47] *See* Notice, *supra* note 3, 82 FR at 37270, for a list of NYSE rules that are not applicable to Pillar.

[48] 15 U.S.C. 78s(b)(2).

[49] 15 U.S.C. 78f(b)(5) and (b)(8).

[50] *Id.*

[51] *Id.*

[52] 15 U.S.C. 78f(b)(8).

[53] After Market Orders trade based on time and the order with Setter Priority, if eligible, receives an allocation, Proposed NYSE Rule 7.37(b) allocates orders based on parity by Participant. Proposed NYSE Rule 7.36(a)(5) defines Participant as a Floor broker trading license (a ''Floor Broker Participant'') or orders collectively represented in the Exchange Book that have not been entered by a Floor broker (''Book Participant'').

thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[54]

Interested persons are invited to submit written data, views and arguments regarding whether the proposal should be disapproved by December 5, 2017. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 19, 2017.

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–NYSE–2017–36 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 Numbers SR–NYSE–2017–36. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposal that are filed with the Commission, and all written communications relating to the proposal between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. 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–NYSE–2017–36 and should be submitted on or before December 5, 2017. Rebuttal comments should be submitted by December 19, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[55]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24577 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[54] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[55] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82026; File No. SR–NYSEArca–2017–110]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the GraniteShares Platinum Trust Under NYSE Arca Rule 8.201–E

November 7, 2017.

On September 12, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the GraniteShares Platinum Trust under NYSE Arca Rule 8.201–E. The proposed rule change was published for comment in the **Federal Register** on September 27, 2017.[3] On October 24, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 11, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates December 26, 2017, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2017–110), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24575 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81675 (Sept. 21, 2017) 82 FR 45080.

[4] Amendment No. 1, which amended and replaced the proposed rule change in its entirety, is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nysearca-2017-110/nysearca2017110-2653767-161379.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82034]

Order Scheduling Filing of Statements on Review

November 8, 2017.

In the Matter of the Chicago Stock Exchange, Inc.

For an Order Granting the Approval of Proposed Rule Change to Adopt the CHX Liquidity Enhancing Access Delay on a Pilot Basis (File No. SR–CHX–2017–04)

On February 10, 2017, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule

19b–4 thereunder,[2] a proposed rule change to adopt the CHX Liquidity Enhancing Access Delay. The proposed rule change was published for comment in the **Federal Register** on February 21, 2017.[3] On May 22, 2017, proceedings were instituted under Section 19(b)(2)(B) of the Exchange Act[4] to determine whether to approve or disapprove the proposed rule change.[5] On August 17, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[6] a longer period was designated for Commission action on proceedings to determine whether to disapprove the proposed rule change.[7] On September 19, 2017, the Exchange filed Amendment No. 1 to the proposed rule change,[8] and on October 18, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[9] On October 19, 2017, the Division of Trading and Markets, for the Commission pursuant to delegated authority,[10] approved the proposed rule change, as modified by Amendment Nos. 1 and 2.[11]

Pursuant to Commission Rule of Practice 431,[12] the Commission is reviewing the delegated action and the October 19, 2017 order is stayed.

Accordingly, *it is ordered,* pursuant to Commission Rule of Practice 431, that by December 8, 2017, any party or other person may file any additional statement.

It is further *ordered* that the October 19, 2017 order approving the proposed rule change, as modified by Amendment Nos. 1 and 2 (File No. SR–CHX–2017–04), shall remain stayed pending further order of the Commission.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24629 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80041 (February 14, 2017), 82 FR 11252.

[4] 15 U.S.C. 78s(b)(2)(B).

[5] *See* Securities Exchange Act Release No. 80740, 82 FR 24412 (May 26, 2017).

[6] 15 U.S.C. 78s(b)(2).

[7] *See* Securities Exchange Act Release No. 81415, 82 FR 40051 (August 23, 2017).

[8] *See* letter from Albert J. Kim, Vice President and Associate General Counsel, CHX, dated September 19, 2017, available at *https://www.sec.gov/comments/sr-chx-2017-04/chx201704-2583844-161106.pdf.*

[9] *See* letter from Albert J. Kim, Vice President and Associate General Counsel, CHX, dated October 18, 2017, available at *https://www.sec.gov/comments/sr-chx-2017-04/chx201704-2643435-161294.pdf.*

[10] 17 CFR 200.30 3(a)(12).

[11] *See* Securities Exchange Act Release No. 81913, 82 FR 49433 (October 25, 2017).

[12] 17 CFR 201.431.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82025; File No. SR–BatsBZX–2017–54]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the iShares Inflation Hedged Corporate Bond ETF, a Series of the iShares U.S. ETF Trust, Under Rule 14.11(i), Managed Fund Shares

November 7, 2017.

On September 7, 2017, Bats BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the iShares Inflation Hedged Corporate Bond ETF, a series of the iShares U.S. ETF Trust, under BZX Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on September 27, 2017.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 11, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates December 26, 2017, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2017–54).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–24574 Filed 11–13–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81671 (September 21, 2017), 82 FR 45103.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before January 16, 2018.

ADDRESSES: Send all comments to Andrea Giles, Supervisory Financial Analyst, Office of Credit Risk Management, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Andrea Giles, Supervisory Financial Analyst, 202–205–6301, *andrea.giles@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: Small Business Lending Companies (SBLCs) and Non-federally regulated lenders (NFRLs). NFRL's are non-depository lending institutions authorized by SBA primarily to make loans under section 7(a) of the Small Business Act. As sole regulator of these institutions, SBA requires them to submit audited financial statements annually as well as interim, quarterly financial statements and other reports to facilitate the Agency's oversight of these lenders.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly

perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title of Collection: Reports to SBA Provisions of 13 CFR 120.464.

Description of Respondents: Small Business Lending Companies (SBLCs) and Non-federally regulated lenders (NFRLs).

Total Estimated Annual Responses: 594.

Total Estimated Annual Hour Burden: 7,110.

Curtis Rich,

Management Analyst.

[FR Doc. 2017–24604 Filed 11–13–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10196]

Review of the Designation as a Foreign Terrorist Organization of Islamic Resistance Movement (Hamas and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation. Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–24598 Filed 11–13–17; 8:45 am]

BILLING CODE 4710–AD–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

AGENCY: Surface Transportation Board.

ACTION: Notice; correction.

SUMMARY: The Surface Transportation Board (STB) published a document in the **Federal Register** on October 30, 2017, concerning a request from Thompson Hine LLP, on behalf of itself, Economists, and L.E. Peabody & Associates (WB17–44—10/20/17) for permission to use certain unmasked data from the Board's 2006–2016 Carload Waybill Samples. STB is correcting the deadline objections to the request are due.

FOR FURTHER INFORMATION CONTACT: Alexander Dusenberry, (202) 245–0319.

Correction

In the **Federal Register** of October 30, 2017, in FR 2017–23454, on page 50220, in the second column, in the first full paragraph correct the first sentence to read as follows:

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics by November 22, 2017.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–24627 Filed 11–13–17; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2017–0020]

Additional Information About Participating in the Process Concerning the Administration's Action Following a Determination of Import Injury With Regard to Certain Crystalline Silicon Photovoltaic Cells

AGENCY: Office of the United States Trade Representative.

ACTION: Additional information about participation; request for comments and notice of public hearing.

SUMMARY: In a **Federal Register** notice dated October 25, 2017 (82 FR 49469), the Office of the United States Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), announced a process to allow interested parties to submit views and evidence on the appropriateness of safeguard measures recommended by the United States International Trade Commission (ITC) concerning certain the import of crystalline silicon photovoltaic (CSPV) cells. This notice provides additional information on the TPSC process.

DATES: November 20, 2017 at midnight EST: Deadline for submission of written comments and requests to testify at the public hearing.

November 29, 2017 at midnight EST: Deadline for submission of written responses to the initial round of comments.

December 6, 2017 at 9:30 a.m. EST: The TPSC will hold a public hearing in Rooms 1 and 2, 1724 F Street NW., Washington DC.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section III of the **Federal Register** notice of October 25, 2017 (82 FR 49469). The docket number is USTR–2017–0020. For alternatives to on-line submissions, please contact Yvonne Jamison, Trade Policy Staff Committee at (202) 395–9666.

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at *Victor_S_Mroczka@ustr.eop.gov* or (202) 395–9450, or Dax Terrill, Office of the General Counsel, at *Dax.Terrill@ustr.eop.gov* or (202) 395–4739.

SUPPLEMENTARY INFORMATION: In response to inquiries from interested parties, USTR is providing the following clarifying information about the procedures for participation in the TPSC process. Please review the **Federal Register** notice of October 25, 2017 (82 FR 49469) for more complete information. The clarifications are:

- You should include a summary of no more than two pages that identifies the key points with your written comment.
- The deadline to submit both written comments and requests to testify at the hearing is November 20, 2017 at midnight EST. A request to testify must include your comments.
- The TPSC will not accept written testimony at the hearing. You must include any materials you intend to use during your testimony with the written comments you submitted.

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2017–24596 Filed 11–13–17; 8:45 am]

BILLING CODE 3290–F8–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2017–0014]

Generalized System of Preferences: Import Statistics Relating to Competitive Need Limitations and Deadline for Filing Petitions

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of statistics availability and deadline for submission of petitions.

SUMMARY: Import statistics for the first nine months of 2017 relating to competitive need limitations (CNLs) under the Generalized System of Preferences (GSP) program are available on the Office of the United States Trade Representative (USTR). These import statistics identify some articles for which the 2017 trade levels may exceed statutory CNLs.

In a **Federal Register** notice dated August 11, 2017, USTR said it would announce the procedures to receive petitions requesting waivers of CNLs. This notice provides those procedures. Interested parties may find the import statistics useful in deciding whether to submit a petition to waive the CNLs for individual beneficiary developing countries (BDCs) with respect to specific GSP-eligible articles. USTR will announce decisions on the petitions accepted for review, a schedule for any related public hearings, and the opportunity to provide comments, in the **Federal Register** at a later date.

DATES: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) must receive your CNL waiver petition by midnight, December 5, 2017.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *https://www.regulations.gov.* The docket number is USTR–2017–0014. Follow the instructions for submitting comments in section D below. For alternatives to on-line submissions, please contact Naomi Freeman at (202) 395–2974.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman at (202) 395–2974 or *GSP@ustr.eop.gov.*

SUPPLEMENTAL INFORMATION:

A. Background

The GSP program provides for the duty-free treatment of designated articles when imported from designated BDCs. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

B. Competitive Need Limitations

Section 503(c)(2)(A) of the Trade Act (19 U.S.C. 2463(c)(2)(A)) sets out the two different measures for CNLs. When the President determines that a BDC has exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year ($180 million for 2017), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (50 percent CNL), the President must terminate GSP duty-free treatment for that article from that BDC no later than July 1st of the next calendar year, unless the President grants a waiver before the exclusion goes into effect. Interested parties should submit CNL waiver petitions based on 2017 annual review procedures in the event that the Congress extends the GSP program beyond its current December 31, 2017 expiration date. CNLs do not apply to least-developed countries or beneficiaries of the African Growth and Opportunity Act.

Any interested party may submit a petition seeking a waiver of the 2017 CNL for individual BDCs with respect to specific GSP-eligible articles. In addition, under section 503(c)(2)(F) of the Trade Act (19 U.S.C. 2463(c)(2)(F)), the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC, if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year ($23.5 million for 2017).

C. Interim 2017 Import Statistics

USTR has compiled interim import statistics for the first nine months of 2017 to provide advance notice of articles that may exceed the CNLs shown below for 2017. You also can find this information on the USTR Web site at *https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-2017-annual.* Full calendar year 2017 data for individual tariff subheadings will be available in February 2018 on the Web site of the U.S. International Trade Commission at *http://dataweb.usitc.gov/.*

USTR has organized the interim 2017 import statistics to show, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC of origin, the value of imports of the article from the specified country for the first nine months of 2017, and the corresponding share of total imports of that article from all countries. The list includes the GSP-eligible articles from BDCs which, based on interim nine-month 2017 data, exceed $120 million, or an amount greater than 42 percent of the total value of U.S. imports of that product.

A. 0410.00.00: Edible products of animal origin, nesi (Indonesia)
B. 0714.40.10: Fresh or chilled taro (Colocasia spp.), whether or not sliced or in the form of pellets (Ecuador)
C. 2106.90.98: Other food preps nesoi, incl preps for the manufacture of beverages, non-dairy coffee whiteners, herbal teas and flavored honey (Thailand)
D. 2909.19.18: Ethers of acyclic monohydric alcohols & deriv, nesoi (Brazil)
E. 3808.91.30: Insecticides, nesoi, containing an inorganic substance, put up for retail sale (India)
F. 3823.11.00: Stearic acid (Indonesia)
G. 4011.20.10: New pneumatic radial tires, of rubber, of a kind used on buses or trucks (Indonesia)
H. 6802.99.00: Monumental or building stone & arts. thereof, nesoi, further worked than simply cut/sawn, nesoi Brazil)
I. 7403.19.00: Refined copper, unwrought articles nesoi (Brazil)
J. 8450.20.00: Household- or laundry-type washing machines, each of a dry linen capacity exceeding 10 kg (Thailand)
K. 9001.50.00: Spectacle lenses of materials other than glass, unmounted (Thailand)

USTR is providing the list on its Web site, which includes the relevant nine-month trade statistics for each of these products, as a courtesy for informational purposes only. The list is based on interim 2017 trade data, and may not include all articles that may be affected by the GSP CNLs. Regardless of whether or not an article is included on the list referenced in this notice, all determinations and decisions regarding application of the CNLs of the GSP program will be based on full calendar-year 2017 import data for each GSP-eligible article. USTR advises interested parties to conduct their own review of anticipated full calendar-year 2017 import data with regard to the possible application of GSP CNLs.

D. Requirements for Submissions

In order to be assured of consideration, you must submit your petition by the midnight, December 5, 2017, deadline to docket number USTR–

2017–0014 via *www.regulations.gov.* All submissions in response to this notice must conform to the GSP regulations set forth at 15 CFR part 2007—*https://www.ecfr.gov/cgi-bin/text-idx?SID=271bd12a5ef9cae0c4c178d1131ac292&mc=true&node=pt15.3.2007&rgn=div5*—except as modified below.

The GSP Subcommittee strongly encourages on-line submissions, using the *https://www.regulations.gov* Web site. All submissions must be in English and must be transmitted electronically via *www.regulations.gov* using docket number USTR–2017–0014. To make a submission via *www.regulations.gov,* enter the appropriate docket number on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use Regulations.gov'' on the bottom of the home page.

USTR will not accept hand-delivered submissions. USTR will not accept submissions for review that do not provide the information required by sections 2007.0 and 2007.1 of the GSP regulations, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required.

The *https://www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. The GSP Subcommittee prefers that you provide submissions as an attached document. If you attach a document, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the ''Type Comment'' field. At the beginning of the submission or on the first page (if an attachment), include the following text (in **bold** and *underlined*): (1) ''2017 CNL Petition'' and (2) the eight-digit HTSUS subheading number in which the product is classified. Interested parties submitting petitions that request action with respect to specific products also should list at the beginning of the submission, or on the first page (if an attachment) the following information: (1) The requested action; and (2) if applicable, the beneficiary developing country. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments.

Please do not attach separate cover letters or data attachments to electronic submissions; rather, include any such information in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any electronic submissions that contain business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter. Filers of submissions containing business confidential information also must submit a public version of their comments that we will place in the docket for public inspection. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

You will receive a submission tracking number upon completion of the submissions procedure at *https://www.regulations.gov.* The tracking number is your confirmation that the submission was received into *https://www.regulations.gov.* The GSP Subcommittee is not able to provide technical assistance for the Web site. The GSP Subcommittee may not consider documents that are not submitted in accordance with these instructions.

As noted, the GSP Subcommittee strongly urges submitters to file comments through *www.regulations.gov.* You must make any alternative arrangements with Naomi Freeman in advance of transmitting a comment. You can contact Ms. Freeman at (202) 395–2974.

We will post comments in the docket for public inspection, except business confidential information. You can view comments on the *https://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Erland Herfindahl,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences and Chair of the GSP Subcommittee of the Trade Policy Staff Committee, Office of the U.S. Trade Representative.

[FR Doc. 2017–24579 Filed 11–13–17; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement: Taylorsville Mobility Study, Salt Lake County, State of Utah

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Taylorsville Mobility Study.

SUMMARY: The FHWA is issuing this notice to advise the public that the Notice of Intent (NOI), issued on March 2, 2010, to prepare an EIS is being rescinded for the proposed Taylorsville Mobility Study transportation project. The proposed EIS was to analyze and address the regional transportation connectivity needs on the west side of the Salt Lake Valley in the area bounded by 6200 South, 4700 South; Bangerter Highway and Redwood Road in Salt Lake County, State of Utah. For Further Information, contact: Edward T. Woolford, Environmental Program Manager, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84129, by telephone (801) 955–3524.

SUPPLEMENTARY INFORMATION: This Notice of Intent to prepare an EIS for the area mentioned is being rescinded after an initial planning analysis, conducted by FHWA and the Utah Department of Transportation, concluded the analysis did not lead to the initiation of an EIS or a Federal agency action.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: November 7, 2017.

Edward Woolford,

Environmental Program Manager, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2017–24623 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions of Proposed Highway/Interchange Improvement in California; Statute of Limitations on Claims

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to the proposed highway project, Alameda Creek Bridge Replacement Project on State Route 84 (SR–84) between the City of Fremont and the town of Sunol in southern Alameda County, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal Agency Actions on the highway project will be barred unless the claim is filed on or before April 13, 2018. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Brian Gassner, Environmental Branch Chief, Office of Environmental Analysis, California Department of Transportation—District 4, 111 Grand Avenue, Oakland, California, 8 a.m. to 5 p.m., (510) 286–6025, *brian.gassner@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans, has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California. Caltrans proposes to replace the Alameda Creek Bridge and realign the bridge approaches on SR–84 from postmile 13.0 to 13.6. The project would replace the existing 1928, two-lane bridge with a new, two-lane structure with standard eight-foot wide shoulders, approximately 75 feet north of the existing bridge. The purpose of this project is to correct structural and geometric deficiencies of the Alameda Creek Bridge and its approaches while providing a facility that meets driver expectations of SR–84's operating speed, all of which improve safety. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Report (EIR)/Environmental Assessment (EA) for the project, approved on September 25, 2017, and in the Caltrans Finding of No Significant Impact (FONSI) issued on August 16, 2017, and in other documents in the Caltrans project records. The Final EIR/EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans Final EIR/EA and FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/d4/envdocs.htm.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

(1) Council on Environmental Quality regulations;
(2) National Environmental Policy Act (NEPA);
(3) Moving Ahead for Progress in the 21st Century Act (MAP–21);
(4) Department of Transportation Act of 1966;
(5) Federal Aid Highway Act of 1970;
(6) Clean Air Act Amendments of 1990;
(7) Noise Control Act of 1970;
(8) 23 CFR part 772 FHWA Noise Standards, Policies and Procedures;
(9) Department of Transportation Act of 1966, Section 4(f);
(10) Clean Water Act of 1977 and 1987;
(11) Endangered Species Act of 1973;
(12) Migratory Bird Treaty Act;
(13) National Historic Preservation Act of 1966, as amended;
(14) Historic Sites Act of 1935;
(15) Executive Order 13112, Invasive Species;
(16) Executive Order 11990—Protection of Wetlands; and
(17) Title VI of the Civil Rights Act of 1964, as amended.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Tashia J. Clemons,

Director of Program Development Federal Highway Administration, Sacramento, CA.

[FR Doc. 2017–24625 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0190]

Hours of Service of Drivers: Application for Exemption; Rail Delivery Services, Inc. (RDS)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Rail Delivery Services, Inc. (RDS), an exemption from the logbook requirements for its drivers who may not meet all of the conditions for utilization of the 100 air-mile radius log book exemption. This exemption enables RDS' drivers who stay within the 100 air-mile radius, but may occasionally take more than 12 hours to return to their work-reporting location, from having to complete a daily record of duty status (RODS) on those days. Instead the drivers will at all times use an electronic logging device system called Geotab to track all hours-of-service (HOS) data including real-time vehicle locations. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, is likely to achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is applicable from 12:01 a.m., November 14, 2017 through 11:59 p.m., November 14, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and

determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

RDS is, according to its Web site at *www.raildelivery.com,* a ''California-based intermodal trucking company moving freight, trailers and containers between railroads, ports, consignees and shippers, reliably and efficiently throughout California and adjacent states'' (USDOT 520912). RDS believes that all of its drivers—approximately 100–120—would operate under the terms of the requested exemption from the 12-hour limitation in the log-book exception in 49 CFR 395.1(e)(1).

On a weekly basis, RDS expects that about 15% of its drivers will return to their work reporting location more than 12 hours after coming on duty, due to waiting times at rail yards and shipper locations, while still operating within the required 100 air-mile radius. The drivers who occasionally exceed the 12-hour limitation nearly always return to the terminal within 14 hours.

On average, less than 2% of RDS drivers exceed the daily 14-hour limit. If a CMV is operated beyond the 14th hour, the departments work diligently to determine whether the truck was over the HOS limits, or utilized for personal conveyance. In virtually all of these cases, owner-operators are using their vehicles for personal conveyance.

According to RDS, nearly all its drivers operate within a 70- to 80-mile radius of their home terminal. They are home every day and for the most part meet the exemption requirements of the 100 air-mile radius provision. Some of these drivers record their hours worked on an ''exempt'' log. Other drivers complete a grid log, even though they meet the 100 air-mile radius exemption. Both types of paper logs are time consuming for the drivers and the RDS Safety Department. For this reason, RDS has embarked on the use of system incorporating a vehicle recording device to accurately record all the drivers' activities, including on-duty time, driving time, and total hours for the day.

This electronic system allows for accuracy and real-time follow up. RDS believes that with this system it is improving the safety of the motoring public by ensuring that the drivers do not falsify their log books or operate when they are tired. Additionally, proactive measures have been implemented by RDS to improve highway safety. RDS states that the use of a daily log book or an ''exempt'' log does not enable the carrier to monitor and respond to these events in real-time. Violations are discovered 12 to 24 hours later. However, with the electronic tracking system, all departments see the events in real-time and can respond immediately.

RDS believes that the use of the electronic system, along with its increased focus on driver training and education, goes beyond compliance with the Federal regulations. The system has allowed and will continue to allow RDS to provide additional timely oversight of drivers and has improved, and will enable the company to enhance, safety and reduce fatigue.

Public Comments

On July 7, 2017, FMCSA published notice of this application and requested public comment (82 FR 31680). The Agency received 17 docket comments, 6 supporting the request, including those from the Intermodal Association of North America (IANA); Farruggio's Express; and California Multimodal, Inc. LLC. The Advocates for Highway and Auto Safety (Advocates) and others opposed the request.

Those in favor commented that RDS' implementation and use of fleet management and tracking devices provides robust functionality with instantaneous feedback, visibility and transparency that far exceeds the traditional, paper-based logbook its drivers are required to complete under the existing HOS rules (when not meeting the RODS exception in 49 CFR 395.1) and ELD mandate.

Commenters also noted that RDS' telematics provides management with immediate data on driving events and potentially unsafe driver behaviors, such as HOS violations, speeding, sudden braking, harsh cornering, and seatbelt usage, allowing the company to proactively manage driver safety, training and education; and quickly identify potential safety and/or non-compliance trends across the company. Addressing these safety matters before they become serious patterns and problems, promulgates and cultivate its safety culture on a real-time basis.

Advocates failed to see how the exemption would be necessary if RDS has implemented ''the Geo Tab system [which] meets the requirements of the ELD rule.'' If RDS has implemented an ELD compliant system, there is no need for an exception from the present rule requiring drivers who fail to meet the 100-air mile radius exception as their RODS is automatically being recorded by the system and carrier.

All comments are available for review in the docket for this notice.

FMCSA Decision

FMCSA has evaluated RDS' application for exemption and the public comments and decided to grant the exemption. The Agency believes that RDS' overall safety program will likely enable it to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)).

FMCSA believes that RDS' use of the Geotab 7 system, along with RDS' increased focus on driver training and education, goes beyond basic compliance with the Federal regulations. The electronic system will allow RDS to provide additional timely oversight of safety issues. FMCSA has therefore decided to grant the exemption, subject to the terms and conditions outlined below.

Terms and Conditions of the Exemption

Terms of the Exemption

RDS' drivers who stay within the 100 air-mile radius but may occasionally exceed the 12-hour limitation are exempt from having to complete a daily record of duty status (RODS) at those times if, at all times, their hours of service data is recorded by the Geotab system. The exemption is contingent upon RDS maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any ''imminent hazard'' or other out-of-service (OOS) order issued by FMCSA.

Drivers must have a copy of this exemption document or FMCSA-issued equivalent in their possession while operating under the terms of the exemption. The exemption document or FMCSA-issued equivalent must be presented to law enforcement officials upon request. RDS must have a ''Satisfactory'' safety rating with FMCSA, or be ''unrated.''

Period of the Exemption

This exemption from the requirements of 49 CFR 395.1(e)(1) is effective from 12:01 a.m., November 14,

2017 through 11:59 p.m., November 14, 2022.

Extent of the Exemption

This exemption is limited strictly to the provisions of 49 CFR 395.1(e)(1) (Short haul operations; 100 air-mile radius driver). These drivers must comply with all other applicable provisions of the FMCSRs.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under this exemption, RDS must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's drivers operating under the terms of this exemption. The notification must include the following information:

(a) Identity of Exemption: ''RDS''
(b) Date of the accident,
(c) City or town, and State, in which the accident occurred, or closest to the accident scene,
(d) Driver's name and license number,
(e) Co-driver's name and license number,
(f) Vehicle number and State license number,
(g) Number of individuals suffering physical injury,
(h) Number of fatalities,
(i) The police-reported cause of the accident,
(j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
(k) The total driving time and total on-duty time of the CMV driver prior to the accident.

Accident notifications shall be emailed to *MCPSD@dot.gov.*

Termination

FMCSA believes that RDS' drivers will continue to maintain their previous safety record while operating under this exemption. However, should problems occur, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Issued on: November 2, 2017.

Daphne Y. Jefferson,

Deputy Administrator.

[FR Doc. 2017–24599 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0111]

Notice of Application for Approval To Discontinue or Modify a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on September 20, 2017, the Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0111.

Applicant: Union Pacific Railroad, Mr. Kevin D. Hicks, AVP Engineering—Design, 1400 Douglas Street, MS 0910, Omaha, NE 68179

Union Pacific seeks to discontinue the automatic block signals (ABS) on the Utah Service Unit, Montana Subdivision, in the cities of Pocatello, Chubbuck, Fort Hall, Blackfoot, Firth, Shelley and Idaho Falls in the state of Idaho.

There are 43 active Highway-Rail Grade Crossings and 2 hot-box and dragging equipment detectors in the area which will remain as currently installed.

The reason for the discontinuance of the ABS is that the condition of the signal system would require complete replacement to avert safety issues and FRA defects, and the amount of traffic on the subdivision does not warrant the cost of replacement.

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 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:

- *Web site: 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 December 29, 2017 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 Safety, Chief Safety Officer.

[FR Doc. 2017–24559 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0116]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 1, 2017, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain

provisions of the Federal railroad safety regulations contained at Title 49 Code of Federal Regulations (CFR) part 231. FRA assigned the petition Docket Number FRA–2017–0116.

Pursuant to 49 CFR 231.35, BNSF seeks relief from AAR Standard S–2044, Appendix D1, the approved industry standard for safety appliances for flatcars with full decks. BNSF requests permission to alter Boeing aircraft fuselage flatcars and idler cars by modifying the transverse end and side handhold arrangement at the BL and AR corners of the flatcars. In order to transport the aircraft fuselages safely, the BR and AL side and end handholds will be positioned six (6) inches above the deck of the flatcar which will allow employees to safely utilize the handholds. BNSF states that ergonomic analysis of this arrangement indicates this modification does not compromise rail safety.

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 about 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:

- *Web site: 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 January 3, 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.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–24560 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0182]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel THE SPACE BETWEEN; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 14, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0182. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel THE SPACE BETWEEN is:

—*Intended Commercial Use of Vessel:* 6 pack sailing charter

—*Geographic Region:* ''Florida, Georgia, North Carolina, South Carolina, Virginia, Delaware, New Jersey, New York, Connecticut, Massachusetts, New Hampshire and Maine ''

The complete application is given in DOT docket MARAD–2017–0182 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact

the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator

Dated: November 7, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–24561 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2017–0183]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ARCADIA; Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before December 14, 2017.

ADDRESSES: Comments should refer to docket number MARAD–2017–0183. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ARCADIA is:

—INTENDED COMMERCIAL USE OF VESSEL: ''To function as base camp/mothership for coastal sport fishing charters.''

—GEOGRAPHIC REGION: ''Florida, Georgia, Alabama, Mississippi, Louisiana, Texas''

The complete application is given in DOT docket MARAD–2017–0183 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT/MARAD solicits comments from the public to better inform its rulemaking process. DOT/MARAD posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Maritime Administrator.

Dated: November 7, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–24562 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0184]

Request for Comments on the Renewal of a Previously Approved Information Collection: Determination of Fair and Reasonable Rates for Carriage of Agriculture Cargoes on U.S. Commercial Vessels—46 CFR 382

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used by the Maritime Administration in determining fair and reasonable guideline rates for the carriage of preference cargoes on U.S.-flag vessels. In addition, U.S.-flag vessel operators are required to submit Post Voyage Reports to the Maritime Administration after completion of a cargo preference voyage. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before January 16, 2018.

ADDRESSES: You may submit comments identified by Docket No. DOT–MARAD–2017–0184 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Albert Bratton, Telephone Number:

(202) 366–5769, Office of Business Finance, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Determination of Fair and Reasonable Rates for Carriage of Agriculture Cargoes on U.S.-Commercial Vessels—46 CFR 382.

OMB Control Number: 2133–0514.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: 46 U.S.C. 55305 and the Food Security Act of 1985 require that at least 50% of U.S. government sponsored agriculture bulk and packaged cargoes be shipped on U.S.-flag vessels to the extent that such vessels are available at fair and reasonable rates. Pursuant to 46 CFR part 381, Government agencies must comply with the cargo preference laws and must submit data to the Maritime Administration (MARAD) on U.S. and foreign-flag carriage of preference cargoes under their control. Part 382 requires U.S. operators to submit specific data to MARAD regarding fair and reasonable guideline rates for the carriage of preference cargoes on U.S.-flag vessels. The collection of vessel data contributes toward the U.S. Department of Transportation's strategic goal of National Security.

In addition, this data collection requires U.S.-flag operators to submit vessel-operating costs and capital costs data to MARAD officials on an annual basis. This information is needed by MARAD to establish fair and reasonable guideline rates for carriage of specific cargoes on U.S. vessels.

Respondents: U.S. citizens who own and operate U.S.-flag vessels.

Affected Public: U.S. citizens who own and operate U.S.-flag vessels.

Estimated Number of Respondents: 41.

Estimated Number of Responses: 68.

Annual Estimated Total Annual Burden Hours: 176.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: November 7, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–24563 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before December 14, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC, or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 31, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
10784–M		United States Secret Service.	175.75(b)	To modify the special permit to authorize an additional DOT-specification cylinder to be transported in First Aid/Trauma Kits aboard passenger carrying aircraft.
12130–M		FIBA Technologies, Inc	173.318, 176.76(g), 173.315.	To modify the special permit to change it from a manufacturing permit to a use permit and eliminating the record requirements.
13027–M		HERNCO Fabrication & Services, Inc.		To modify the special permit to authorize the adding of additional Class 3 hazmat.
15806–M		Precision Technik, Inc	173.201, 173.202, 173.203, 173.302, 173.304, 180.209.	To modify the special permit to authorize use of single hatch openings on cylinders, increase the MAWP to 745 psig and decrease the working temperature to 131 degrees.
20274–M		SDV (USA) Inc	172.300, 172.301, 172.400.	To authorize the transportation in commerce of certain non-DOT specification containers containing certain Division 2.1, 2.2, 2.3 liquefied and compressed gases and other hazardous materials for use in specialty cooling applications such as satellites and military aircraft.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20412–N		American Railcar Industries, Inc.	179.7(a)	To authorize the transportation in commerce of tanks cars with cast manway covers that have been produced by casting facilities that do not meet the quality assurance program requirements required by AAR MSRP 1002/1003.
20416–N		Aluminum Tank & Tank Accessories, Inc.	177.834(h), 178.700(c)(1).	To authorize the manufacture, marking, sale and use of non-DOT specification metal refueling tanks containing certain Class 3 liquids.
20459–N		C.H.& I. Technologies, Inc.	178.33–1(a), 178.33a–1	To authorize the manufacture, mark, sale, and use of non-DOT specification receptacles meeting the requirements for 2P and 2Q receptacles except as provided herein.
20470–N		Audi Aktiengesellschaft	172.101(j)	To authorize the transportation in commerce of lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20474–N		Space Exploration Technologies Corp.	172.300, 172.400, Part 173.	To authorizes the transportation in commerce of the Dragon 2 space capsule and associated support equipment containing non-DOT specification packagings of hazardous materials.
20480–N		Carolina Logistics Services, L.L.C.	172.301(c), 172.303(a), 173.185(c)(1)(ii), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(3).	To authorize the transportation in commerce of packages containing lithium cells and batteries without certain package markings when contained in overpacks and transported via motor vehicle and rail.
20482–N		Phosphorus Derivatives Inc.	173.35(e)	To authorize the transportation in commerce of residue contained in IBCs where the closure nearest to the hazardous materials cannot be secured.
20498–N		Lighting Resources, LLC	172.101, 172.102(c), 172.301(c), 173.185(a)(1), 173.185(c), 173.185(d), 173.22(a).	To authorize the manufacture, marking, sale and use of specifically designed packagings for the transportation in commerce of certain batteries and cells without shipping papers, and certain marking and labeling when transported for recycling or disposal.
20526–N		Space Exploration Technologies Corp.	173.185(e)	To authorize the transportation in commerce of lithium batteries by highway that have not been tested.
20530–N		French Alternative Energies and Atomic Energy Commission (CEA).	172.101(j), 173.185(a)	To authorize the transportation in commerce of prototype lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20532–N		Chart Inc	172.203(a), 177.834(h)	To authorize the manufacture, mark, sale, and use of DOT 4L cylinders for the discharge of refrigerated liquid gases without removing them from the vehicle on which they are transported.
20539–N		NHME Inc	172.504(a)	To authorize the transportation in commerce of oxygen without displaying placards.
20544–N		General Dynamics—OTS, Inc.	172.320(a), 173.54(a), 173.54(j), 173.56(b), 173.57, 173.58, 173.60.	Special permit to ship Active Protection System fuzes to General Dynamics Ordnance and Tactical Systems.
20548–N		Consumer Product Safety Commission, United States.	173.22(a)(4)(i), 173.22(a)(4)(i)(ii), 173.24(f)(2).	To authorize the transportation in commerce of certain packages that are not closed in accordance with the packaging manufacturer's closure instructions.
20552–N		Crowley Liner Services, Inc.	176.905(a)	To authorize the transportation in commerce of vehicles with fuel tanks containing greater than 25% of their capacity by cargo vessel.
20554–N		Praxair, Inc	178.338–11(c)	To authorize the transportation in commerce of oxygen, refrigerated liquid in MC 338 cargo tanks that are not equipped with an on-vehicle remotely controlled self-closing shutoff valve as required at § 178.338–11(c).

[FR Doc. 2017–24568 Filed 11–13–17; 8:45 am]

BILLING CODE 4901–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 29, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington DC, or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 31, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
		SPECIAL PERMITS DATA		
7227–M		CHART INC	173.318	To modify the special permit to clarify transportation by vessel requirements. (Modes 1,2,3)
7731–M		CHART INC	173.318, 172.203(a), 173.320, 176.30, 176.76(g), 177.840(a), 177.840.	To authorize editorial changes to reflect changes made to the CFR. (Modes 1,3)
11186–M		CHART INC	173.318, 176.30, 176.76(g).	To modify the special permit to clarify transportation by vessel requirements. (Modes 1,2,3)
14467–M		BRENNER TANK LLC	178.345–2, 178.346–2, 178.347–2, 178.348–2.	To modify the special permit to reflect the 2015 Edition of the ASME Coe. (Mode 1)
14832–M		TRINITY INDUSTRIES, INC.	172.203(a), 173.31(e)(2)(iii), 179.100–12(c).	To modify the special permit to authorize an additional toxic by inhalation material. (Mode 2)
14951–M		HEXAGON LINCOLN, INC.	173.301(f), 173.302(a)	To modify the special permit to authorize an increase in tank volume from 8,500 liters to 12,000 liters and to authorize a shorter length for the sample test tube. (Modes 1,2,3)
15634–M		SODASTREAM USA, INC.	171.2(k), 172.202(a)(5)(iii)(B).	To modify the special permit to authorize a larger discharge cylinder. (Modes 1,2,3,4)
15713–M		BULK TANK INTERNATIONAL, S. DE R.L. DE C.V.	178.345–2, 178.346–2, 178.347–2, 178.348–2.	To modify the special permit to authorize Series 400 tanks to be constructed from materials conforming to ASME Code except for design stress margins shall be 4:1 (Mode 1)
16163–M		THE DOW CHEMICAL COMPANY.	172.203(a), 172.302(c), 180.605(h), 180.605(h)(3).	To modify the special permit to authorize an additional Division 4.2 material and to authorize pneumatic pressure testing on the authorized tanks. (Mode 1)
20356–M		TESLA, INC	172.101(j)	To modify the special permit to authorize an increase in the number of cells which make up a battery module. (Mode 4)
20548–M		CONSUMER PRODUCT SAFETY COMMISSION, UNITED STATES.	173.22(a)(4)(i), 173.22(a)(4)(i)(ii), 173.24(f)(2).	To modify the special permit initially issued on an emergency basis and make it permanent. (Mode 1)

[FR Doc. 2017–24567 Filed 11–13–17; 8:45 am]

BILLING CODE 4901–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 14, 2017.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 31, 2017.

Donald Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20556–N		SAFT AMERICA INC	172.101(j)	To authorize the transportation in commerce of lithium ion batteries in excess of 35 kg by cargo-only aircraft. (Mode 4)
20557–N		XCALIBUR LOGISTICS, LLC.	180.407(b)(5), 180.407(c).	To authorize the transportation in commerce of petroleum crude oil in cargo tanks which are overdue for inspection. (Mode 1)
20559–N		FIREAWAY INC	172.400, 172.500, 172.200, 172.300.	To authorize the transportation in commerce of explosives without marking, labeling or placarding. (Modes 1, 2, 3, 4)
20560–N		CYTEC INDUSTRIES INC.	172.400, 172.200, 172.301, 173.213.	To authorize the transportation in commerce of phosphorus contained in manufactured articles in non-DOT specification packaging without certain hazard communication. (Mode 1, 4, 5)
20564–N		ACE Pyro, LLC	177.848(g)(3)(vi)	To authorize the transportation in commerce of fireworks with explosive articles of compatibility group G. (Mode 1)
20566–N		UNIVERSITY OF LOUISIANA AT LAFAYETTE.	173.199(a)	To authorize the transportation in commerce of live animals containing category B infectious substances. (Mode 1)
20567–N		OMNI TANKER PTY. LTD.	107.503(b), 107.503(c), 172.102(c)(3), 172.203(a), 173.241, 173.242, 173.243, 178.345–1, 178.347–1, 178.348–1, 180.405, 180.413(d).	To authorize the manufacture, mark, sale, and use of non-DOT specification cargo tanks and cargo tank motor vehicles. (Mode 1)
20571–N		CATALINA CYLINDERS, INC.	173.302a, 178.71(l)(1)(i), 178.71(l)(1)(ii).	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders meeting the requirements of ISO 11119–2, except as specified in the special permit. (Modes 1, 2, 3, 4)
20573–N		SIEMENS WIND POWER, INC.	173.222(c)	To authorize the transportation in commerce of dangerous goods in machinery or apparatus in quantities greater than those authorized in 173.222. (Modes 1, 3)
20574–N		ROGUE VALLEY TERMINAL RAILROAD CORPORATION.	174.14(a)	To authorize the transportation in commerce of railcars containing hazardous materials without being subject to expedited movement requirements. (Mode 2)
20575–N		WORTHINGTON CYLINDER CORPORATION.	173.302(a)	To authorize the manufacture, mark, sale, and use of non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5)

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20576–N		CYLINDER TESTING SOLUTIONS LLC.	172.203(a), 172.301(c), 180.205.	To authorize the use of Specification DOT 3AL cylinders used for the transportation in commerce of certain compressed gases, when retested by a 100% ultrasonic examination in lieu of the internal visual and the hydrostatic retest required in 49 CFR 180.205. (Modes 1, 2)
20577–N		PETROLEUM HELICOPTER, INC.	175.700(a)	To authorize the transportation in commerce of Class 7 materials aboard passenger-carrying aircraft. (Mode 5)
20578–N		JAMES ALEXANDER CORP.	172.101(j), 173.27(b)	To authorize the transportation in commerce of articles containing 40–60% hydrogen peroxide by aircraft. (Modes 4, 5)
20579–N		CARLETON TECHNOLOGIES, INC.	173.302(a)	To authorize the manufacture, mark, sale, and use of non-refillable, non-DOT specification cylinders intended to contain oxygen, compressed. (Modes 1, 2, 3, 4, 5)

[FR Doc. 2017–24566 Filed 11–13–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

VA New Hampshire Vision 2025 Task Force

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the VA New Hampshire Vision 2025 Task Force, which is a subcommittee of the Special Medical Advisory Group (SMAG), will meet November 29, 2017 from 8:00 a.m.–5:00 p.m. ET and November 30, 2017 from 8:00 a.m.–12:30 p.m. ET at the Department of Veterans Affairs, Manchester VA Medical Center, 718 Smyth Road, Manchester, NH 03104, Building 1, 1st Floor, Training & Education Room. The meeting is open to the public.

The purpose of the Subcommittee is to develop a comprehensive set of options and recommendations to develop a future vision of what VA must do to best meet the needs of New Hampshire Veterans. The recommendations will be reviewed by the SMAG and then those final recommendations will be forwarded to the Secretary and Under Secretary for Health for decision and action.

The agenda will include review of the history of Manchester's use of Care in the Community (non-VA care and the CHOICE program); recommendations from seven clinical service lines; an update on facility master planning; an update on VA's market assessment work in New Hampshire; and an update on transforming the culture of Manchester VA. No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Subcommittee's review to Brenda Faas, Designated Federal Officer, Department of Veterans Affairs at *Brenda.Faas@va.gov,* or Thomas Pasakarnis, Alternate Designated Federal Officer, Department of Veterans Affairs at *Thomas.Pasakarnis@va.gov.* Any member of the public wishing to attend the meeting or seeking additional information should contact Mr. Pasakarnis.

Because the meeting will be held in a federal government building, anyone attending must be prepared to show a valid photo government issued ID. Please allow 15 minutes before the meeting begins for this process.

Dated: November 7, 2017.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–24569 Filed 11–13–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Former Prisoners of War (FPOW) will meet November 29–30, 2017, from 9:00 a.m.–4:30 p.m. EST at the Atlanta Regional Benefits Office, 1700 Clairmont Road, Decatur, GA 30033 and December 1, 2017, from 9:00 a.m. to 12:00 p.m. EST at the Atlanta Marriot Marquis, 265 Peachtree Center Avenue, Atlanta, GA 30303. Sessions are open to the public, except when the Committee is conducting a tour of VA facilities, participating in off-site events, and participating in workgroup sessions. Tours of VA facilities are closed, to protect from disclosure Veterans' information which would constitute a clearly unwarranted invasion of personal privacy.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38 U.S.C., for Veterans who are FPOWs, and to make recommendations on the needs of such Veterans for compensation, health care, and rehabilitation.

On Wednesday, November 29, the Committee will convene an open session to recognize and hear briefings from Veterans Health Administration (VHA) and external stakeholders from 9:00 a.m. to 4:30 p.m.

On Thursday, November 30, the Committee will assemble an open session for discussion and briefings from Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) officials from 9:00 a.m. to 4:00 p.m. From 4:00 p.m. to 5:00 p.m., the Committee will convene a closed session in order to protect patient privacy as the committee tours the Atlanta Regional Benefits Office. On Friday, December 1, the Committee will conduct an open session from 9:00 a.m. to 11:00 a.m. to discuss committee recommendations. From 11:00 a.m. to 12:00 p.m., the Committee will convene a closed session for discussion of committee issues. At 12:00 p.m., the committee meeting will formally adjourn.

Public participation will commence as follows:

Date	Time	Open session
November 29, 2017	9:00 a.m.–4:30 p.m	Yes.
November 30, 2017	9:00 a.m.–4:00 p.m	Yes.
	4:00 p.m.–5:00 p.m	No.*
December 1, 2017	9:00 a.m.–11:00 a.m	Yes.
	11:00 a.m.–12:00p.m	No.*

* Public access will be restricted to protect patient privacy.

FPOWs who wish to speak at the public forum are invited to submit a 1–2 page commentary for inclusion in official meeting records. Any member of the public may also submit a 1–2 page commentary for the Committee's review.

Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Leslie N. Williams, Designated Federal Officer, Advisory Committee on Former Prisoners of War at *Leslie.Williams1@va.gov* or via phone at (202) 530–9219.

Dated: November 7, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2017–24557 Filed 11–13–17; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 82 Tuesday,

No. 218 November 14, 2017

Part II

Department of Commerce

Patent and Trademark Office

37 CFR Parts 1, 41, and 42

Setting and Adjusting Patent Fees During Fiscal Year 2017; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 41, and 42

[Docket No. PTO–P–2015–0056]

RIN 0651–AD02

Setting and Adjusting Patent Fees During Fiscal Year 2017

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office or USPTO) sets or adjusts patent fees as authorized by the Leahy-Smith America Invents Act (Act or AIA). The USPTO operates like a business in that external and internal factors affect the demand for patent products and services. The fee adjustments are needed to provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of patent operations (based on current projections), while maintaining momentum towards achieving strategic goals.

DATES: This rule is effective on January 16, 2018. The changes to § 1.18(b)(1) shall apply to those international design applications under the Hague Agreement having a date of international registration on or after January 16, 2018.

FOR FURTHER INFORMATION CONTACT: Brendan Hourigan, Director of the Office of Planning and Budget, by telephone at (571) 272–8966; or Dianne Buie, Office of Planning and Budget, by telephone at (571) 272–6301.

SUPPLEMENTARY INFORMATION: This rule was proposed in a notice of proposed rulemaking published at 81 FR 68150 (Oct. 3, 2016) (hereinafter NPRM).

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I. Executive Summary

A. Purpose of This Action

The Office issues this final rule under Section 10 of the AIA (Section 10), which authorizes the Director of the USPTO to set or adjust by rule any patent fee established, authorized, or charged under title 35 of the United States Code (U.S.C.) for any services performed, or materials furnished, by the Office. Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials relating to patents, including administrative costs of the Office with respect to such patent fees. Section 10 authority includes flexibility to set individual fees in a way that furthers key policy factors, while taking into account the cost of the respective services. Section 10 also establishes certain procedural requirements for implementing or revising fee regulations, such as public hearings and input from the Patent Public Advisory Committee (PPAC) and Congressional oversight.

This rulemaking represents the second iteration of patent fee rulemaking by the USPTO to set fees under the authority of the AIA; the first AIA patent fee setting rule was published in January 2013. This current rulemaking is a result of the USPTO assessing its costs and fees, as is consistent with federal fee setting standards. Following a biennial review of fees, costs, and revenues that began in 2015, the Office concluded that targeted fee adjustments were necessary to continue to fund patent operations, enhance patent quality, continue to work toward patent pendency goals, support the Patent Trial and Appeal Board (PTAB)'s continued efforts to deliver high quality and timely decisions, fund general support costs necessary for patent operations (*e.g.,* rent, utilities, legal, financial, human resources, and other administrative services), invest in strengthening the Office's information technology (IT) capability and infrastructure, and achieve operating reserve targets. Further, in several instances, the fee change proposals offered during the biennial fee review process were enhanced by the availability of cost and workload data (*e.g.,* the number of requests for a service) that was not available in 2013. As a result, the 202 fee adjustments outlined in this rule align directly with the Office's strategic goals and four key fee setting policy factors, discussed in detail in Part III.

B. Summary of Provisions Impacted by This Action

This final rule sets or adjusts 202 patent fees for large, small, and micro entities (any reference herein to ''large entity'' includes all entities other than those that have established entitlement to either a small or micro entity fee discount). The fees for small and micro entity rates are tiered, with small entities at a 50 percent discount and micro entities at a 75 percent discount. Small entity fee eligibility is based on the size or certain non-profit status of the applicant's business. Micro entity fee eligibility is described in Section 10(g) of the Act. There are also 42 new fees being introduced or replacing one of the 14 fees that are being discontinued. This final rule applies small entity discounts to two additional fees and applies micro entity discounts to six additional fees.

In summary, the routine fees to obtain a patent (*i.e.,* filing, search, examination, and issue fees) increase slightly under this final rule relative to the current fee schedule. Applicants who meet the definition for small or micro entity discounts will continue to pay a reduced fee for the fees eligible for a discount under Section 10(b) of the Act. Additional information describing the fee adjustments is included in Part V. Individual Fee Rationale section of this rulemaking and in the ''*Table of Patent Fees—Current, Final Rule and Unit Cost*'' (hereinafter ''*Table of Patent Fees*'') available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

C. Summary of Costs and Benefits of This Action

The final rule is significant and results in a need for a Regulatory Impact Analysis (RIA) under Executive Order 12866 Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). The Office prepared a RIA to analyze the costs, benefits, and transfer payments of the final rule over a five-year period, FY 2017–FY 2021. The RIA includes a comparison of the final rule fee schedule to the current fee schedule (baseline) and to two other alternatives.

The Office of Management and Budget (OMB) has determined that this rule involves a transfer payment from one group to another that does not affect the total resources available to society. The costs and benefits that the Office identifies and analyzes in the RIA are strictly qualitative. Qualitative costs and benefits have effects that are difficult to express in either dollar or numerical values. Monetized costs and benefits, on the other hand, have effects that can be expressed in dollar values. The Office did not identify any monetized costs and benefits of the rulemaking, but found that the final rule has significant qualitative benefits with no identified costs.

The qualitative costs and benefits that the RIA assesses are: (1) Fee schedule design—a measure of how well the fee schedule aligns to the Office's key fee setting policy factors—and (2) securing aggregate revenue to cover aggregate

cost—a measure of whether the alternative provides adequate revenue to support the core mission and strategic priorities described in the final rule and FY 2018 Budget. For these costs and benefits, the fee schedule in this final rule offers the highest benefits, with no costs identified. As described throughout this document, the final rule fee schedule maintains the existing balance of setting entry fees (*e.g.,* filing, search, and examination) below the costs to the Office to perform those services and setting maintenance fees above the cost to the Office, as one approach to foster innovation. Further, as detailed in Part V, the fee changes are targeted in support of one or more fee setting policy factors. Lastly, the final rule secures the aggregate revenue needed to achieve the strategic priorities encompassed in the rulemaking goals and strategies (*see* Part III). In summary, the benefits of the final rule clearly outweigh those of the baseline and the other alternatives considered in the RIA. Table 1 summarizes the RIA results.

TABLE 1—FINAL PATENT FEE SCHEDULE COSTS AND BENEFITS, CUMULATIVE FY 2017–FY 2021

Qualitative costs and benefits	
Costs:	
None identified	Neutral.
Benefits:	
Secure Aggregate Revenue to Cover Aggregate Cost.	Significant.
Fee Schedule Design	Significant.
Net Benefit/Cost	Significant Benefit.

Additional details describing the costs and benefits are available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

II. Legal Framework

A. Leahy-Smith America Invents Act—Section 10

The Leahy-Smith America Invents Act was enacted into law on September 16, 2011. *See* Public Law 112–29, 125 Stat. 284. Section 10(a) of the Act authorizes the Director of the Office to set or adjust by rule any patent fee established, authorized, or charged under title 35, U.S.C., for any services performed by, or materials furnished by, the Office. Fees under 35 U.S.C. may be set or adjusted only to recover the aggregate estimated cost to the Office for processing, activities, services, and materials related to patents, including administrative costs to the Office with respect to such patent operations. *See* 125 Stat. at 316. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director may set individual fees under Section 10 at, below, or above their respective cost. Section 10(e) of the Act requires the Director to publish the final fee rule in the **Federal Register** and the Official Gazette of the Patent and Trademark Office at least 45 days before the final fees become effective. Section 10(i) terminates the Director's authority to set or adjust any fee under Section 10(a) upon the expiration of the seven-year period that began on September 16, 2011.

B. Small Entity Fee Reduction

Section 10(b) of the AIA requires the Office to reduce by 50 percent the fees for small entities that are set or adjusted under Section 10(a) for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

C. Micro Entity Fee Reduction

Section 10(g) of the AIA amended chapter 11 of title 35, U.S.C., to add Section 123 concerning micro entities. The Act provides that the Office must reduce by 75 percent the fees for micro entities for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. Micro entity fees were implemented through the previous patent fee rule, and the Office will maintain this 75 percent micro entity discount for the appropriate fees and implement micro entity fees for additional services as appropriate.

D. Patent Public Advisory Committee Role

The Secretary of Commerce established the PPAC under the American Inventors Protection Act of 1999. 35 U.S.C. 5. The PPAC advises the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management, policies, goals, performance, budget, and user fees of patent operations.

When adopting fees under Section 10 of the Act, the Director must provide the PPAC with the proposed fees at least 45 days prior to publishing the proposed fees in the **Federal Register**. The PPAC then has at least 30 days within which to deliberate, consider, and comment on the proposal, as well as hold public hearing(s) on the proposed fees. The PPAC must make a written report available to the public of the comments, advice, and recommendations of the committee regarding the proposed fees before the Office issues any final fees. The Office considers and analyzes any comments, advice, or recommendations received from the PPAC before finally setting or adjusting fees.

Consistent with this framework, on October 20, 2015, the Director notified the PPAC of the Office's intent to set or adjust patent fees and submitted a preliminary patent fee proposal with supporting materials. The preliminary patent fee proposal and associated materials are available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The PPAC held a public hearing in Alexandria, Virginia, on November 19, 2015. Transcripts of the hearing are available at *http://www.uspto.gov/sites/default/files/documents/PPAC_Hearing_Transcript_20151119.pdf.* Members of the public were invited to the hearing and given the opportunity to submit written and/or oral testimony for the PPAC to consider. The PPAC considered such public comments from this hearing and published all comments on the Fee Setting Web site, available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The PPAC also provided a written report setting forth in detail the comments, advice, and recommendations of the committee regarding the preliminary proposed fees. The report regarding the preliminary proposed fees was released on February 29, 2016, and is available at *http://www.uspto.gov/sites/default/files/documents/PPAC_Fee%20_Setting_Report_2016%20%28Final%29.pdf.* The Office considered and analyzed all comments, advice, and recommendations received from the PPAC before publishing the NPRM. Likewise, before issuing this final rule, the Office considered and analyzed all comments, advice, and recommendations received from the public during the 60-day comment period. The Office's response to comments received is available in Part VI. Discussion of Comments.

III. Rulemaking Goals and Strategies

A. Fee Setting Strategy

The overall strategy of this final rule is to establish a fee schedule that generates sufficient multi-year revenue to recover the aggregate cost to maintain USPTO operations and accomplish the USPTO's strategic goals in accordance with the authority granted to the USPTO by AIA Section 10. A similar strategy guided the initial AIA patent fee setting in 2013. The overriding principles behind this strategy are to operate within a sustainable funding model to avoid disruptions caused by fluctuations in available financial resources, and to continue strategic

improvements, such as progress on patent quality initiatives, continued reduction of the patent application backlog and pendency, continued delivery of high quality and timely PTAB decisions, and continued investment in modernization of IT systems and infrastructure.

In addition to the overriding principles outlined above, the Office also assesses alignment with the four key fee setting policy factors: Foster innovation, align fees with the full cost of products and services, set fees to facilitate the effective administration of the patent and trademark systems, and offer application processing options for applicants. Each factor promotes a particular aspect of the U.S. patent system. Fostering innovation is an important policy factor to ensure that applicants can access the U.S. patent system without significant barriers to entry, and innovation is incentivized by granting inventors certain short-term exclusive rights to stimulate additional inventive activity. Aligning fees with the full cost of products and services recognizes that as a fully fee-funded entity, the Office must account for all of its costs even as it elects to set some fees below, at, or above cost. This factor also recognizes that some applicants may use particular services in a much more costly manner than other applicants (*e.g.,* patent applications cost more to process when more claims are filed). Facilitating effective administration of the patent system is important to influence efficient patent prosecution, resulting in compact prosecution and reduction in the time it takes to obtain a patent. Finally, the Office recognizes that patent prosecution is not a one-size-fits-all process and therefore, where feasible, the Office endeavors to fulfill its fourth policy factor of offering patent processing options to applicants.

B. Fee Setting Considerations

The balance of this sub-section presents the specific fee setting considerations the Office reviewed in developing the final patent fee schedule. Specific considerations are: (1) Historical costs of patent operations and investments to date in meeting the Office's strategic goals; (2) projected costs to meet the Office's operational needs and strategic goals; and (3) sustainable funding. Additionally, the Office carefully considered the comments, advice, and recommendations offered by the public and PPAC during the public comment period for the NPRM. Collectively, these considerations informed the Office's chosen rulemaking strategy.

(1) *Historical Cost.* To ascertain how to best align fees with the full cost of products and services, the Office considers Activity Based Information. Using historical cost data and forecasted application demands, the Office can align fees to the costs of specific patent products and services. The document entitled *USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—Activity Based Information and Patent Fee Unit Expense Methodology,* available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting,* provides detail on the Office's costing methodology in addition to historical cost data. Part IV of this rulemaking details the Office's methodology for establishing fees. Finally, Part V describes the reasoning for setting some fees at cost, below cost, or above cost such that the Office recovers the aggregate cost of providing services through fees.

The Office has made significant progress towards its strategic priorities for patent quality, backlog, pendency, and IT system modernization for several years now. For more information about the Office's performance record and progress towards its strategic goals, *see* the *FY 2016 Performance and Accountability Report,* available at *http://www.uspto.gov/sites/default/files/documents/USPTOFY16PAR.pdf.*

(2) *Projected Costs.* The costs projected to meet the Office's strategic goals can be found in the FY 2018 President's Budget, which provides additional detail about the following performance and modernization efforts, among others: (a) Quality, backlog, and pendency for Patents and PTAB and (b) investing in modernizing the USPTO IT systems and infrastructure.

(a) Quality, Backlog, and Pendency. The Office developed the strategic goal of optimizing patent quality and timeliness in response to feedback from the intellectual property community and in recognition that a sound, efficient, and effective intellectual property system is essential for technological innovation and for patent holders to reap the benefits of patent protection. In addition to timeliness of patent protection, the quality of application review is critical to the value of an issued patent. Issuance of quality patents provides certainty in the market and allows businesses and innovators to make informed and timely decisions on product and service development. Under this final rule, the Office will continue to improve patent quality through ongoing efforts related to the three quality pillars: (1) Excellence in work products; (2) excellence in measuring patent quality; and (3) excellence in customer service.

In addition to quality, the USPTO continues to focus on backlog and pendency reduction. First action and average total pendency in FY 2016 were 16.2 months and 25.3 months respectively compared to 21.9 months and 32.4 months in FY 2012. The patent application backlog was reduced from 608,283 in FY 2012 to 537,655 at the end of FY 2016. This rulemaking aims to produce revenues adequate to continue the USPTO's progress towards attaining its strategic goals for patent backlog and pendency.

Similarly, the PTAB manages pendency and inventory for appeals. In the past few years, the Office has made great strides in reducing the backlog and pendency for *ex parte* appeals. Appeal inventory reached over 27,000 (in 2012) and by the end of FY 2016 was about 17,000. As of the end of fiscal year 2016, the average pendency for decided *ex parte* appeals was 25.5 months (as measured from appeal number assignment to decision date). The Office aspires to reach an appeals pendency goal of 12 months by the end of FY 2018 and to further reduce the existing inventory. This rulemaking will help the PTAB to maintain the appropriate level of judicial, legal, and administrative staff needed to provide high quality and timely decisions for reexamination appeals; and *ex parte* appeals.

(b) Information Technology. Revenue generated from the final fee structure will enable the USPTO to continue investing in modernizing the USPTO IT systems and infrastructure. Some current systems remain obsolete and difficult to maintain, leaving the USPTO vulnerable to potential disruptions in patent operations. However, the Office's efforts on PE2E, the large-scale patent IT improvement and modernization program, have already delivered value to examiners and customers alike. To date, the Docket & Application Viewer (DAV), a case management tool for examiners, was first released in March 2015. By the end of FY 2016, 100 percent of patent examiners were using DAV. The eDAN legacy system was retired in December 2016, as its full functionality was replaced by DAV. Other PE2E releases include pilots for Official Correspondence (replaces Office Action Correspondence System (OACS)), an authoring and workflow solution that offers DAV integration, and Examiner Search (replaces Examiner's Automated Search Tool (EAST)), which supports modern, scalable enterprise searches; both represent significant advances in how

the Office manages workload and delivers results to customers. PE2E relies on flexible, scalable, modern technology that is optimized to eliminate repetitive tasks and support analytics and automated processing. In April 2016, the USPTO released Financial Manager, its new online fee payment management tool. Financial Manager allows USPTO customers to store and manage payment methods online and generate custom transaction reports at any time. Modern IT tools benefit both USPTO employees and stakeholders by facilitating the effective administration of the patent system through effective application processing, better examination quality, and the ability to provide greater services via a nationwide workforce.

(3) *Sustainable Funding.* A major component of sustainable funding is the creation and maintenance of a viable patent operating reserve that allows for effective management of the U.S. patent system and responsiveness to changes in the economy, unanticipated production workload, and revenue changes. As a fee-funded agency, spending levels and revenue streams create volatility in patent operations and threaten the Office's ability to meet its designated performance levels (*e.g.,* quality, backlog, and pendency for Patents and PTAB).

The USPTO's annual budget delineates prospective spending levels (aggregate cost) to execute core mission activities and strategic initiatives. In the FY 2018 President's Budget, the USPTO estimated that its aggregate patent operating cost for FY 2017, including administrative costs, would be $2.986 billion. After evaluating relevant risk factors, the Office determined that a minimum balance of $300 million in the operating reserve was adequate for FY 2017 and FY 2018, which is below the optimal balance of three months operating expenses, or about $746 million in FY 2017. Based on the latest estimates as shown in the FY 2018 President's Budget, the spending requirement would exceed projected fee collections and other income of $2.876 billion and draw $110 million from the patent operating reserve, leaving a $245 million balance in the patent operating reserve, or $55 million less than the desired minimum of $300 million. This is partially due to the fact that these fee adjustments will only be in place for the last month of FY 2017. In FY 2018, when the fee adjustments will be fully implemented, the operating reserve is projected to rise above the desired minimum, with an end-of-year balance of $343 million. In FY 2019, budgetary requirements are projected to exceed income, taking the operating reserve down to $341 million. Then the operating reserve is projected to continue growing, to $418 million at the end of FY 2020 and $501 million at the end of FY 2021. This exceeds the desired minimum, but falls short of the optimal level of $841 million in FY 2021. The operating reserve is not projected to reach its optimal level within the next five years.

Fee setting authority allows the Office to align the fee schedule with the four fee setting policy factors discussed earlier in this document (*i.e.,* foster innovation, align fees to full cost, set fees to facilitate the effective administration of the patent and trademark system, and offer application processing options). This rule assumes that the USPTO will retain the important business tool of fee setting authority to respond to environmental and operational factors in the out-years. The USPTO will continue to assess the patent operating reserve balance against its target balance annually, and at least every two years, the Office will evaluate whether the target balance continues to be sufficient to provide the funding stability needed by the Office. Per the Office's operating reserve policy, if the operating reserve balance is projected to exceed the optimal level by 10 percent for two consecutive years, the Office will consider fee reductions. The ability to implement such fee adjustments is based on the assumption that the USPTO's fee setting authority under the AIA will be renewed or made permanent after it expires in 2018. Under the new fee structure, as in the past, the Office will continue to regularly review its operating budgets and long-range plans to ensure the USPTO uses patent fees prudently.

C. Summary of Rationale and Purpose of the Final Rule

The Office estimates that the final patent fee schedule will produce aggregate revenue to recover the aggregate cost of the USPTO, including for the implementation of its strategic and management goals, objectives, and initiatives in FY 2017 and beyond.

Using the strategic goals (optimizing patent quality and timeliness and providing domestic and global leadership to improve intellectual property policy, protection, and enforcement worldwide) and the management goal of organizational excellence as a foundation, the final rule should provide sufficient aggregate revenue to recover the aggregate cost of patent operations, including improving patent quality, reducing the patent application backlog, decreasing patent application pendency, delivering high quality and timely PTAB decisions, investing in modernizing the patent business IT capability and infrastructure, and implementing a sustainable funding model.

IV. Fee Setting Methodology

The Office carried out three primary steps in developing the final fee schedule:

Step 1: Determine the prospective aggregate cost of patent operations over the five-year period, including the cost of implementing new initiatives to achieve strategic goals and objectives.

Step 2: Calculate the prospective revenue streams derived from the individual fee amounts (from Step 3) that will collectively recover the prospective aggregate cost over the five-year period.

Step 3: Set or adjust individual fee amounts to collectively (through executing Step 2) recover projected aggregate cost over the five-year period, while furthering key policy factors.

These three steps are iterative and interrelated. The following is a description of how the USPTO carries out these three steps.

Step 1: Determine Prospective Aggregate Cost

Calculating prospective aggregate cost is accomplished primarily through the annual USPTO budget formulation process. The Budget is a five-year plan (that the Office prepares annually) for carrying out base programs and new initiatives to implement the strategic goals and objectives.

The first activity performed to determine prospective aggregate cost is to project the level of demand for patent products and services. Demand for products and services depend on many factors, including domestic and global economic activity. The USPTO also takes into account overseas patenting activities, policies and legislation, and known process efficiencies. Because filing, search, and examination costs are the largest share of the total patent operating cost, a primary production workload driver is the number of patent application filings (*i.e.,* incoming work to the Office). The Office looks at indicators such as the expected growth in Real Gross Domestic Product (RGDP), the leading indicator to incoming patent applications, to estimate prospective workload. RGDP is reported by the Bureau of Economic Analysis (*www.bea.gov*) and is forecasted each February by the OMB (*www.omb.gov*) in the Economic and Budget Analyses section of the Analytical Perspectives and each January by the Congressional

Budget Office (CBO) (*www.cbo.gov*) in the Budget and Economic Outlook. A description of the Office's methodology for using RGDP can be found in Appendix I—Multi-year Planning by Business Line and Cost Containment of the FY 2018 President's Budget (Congressional Justification). The expected change in the required production workload must then be compared to the current examination production capacity to determine any required staffing and operating cost (*e.g.,* salaries, workload processing contracts, and publication) adjustments. The Office uses a patent pendency model that estimates patent production output based on actual historical data and input assumptions, such as incoming patent applications and overtime hours. An overview of the model, including a description of inputs, outputs, key data relationships, and a simulation tool is available at *http://www.uspto.gov/patents/stats/patent_pend_model.jsp.*

The second activity is to calculate the aggregate cost to execute the requirements. In developing its Budget, the Office first looks at the cost of status quo operations (the base requirements). The base requirements are adjusted for anticipated pay raises and inflationary increases for the budget year and four out years (detailed calculations and assumptions for this adjustment can be found in the FY 2018 President's Budget). The Office then estimates the prospective cost for expected changes in production workload and new initiatives over the same period of time (refer to ''Program Changes by Sub-Program'' sections of the Budget). The Office reduces cost estimates for completed initiatives and known cost savings expected over the same five-year horizon. Finally, the Office estimates its three-month target operating reserve level based on this aggregate cost calculation for the year to determine if operating reserve adjustments are necessary.

The FY 2018 President's Budget identifies that, during FY 2017, patent operations will cost $2.986 billion, including $2.002 billion for patent examination activities; $180 million for IT systems and support contributing to direct patent operations; $87 million for activities related to patent appeals and AIA trial proceedings; $27 million for activities related to intellectual property protection, policy, and enforcement; and $688 million for general support costs necessary for patent operations (*e.g.,* rent, utilities, legal, financial, human resources, other administrative services, and Office-wide IT infrastructure and IT support costs). In addition, the Office transfers $2 million to the DOC Inspector General to conduct audits of USPTO programs. The Office also estimates collecting $24 million in other income associated with recoveries and reimbursable agreements (offsets to spending). Since operations costs are projected to exceed collections, the Office estimates that $110 million will be withdrawn from the operating reserve during FY 2017.

Table 2 below provides key underlying production workload projections and assumptions from the Budget used to calculate aggregate cost. Table 3 presents the total budgetary requirements (prospective aggregate cost) for FY 2017 through FY 2021 and the estimated collections and operating reserve balances that would result from the adjustments contained in this final rule.

TABLE 2—PATENT PRODUCTION WORKLOAD PROJECTIONS—FY 2017–FY 2021

Utility, plant, and reissue (UPR)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Applications *	614,253	627,274	634,934	639,878	636,580
Growth Rate	0.7%	2.1%	1.2%	0.8%	−0.5%
Production Units	647,700	663,200	667,700	660,700	626,100
Unexamined Patent Application Backlog	485,300	430,000	378,200	338,200	329,600
Examination Capacity **	8,375	8,300	8,097	7,812	7,540
Performance Measures (UPR):					
Avg. First Action Pendency (Months)	14.8	15.1	11.0	10.7	9.9
Avg. Total Pendency (Months)	24.8	23.0	22.7	19.5	19.0

* In this table, the patent application filing data includes requests for continued examination (RCEs).
** In this table, Examination Capacity is the UPR Examiners On-Board at End-of-Year, as described in the FY 2018 President's Budget.

The USPTO continuously updates both patent fee collections projections and workload projections based on the latest data. Patent production workload projections have been updated since the NPRM was published in October 2016. The most recent projections are shown in Table 2. UPR filings growth projections were revised downward during the FY 2018 budget formulation process due to revised RGDP estimates and more conservative estimates of out year growth.

Over the five year planning horizon budgetary requirements increased compared to the prior NPRM outlook projections. The primary drivers of the requirements variance are investments to modernize IT systems and infrastructure and updated assumptions about the resources necessary to meet production commitments in the Patent Pendency Model and PTAB models. The FY 2018 Budget is based on a framework of continuous and comprehensive budget reviews designed to ensure that all operational and administrative costs are reviewed and funds are reallocated when necessary to focus on high-priority and effective programs—primarily core mission activities—and mitigate risk by retaining minimum operating reserve balances. In addition, the USPTO operates similarly to a business in that the Office makes a determined effort to monitor and adjust spending in response to changes in workload, income, and operating reserve balances. These activities are carried out as regular parts of the budget execution and budget formulation processes.

TABLE 3—PLANNED OPERATING REQUIREMENTS—FY 2017–FY 2021

Patent aggregate cost estimate	Dollars in millions				
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Patent Planned Operating Requirements	2,986	3,176	3,231	3,273	3,365
Less: Planned Patent Fee Collections	2,852	3,250	3,205	3,326	3,423
Less: Other Income	24	24	24	24	24
To (−)/From (+) Operating Reserve	−110	98	−2	77	82
EOY Operating Reserve Balance	245	343	341	418	501

Step 2: Calculate Prospective Aggregate Revenue

As described in ''*Step 1,*'' the USPTO's FY 2017 requirements in the FY 2018 President's Budget include the aggregate prospective cost of planned production, anticipated new initiatives, and a contribution to the patent operating reserve required for the Office to realize its strategic goals and objectives for the next five years. The aggregate prospective cost becomes the target aggregate revenue level that the new fee schedule must generate in a given year and over the five-year planning horizon.

To calculate the aggregate revenue estimates, the Office first analyzes relevant factors and indicators to calculate or determine prospective fee workload (*e.g.,* number of applications and requests for services and products), growth, and resulting fee workload volumes (quantities) for the five-year planning horizon. Economic activity is an important consideration when developing workload and revenue forecasts for the USPTO's products and services because economic conditions affect patenting activity, as most recently exhibited in the recession of 2009 when incoming workloads and renewal rates declined.

The Office considers economic activity when developing fee workloads and aggregate revenue forecasts for its products and services. Major economic indicators include the overall condition of the U.S. and global economies, spending on research and development activities, and investments that lead to the commercialization of new products and services. The most relevant economic indicator that the Office uses is the RGDP, which is the broadest measure of economic activity and is anticipated to grow approximately two percent for FY 2017 based on OMB and CBO estimates.

These indicators correlate with patent application filings, which are a key driver of patent fees. Economic indicators also provide insight into market conditions and the management of intellectual property portfolios, which influence application processing requests and post-issuance decisions to maintain patent protection. When developing fee workload forecasts, the Office considers other influential factors, including overseas activity, policies and legislation, court decisions, process efficiencies, and anticipated applicant behavior.

Anticipated applicant behavior in response to fee changes is measured using an economic principle known as elasticity, which for the purpose of this action measures how sensitive applicants and patentees are to changes in fee amounts. The higher the elasticity measure (in absolute value), the greater the applicant response to the relevant fee change. If elasticity is low enough (*i.e.,* demand is *inelastic* or the elasticity measure is less than one in absolute value), a fees increase will lead to only a relatively small decrease in patent activities, and overall revenues will still increase. Conversely, if elasticity is high enough (*i.e.,* demand is *elastic* or the elasticity measure is greater than one in absolute value), a fee increase will lead to a large enough decrease in patenting activities that overall revenues will decrease. When developing fee forecasts, the Office accounts for how applicant behavior will change at different fee amounts for the various patent services. Additional detail about the Office's elasticity estimates is available in ''*USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—Description of Elasticity Estimates,*'' available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

Aggregate Revenue Estimate Ranges

When estimating aggregate revenue, the USPTO prepares a high and a low range of fee collection estimates. This range accounts for the inherent uncertainty, sensitivity, and volatility of predicting fluctuations in the economy and market environment; interpreting policy and process efficiencies; and developing fee workload and fee collection estimates from assumptions. The Office estimates a range for all its major workload categories including application filings, extensions of time, PTAB fees, maintenance fees, PCT filings, and trademark filings. Additional detail about how the Office calculates aggregate revenue is discussed in the document entitled, ''Setting and Adjusting Patent Fees during FY 2017—Aggregate Revenue Estimating Methodology.'' Details about projected workloads for each of the fee setting alternatives considered are available in the aggregate revenue tables for each alternative. All of these documents are available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

Summary

Patent fees are collected for patent-related services and products at different points in time within the patent application examination process and over the life of the pending patent application and granted patent. Approximately half of all patent fee collections are from issue and maintenance fees, which subsidize the cost of filing, search, and examination activities. Changes in application filing levels immediately impact current year fee collections, because fewer patent application filings means the Office collects fewer fees to devote to production-related costs, such as additional examining staff and overtime. The resulting reduction in production activities creates an out year revenue impact because less production output in one year results in fewer issue and maintenance fee payments in future years.

The USPTO's five-year estimated aggregate patent fee revenue (*see* Table 3) is based on the number of patent applications it expects to receive for a given fiscal year, work it expects to process in a given fiscal year (an indicator for workload of patent issue fees), expected examination and process requests for the fiscal year, and the expected number of post-issuance decisions to maintain patent protection over that same fiscal year. Within the iterative process for estimating aggregate revenue, the Office adjusts individual fees up or down based on cost and policy decisions (*see* Step 3: Set

Specific Fee Amounts), estimates the effective dates of new fee rates, and then multiplies the resulting fees by appropriate workload volumes to calculate a revenue estimate for each fee. To calculate the aggregate revenue, the Office assumes that all fee rates will become effective on September 1, 2017. Using these figures, the USPTO sums the individual fee revenue estimates, and the result is a total aggregate revenue estimate for a given year (*see* Table 3).

Step 3: Set Specific Fee Amounts

Once the Office finalizes the annual requirements and aggregate prospective cost for a given year during the budget formulation process, the Office sets specific fee amounts that, together, will derive the aggregate revenue required to recover the estimated aggregate prospective cost during that time frame. Calculating individual fees is an iterative process that encompasses many variables. One variable that the USPTO considers to inform fee setting is the historical cost estimates associated with individual fees. The Office's Activity-Based Information (ABI) provides historical cost for an organization's activities and outputs by individual fee using the activity-based costing (ABC) methodology. ABC is commonly used for fee setting throughout the Federal government. Additional information about the methodology, including the cost components related to respective fees, is available in the document entitled ''*USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—Activity-Based Information and Patent Fee Unit Expense Methodology*'' available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The USPTO provides data for FY 2013–FY 2015 because the Office finds that reviewing the trend of ABI historical cost information is the most useful way to inform fee setting. The underlying ABI data are available for public inspection at the USPTO.

When the Office implements a new process or service, historical ABI data is typically not available. However, the Office will use the historical cost of a similar process or procedure as a starting point to estimate the full cost of a new activity or service.

V. Individual Fee Rationale

The Office projects that the aggregate revenue generated from the new patent fees will recover the prospective aggregate cost of its patent operations including contributions to the operating reserve per the strategic objective of implementing a sustainable funding model. As detailed previously, the PPAC supports this approach, stating that it ''agrees that the Office should set its fees to establish an adequate revenue stream over a sustained period to fund the people and infrastructure essential for a high quality, low pendency examination process, and to fund its operating reserve.'' It is important to recognize that each individual fee is not necessarily set equal to the estimated cost of performing the activities related to the fee. Instead, as described in Part III. Rulemaking Goals and Strategies, some of the fees are set at, above, and below their unit costs to balance the four key fee setting policy factors *discussed in Part III.*

For some fees in this final rule, the USPTO does not maintain individual historical cost data for the service provided, such as maintenance fees. Instead, the Office evaluates the policy factors described in Part III to inform fee setting. By setting fees at particular levels, the USPTO aims to: (1) Foster an environment where examiners can provide and applicants can receive prompt, quality interim and final decisions; (2) encourage the prompt conclusion of prosecuting an application, resulting in pendency reduction and the faster dissemination of patented information; and (3) help recover costs for activities that strain the patent system.

The rationale for the fee changes are grouped into three major categories, discussed below: (A) Fees where large entity amounts stayed the same or did *not* change by greater than plus or minus 10 percent or 20 dollars; (B) fees where large entity amounts changed from the current amount by greater than plus or minus 10 percent and 20 dollars; and (C) fees that are discontinued or replaced. The purpose of the categorization is to identify large fee changes for the reader and provide an individual fee rationale for such changes. The categorization is based on changes in large entity fee amounts because percentage changes for small and micro entity fees that are in place today would be the same as the percentage change for the large entity, and the dollar change would be half or one quarter of the large entity change. Therefore, the only time there will be a small or micro entity fee change that meets the greater than plus or minus 10 percent or 20 dollars criteria without a similar change for the large entity fee will be for those instances when the Office is introducing new small and micro entity fees where there was previously only a large entity fee. These types of changes are discussed separately.

The *Table of Patent Fees* includes the current and final rule fees for large, small, and micro entities as well as unit costs for the last three fiscal years. Part VII. Discussion of Specific Rule contains a complete listing of fees that are set or adjusted in the final rule patent fee schedule.

A. Fees With Changes Less Than Plus or Minus 10 Percent or 20 Dollars

The Office is adjusting slightly (*i.e.,* less than plus or minus 10 percent or 20 dollars) several fees not discussed in sections B or C below. The *Table of Patent Fees* demarcates which fees meet the dollar change and percent change thresholds. Fees are rounded to the nearest five dollars by applying standard arithmetic rules. For fees that have small and micro entity fee reductions, the large entity fee will be rounded to the nearest 20 dollars by applying standard arithmetic rules. The resulting fee amounts will be convenient to patent users and permit the Office to set small and micro entity fees at whole dollar amounts when applying the applicable fee reduction. The slight increase in these fees helps the Office to recover higher costs of performing such services due to increased aggregate cost of doing business. The fee adjustments in this category are listed in the *Table of Patent Fees.*

B. Fees With Changes of Greater Than Plus or Minus 10 Percent and 20 Dollars

For those fees changing by greater than plus or minus 10 percent and 20 dollars, the individual fee rationale discussion is divided into three categories, including: (1) New and significant fees; (2) patent enrollment fees; and (3) fees adjusted and amended to include discounts for small and micro entities. Note: Three fees in this section have fee changes less than 10 percent but are included here because they met this criteria in either the NPRM (*i.e.,* Plant Issue and *Inter Partes* Review Post-Institution Fee—Up to 15 Claims) or preliminary proposed fees (*i.e.,* Request for Continued Examination (RCE)—1st Request).

New and significant fees are further divided into subcategories according to the function of the fees, including: (a) Mega-sequence listing filing; (b) design and plant search, examination, and issue; (c) request for continued examination (RCE); (d) information disclosure statements; (e) certificate of correction; (f) request for *ex parte* reexamination; (g) appeals; (h) AIA trials; (i) PCT—International Stage; and (j) reissue patent maintenance rule.

As discussed above, for purposes of comparing amounts in the individual fee rationale discussion, the Office has included the current fees as the baseline to calculate the dollar change and percent change for new fees.

(1) New and Significant Fees

The following fees fall under the category of new and significant. A discussion of the rationale for each fee follows.

a) *Mega-Sequence Listing Filing*

TABLE 4—MEGA-SEQUENCE LISTING FILING—FEE CHANGES AND UNIT COST

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Submission of sequence listings of 300 MB to 800 MB.	new	$1,000 ($500) [$250]	+$1,000 (+$500) [+$250]	n/a (n/a) [n/a]	n/a
Submission of sequence listings of more than 800 MB.	new	$10,000 ($5,000) [$2,500]	+$10,000 (+$5,000) [+$2,500]	n/a (n/a) [n/a]	n/a

The Office sets two new fees to manage handling of sequence listings of 300 MB or more. Pricing for this fee is divided into two tiers with Tier 1 for file sizes 300 MB to 800 MB and Tier 2 for file sizes greater than 800 MB.

The level of effort associated with the handling of mega-sequence listings is significant, because the Office's systems require extra storage and special handling for files beyond 300 MB. The Office has not yet collected actual cost data for sequence listings with file sizes of 300 MB or greater. However, based on historical data, on average, less than 10 applications per year contained sequence listing files greater than 300 MB. Based on previously filed applications with lengthy sequence listings, the Office determined that some applications disclosed sequence data that met the length thresholds for being included in the sequence listing but that was neither invented by the applicants nor claimed. Mega-sequence listings, in particular, often included sequences that were available in the prior art, were not essential material, and could have been described instead, for example, by name and a publication or accession reference. Further, claims accompanying such applications were frequently directed to the manipulation of sequence data rather than the substance of the sequences themselves. Submission of a mega-sequence listing in these applications would not have been necessary to complete the application if applicants limited the number of sequences that were described in such a way as to be required in a sequence listing. The fee should encourage applicants to draft their specifications such that sequence data that is not essential material is not required to be included in a sequence listing. The fee would also apply to the submission of mega-sequence listings received in national stage applications under 35 U.S.C. 371, including mega-sequence listings received by the Office pursuant to PCT Article 20. A reduced number of mega-sequence listings will benefit the Office and the public by reducing the strain on Office resources, thus facilitating the effective administration of the patent system.

(b) *Design and Plant Search, Examination, and Issue*

TABLE 5—DESIGN SEARCH, EXAMINATION, AND ISSUE AND PLANT SEARCH AND ISSUE FEES—FEE CHANGES

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Design Search Fee	$120 ($60) [$30]	$160 ($80) [$40]	+$40 (+$20) [+$10]	+33% (+33) [+33]	$397
Plant Search Fee	$380 ($190) [$95]	$420 ($210) [$105]	+$40 (+$20) [+$10]	+11 (+11) [+11]	1,773
Design Examination Fee	$460 ($230) [$115]	$600 ($300) [$150]	+$140 (+$70) [+$35]	+30 (+30) [+30]	608
Design Issue Fee	$560 ($280) [$140]	$700 ($350) [$175]	+$140 (+$70 [+$35]	+25 (+25) [+25]	314
Plant Issue Fee	$760 ($380) [$190]	$800 ($400) [$200]	+$40 (+$20) [+$10]	+5 (+5) [+5]	314

In the NPRM, the Office proposed a design issue fee of $800 and a plant issue fee of $1,000. In this final rule, after carefully considering comments from the PPAC and the public, the Office sets the design issue fee to $700 and the plant issue fee to $800, 13 percent and 20 percent less than the fees proposed in the NPRM respectively. Design and plant patents are unlike utility patents in that they do not pay maintenance fees after the patent has been granted. Under the current utility fee structure, entry costs (filing, search, and examination fees) are intentionally

set below the full cost of performing this service as a means to foster innovation. Then, the full cost of examination is recovered through the payment of issue and maintenance fees. Given the lack of maintenance fees and the fact that the majority of design applicants are small and micro entities who are eligible to pay reduced fees, the Office currently does not recover the costs to examine design and plant patent applications solely from design and plant application fees. Instead, these costs are being subsidized by other application types (*e.g.,* utility) and processes. The revised fees better align the fees with costs by bringing both application types closer to aggregate cost recovery while maintaining some subsidization.

(c) *Request for Continued Examination (RCE)—First and Second and Subsequent Request*

TABLE 6—REQUEST FOR CONTINUED EXAMINATION (RCE) FEE CHANGES

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Request for Continued Examination (RCE)—1st Request (*see* 37 CFR 1.114)	$1,200 ($600) [$300]	$1,300 ($650) [$325]	+$100 (+$50) [+$25]	+8 (+8) [+8]	$2,187
Request for Continued Examination (RCE)—2nd and Subsequent Request (*see* 37 CFR 1.114)	$1,700 ($850) [$425]	$1,900 ($950) [$475]	+$200 (+$100) [+$50]	+12 (+12) [+12]	1,540

The moderate increases to RCE fees support the fee setting policy factor to align fees with costs. The increase would more closely align the fee rates with the cost of processing RCEs, as calculated using the most recently available cost data (FY 2015). Specifically, the Office is increasing the first RCE fee rate from $1,200 to $1,300 for large entities, a $100 increase (8 percent). The FY 2015 cost to examine a first RCE was $2,187 with the increase in the first RCE fee rate significantly below FY 2015 unit cost, this service will continue to recover only a portion of the total cost in the future.

The Office is increasing the second and subsequent RCE fee rate from $1,700 to $1,900 for large entities, a $200 increase (12 percent). The FY 2015 cost to examine a second and subsequent RCE was $1,540. When combined, first and second and subsequent RCE fees collected 62.5 percent of the examination costs. In order to approach cost recovery and limit the increase to the first RCE fee rate, the Office sets the second and subsequent RCE fee rate with a slightly larger increase. Had this fee structure been in place in FY 2015, the Office would have recovered 68.6 percent of RCE costs as opposed to the 62.5 percent that was realized. In FY 2015, the Office collected fees for 112,634 first RCEs and for 57,931 second and subsequent RCEs.

While this fee structure will not achieve full cost recovery for RCEs, it will bring collections closer to cost and therefore reduce the subsidy for RCE filings currently provided by other patent fees. In addition to the fee adjustments, the USPTO is committed to focusing on initiatives that will reduce the need for RCEs. Examples of initiatives the Office has already implemented to reduce the need for RCEs include the Quick Path Information Disclosure Statement (QPIDS) pilot program (*http://www.uspto.gov/patent/initiatives/quick-path-information-disclosure-statement-qpids*) and the After Final Consideration Pilot 2.0 (AFCP 2.0) (*http://www.uspto.gov/patent/initiatives/after-final-consideration-pilot-20*). Additionally, the Enhanced Patent Quality Initiative (*http://www.uspto.gov/patent/initiatives/enhanced-patent-quality-initiative-0*) evaluates and strengthens work products, processes, and services at all stages of the patent process.

(d) Information Disclosure Statements (IDS)

TABLE 7—DS—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Submission of an Information Disclosure Statement	$180 ($90) [$45]	$240 ($120) [$60]	+$60 (+$30) [+$15]	+33 (+33) [+33]	n/a

The Office is increasing the submission fee for an Information Disclosure Statement (IDS) from $180 to $240. The adjustment is an effort to set the fee optimally to encourage early submission of an IDS when possible while keeping the fee low enough to encourage timely filings during the time period (and under the conditions) when the fee would be required.

(e) Certificate of Correction Fees

TABLE 8—CERTIFICATE OF CORRECTION FEES—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Certificate of Correction	$100	$150	+$50	+50	$93

The Office is increasing the fee for a certificate of correction by $50 to $150. This adjustment will encourage applicants to submit accurate information initially, while at the same time not increasing the rate too much above unit cost recovery, which could discourage disclosure of needed corrections when an error has been identified. Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the USPTO, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of this fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination.

(f) Request for Ex Parte Reexamination Fees

TABLE 9—REQUEST FOR EX PARTE REEXAMINATION FEES—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Ex Parte Reexamination (§ 1.510(a)) Streamlined	new	$6,000 ($3,000) [$1,500]	+$6,000 (+$3,000) [+$1,500]	n/a	n/a

The Office is establishing a new fee for smaller, streamlined reexamination filings. The streamlined filings will reduce the cost to the USPTO, allowing the Office to pass on the cost savings to applicants. This fee will apply to *ex parte* reexamination requests having: (i) 40 pages or less; (ii) lines that are double-spaced or one-and-a-half spaced; (iii) text written in a non-script type font such as Arial, Times New Roman, or Courier; (iv) a font size no smaller than 12 point; (v) margins which conform to the requirements of 37 CFR 1.52(a)(1)(ii); and (vi) sufficient clarity and contrast to permit direct reproduction and electronic capture by use of digital imaging and optical character recognition. The following parts of an *ex parte* reexamination request are excluded from (i) through (v) above: (a) The copies of every patent or printed publication relied upon in the request pursuant to 37 CFR 1.510(b)(3); (b) the copy of the entire patent for which reexamination is requested pursuant to 37 CFR 1.510(b)(4); and (c) the certifications required pursuant to 37 CFR 1.510(b)(5) and (6). Completed forms such as the Request for *Ex Parte* Reexamination Transmittal Form (PTO/SB/57) or the information disclosure statement form (PTO/SB/08), or their equivalents, will also be excluded from (i) through (v). Claim charts will be considered part of the request and will be included in the page limit. Any paper containing argument directed to the patentability or unpatentability of the claims, such as an affidavit or declaration, will be included in the page limit and subject to the above requirements. If only a portion of the paper contains argument, the entire paper will be included in the page limit. The Office deems conclusions and/or definitions to be argumentative. For example, a request that includes 40 pages of argument and a 41st page that includes conclusions or definitions would be deemed to be a request having greater than 40 pages. A page that consists solely of a signature will not be included in the page limit. The determination of whether a paper contains argument will be within the sole discretion of the Office.

Note that micro entity status is only available to patent owner requesters, not to third party requesters. The change is consistent with the USPTO's fee setting policy factors to align fees to costs, offer additional processing options, and facilitate the effective administration of the patent system, and is also consistent with the requirements of 35 U.S.C. 123.

(g) Appeal Fees

TABLE 10—APPEAL—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Forwarding an Appeal in an Application or *Ex parte* Reexamination Proceeding to the Board.	$2,000 ($1000) [$500]	$2,240 ($1,120) [$560]	+$240 (+$120) [+$60]	+12% (+12%) [+12%]	$4,815

Based on feedback on the NPRM, the Office has eliminated the proposed increase to the notice of appeal fee. The Notice of Appeal fees will remain at current rates (*e.g.,* $800 for a large entity), and the Office has lowered the appeal forwarding fee from the proposed $2,500 (large entity) in the NPRM to $2,240 (large entity). At the current fee rate, the fees paid for an *ex parte* Notice of Appeal and Forwarding an Appeal only cover 58 percent of the

Office's cost for an appeal. The fee increase for Forwarding an Appeal will result in the combined *ex parte* appeal fees covering 63 percent of the Office's cost to conduct an *ex parte* appeal.

In the past few years, the Office has made great strides in reducing the backlog and pendency for *ex parte* appeals. The Office aspires to reach an appeals pendency goal of 12 months by the end of FY 2018 and to further reduce the existing inventory. As mentioned in Part III, the PTAB is working to reduce inventory via two pilot programs, EPAP and the Small Entity Pilot Program. The adjustment would allow the Office to better align fees to costs by reducing the gap between the amount paid by an appellant and the fully burdened cost of reviewing appeals by the Board. The additional revenue supports continued improvements to pendency and inventory via enhanced technology.

(h) AIA Trials

TABLE 11—AIA TRIALS—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Inter Partes Review Request Fee—Up to 20 Claims.	$9,000	$15,500	+$6,500	+72%	$22,165
Inter Partes Review Post-Institution Fee—Up to 15 Claims.	14,000	15,000	+1,000	+7%	12,674
Inter Partes Review Request of Each Claim in Excess of 20.	200	300	+100	+50%	n/a
Inter Partes Post-Institution Request of Each Claim in Excess of 15.	400	600	+200	+50%	n/a
Post-Grant or Covered Business Method Review Request Fee—Up to 20 Claims.	12,000	16,000	+4,000	+33%	16,213
Post-Grant or Covered Business Method Review Post-Institution Fee—Up to 15 Claims.	18,000	22,000	+4,000	+22%	23,060
Post-Grant or Covered Business Method Review Request of Each Claim in Excess of 20.	250	375	+125	+50%	n/a
Post-Grant or Covered Business Method Review Post-Institution Request of Each Claim in Excess of 15.	550	825	+275	+50%	n/a

The AIA established two new trial proceedings: *inter partes* review and post-grant review. *Inter partes* review is a trial proceeding created by the AIA that allows the Office to review the patentability of one or more claims in a patent only on a ground that could be raised under 35 U.S.C. 102 or 103, and only on the basis of prior art consisting of patents or printed publications. The *inter partes* review process begins with a third party filing a petition. An *inter partes* review may be instituted upon a showing that there is a reasonable likelihood that the petitioner would prevail with respect to at least one claim challenged. If the proceeding is instituted and not dismissed, a final determination by the Board will be issued within one year (extendable for good cause by six months). The Office is adjusting all four separate fees for *inter partes* review, which are due upon the filing of a petition. The USPTO will refund the post-institution fee if the *inter partes* review proceeding is not instituted by the PTAB.

Post-grant review is a trial proceeding created by the AIA that allows the Office to review the patentability of one or more claims in a patent on any ground that could be raised under 35 U.S.C. 282(b)(2) and (b)(3) in effect on September 16, 2012. The post-grant review process begins when a third party files a petition within nine months of the grant of the patent. A post-grant review may be instituted upon a showing that it is more likely than not that at least one challenged claim is unpatentable or that the petition raises an unsettled legal question that is important to other patents or patent applications. If the trial is instituted and not dismissed, the Board will issue a final determination within one year of institution. This period can be extended for good cause for up to six months from the date of one year after instituting the review.

In FY 2016, the PTAB received nearly 1,700 AIA trial filings and the Office expects that number to grow in the coming fiscal years. In order to keep up with demand and continue to provide high quality decisions within the statutory time limits, the Office needs to close the gap between the cost and the fees for performing these services. When the fees for these services were initially set, the Office had to estimate what the costs would be without the benefit of historical cost information. Now that the trials have been in place for three fiscal years, the Office has actual historical cost data available to more accurately set these fees and recover costs. In this final rule, the Office is setting the *Inter Partes* Review Request Fee—Up to 20 Claims at $15,500 and the *Inter Partes* Review Post-Institution Fee—Up to 15 Claims at $15,000. The total for the *inter partes* review (request and post-institution) fees is $30,500. These individual fee rates have changed from the rates proposed in the NPRM, although the total remains the same. The fee rates proposed in the NPRM were $14,000 for the *Inter Partes* Review Request Fee—Up to 20 Claims and $16,500 for the *Inter Partes* Review Post-Institution Fee—Up to 15 Claims. The Office is revising the fee levels to more closely align fees and costs to the Office for performing these services. Unit costs for *inter partes* review requests have consistently outpaced the unit costs for *inter partes* review post-institutions. *See* the *Table of Patent Fees.*

(i) Patent Cooperation Treaty (PCT)—International Stage

TABLE 12—PATENT COOPERATION TREATY (PCT)—INTERNATIONAL STAGE—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	Large (Small) [Micro] Entity	
Late Furnishing Fee for Providing a Sequence Listing in Response to an Invitation Under PCT Rule 13*ter*.	new	$300 ($150) [$75]	+$300 (+$150) [+$75]	n/a	n/a

The Office sets a new fee to encourage timely filing of sequence listings in international applications as another way to facilitate the effective administration of the patent system. When an applicant does not provide a sequence listing in searchable format with the international application or provides a defective sequence listing, the United States, acting as International Searching Authority (ISA/US) or as International Preliminary Examining Authority (IPEA/US), must issue an invitation to the applicant to provide the missing or corrected sequence listing. This additional process creates a delay in the issuance of the International Search Report (ISR) or International Preliminary Report on Patentability (Chapter II). The most recent data shows that the ISA/US issues ISRs within 16 months of the priority date for 75 percent of all international applications searched by the ISA/US. However, when the ISA/US issues an invitation to provide a sequence listing, the ISA/US issues ISRs within 16 months in only 28 percent of those international applications. The time limit for issuance of the ISR under PCT Rule 42 in most circumstances is 16 months from the priority date. This new fee will help compensate the Office for the extra work associated with issuing the invitation and handling the response, while better positioning the Office to meet applicable treaty timeframes. The fee is similar in size and scope to fees charged by other international intellectual property offices.

(j) Maintenance Fee Payments—Reissue Patent Rule

For each issued patent, the Office may grant one or more reissue patents. However, current practice dictates that only one maintenance fee is required for all of the possible reissue patents granted from a single patent. This change of practice would require payment of maintenance fees for each reissue patent, instead of a single maintenance fee payment for the group of reissue patents. The large majority of reissue patents are granted after the first stage maintenance fee payment has already been paid on the initial patent. Over the last six years, approximately 150 reissue patents per year would have been subject to additional fees due to this rule change. This is a significantly higher level than the Office experienced prior to FY 2010. For example, between FY 2003 and FY 2009, the average was 27 per year. The Office expects this change in practice to encourage patent owners to prioritize which reissue patents they want to maintain. If an owner wishes to maintain all reissue patents in force, he or she may do so by paying the appropriate maintenance fees. For reissue patents that are not maintained, subject matter previously covered by the patent would become available in the public domain to improve upon and further foster innovation.

(2) Office of Enrollment and Discipline Fees and Patent Practitioner Enrollment Fees

The following fee adjustments are comprised of Office of Enrollment and Discipline (OED) fees and other patent practitioner enrollment fees. In addition to the fee rate changes, there are four new fees introduced in this section. The purpose of amending the fees in this section is to better align fees with actual costs. During the previous patent fee setting effort, historical cost information for these activities was not available. Since then, the Office has developed cost information to more appropriately make these fee adjustments. No enrollment or disciplinary fees have been increased since 2008, and only two fees were adjusted that year. All other enrollment and discipline fees were last changed much earlier, specifically, between 1991 and 2004. In fact, one OED fee has been unchanged since 1982. As time passes, the difference between the fee charged by the Office and the cost to the Office to perform the service increases, resulting in greater subsidies by other patent fees. The increases to these fees will help to close the gap between the fee charged and the cost to perform the service. A discussion of the rationale for each fee change follows.

TABLE 13—OED AND PATENT PRACTITIONER ENROLLMENT—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Application Fee (Non-Refundable)	$40	$100	+$60	+150%	$225
On Registration to Practice Under § 11.6	100	200	+$100	+100%	493
Certificate of Good Standing as an Attorney or Agent, Standard	10	40	+$30	+300%	39
Certificate of Good Standing as an Attorney or Agent, Suitable for Framing	20	50	+$30	+150%	49
Review of Decision by the Director of Enrollment and Discipline Under § 11.2(c)	130	400	+$270	+208%	2,044
Review of Decision of the Director of Enrollment and Discipline Under § 11.2(d)	130	400	+$270	+208%	1,827
Administrative Reinstatement Fee	100	200	+$100	+100%	940

TABLE 13—OED AND PATENT PRACTITIONER ENROLLMENT—FEE CHANGES AND UNIT COSTS—Continued

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
On Grant of Limited Recognition Under § 11.9(b)	new	$200	+$200	n/a	n/a
For USPTO-Assisted Recovery of ID or Reset of Password for the Office of Enrollment and Discipline Information System	new	70	+$70	n/a	n/a
For USPTO-Assisted Change of Address Within the Office of Enrollment and Discipline Information System	new	70	+$70	n/a	n/a
For USPTO-Administered Review of Registration Examination	new	450	+$450	n/a	515

The Office increases the application fee for admission to the examination for registration to practice from $40 to $100, about half of the historical cost of this service.

The fee for registration to practice or for a grant of limited recognition under § 11.9(b) or (c) is currently set at $100, and both transactions have the same fee code. This rule creates a new fee code for On Grant of Limited Recognition, allowing for a separate accounting of registration to practice or for a grant of limited recognition. Both Registration to Practice and Grant of Limited Recognition are increasing to $200, which is still below the estimated cost of performing these services. The Office is eliminating the reference to § 11.9(c) in the current provision. The Office does not presently impose a fee for an unregistered individual to prosecute an international patent application in the manner described in § 11.9(c). The Office is using the existing fee code for Registration to Practice fees and creating a new fee code for Grant of Limited Registration.

The Office is increasing the fee for the delivery of a certificate of good standing. A practitioner may also request a certificate of good standing as an attorney or agent that has been authentically signed by the Director of OED and crafted for framing. The Office is increasing the fee for both of these services to cost recovery, $40 and $50, respectively.

The Office is increasing the fees for petitions to the OED Director regarding enrollment or recognition. However, the new fees are still significantly below cost recovery. Any petition from any action or requirement of the staff of OED reporting to the OED Director shall be taken to the OED Director accompanied by payment of the $400 fee.

The Office is adjusting the fees for a review of the OED Director's decision regarding enrollment or recognition. A party dissatisfied with a final decision of the OED Director regarding enrollment or recognition may seek review of the decision upon petition to the USPTO Director accompanied by payment of the new $400 fee. This is an increase from the current fee but is still set significantly below cost recovery.

The Office is setting the fee for administrative reinstatement at $200. Reinstatement fees are imposed on practitioners seeking to be reinstated to active status. Raising the fee, while still set far below cost recovery, helps to close the gap between the fee and the cost for performing this service.

The Office is creating a fee for USPTO-assisted reset of user IDs and passwords for an OED Information System—Customer Interface (OEDIS–CI) account set at $70. The enhancement of the OEDIS–CI was implemented in FY 2015. With this enhancement, customers are now able to perform this process on-line as a self-service option free of charge. This fee would only be charged if it was requested that the USPTO perform this task instead of the self-service option.

The Office is creating and setting the fee for USPTO-assisted roster maintenance (change of address) in an OEDIS–CI account at $70. With the OEDIS–CI enhancement, customers are now able to perform this process on-line as a self-service method free of charge. This fee would only be charged if it was requested that the USPTO perform this task instead of the self-service option.

The Office is setting the fee for a registration examination review session at $450. Setting this fee at cost recovery relieves the administrative and cost burden of providing the review sessions. A private commercial entity currently provides this service to the public at a lower cost than the USPTO. The availability of the private-sector option has reduced demand for the USPTO-provided sessions and therefore increased the cost per registrant of USPTO-provided sessions.

The Office is setting the fee for changing a practitioner's registration status from agent to attorney. The Office currently charges $100 for this service. The fee would remain unchanged; however, 37 CFR 1.21(a)(2)(iii) would specifically provide for this fee.

(3) Fees Amended To Include Discounts for Small and Micro Entities

Within this section, where new micro entity fees are set, it is expected that an applicant or patent holder would have paid the current small entity fee (or large entity in the event there is not a small entity fee) and dollar and percent changes are calculated from the current small entity fee amount (or large entity fee, where applicable). The following table lists fees where new small and/or micro entity fees are provided. Providing these fee reductions for small and micro entity innovators continues the Office's efforts to foster innovation across all patent system users.

TABLE 14—AMENDED FEES TO INCLUDE DISCOUNTS FOR SMALL AND MICRO ENTITIES—FEE CHANGES AND UNIT COSTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force	$1,700 ($850) [$850]	$2,000 ($1,000) [$500]	+$300 (+$150) [−$350]	+18 (+18) [−41]	$121
Petition for Revival of an Abandoned Application for a Patent, for the Delayed Payment of the Fee for Issuing Each Patent, or for the Delayed Response by the Patent Owner in any Reexamination Proceeding	$1,700 ($850) [$850]	$2,000 ($1,000) [$500]	+$300 (+$150) [−$350]	+18 (+18) [−41]	244
Petition for the Delayed Submission of a Priority or Benefit Claim	$1,700 ($850) [$850]	$2,000 ($1,000) [$500]	+$300 (+$150) [−$350]	+18 (+18) [−41]	244
Petition to Excuse Applicant's Failure to Act Within Prescribed Time Limits in an International Design Application	$1,700 ($850) [$850]	$2,000 ($1,000) [$500]	+$300 (+$150) [−$350]	+18 (+18) [−41]	n/a
Petition to Convert an International Design Application to a Design Application Under 35 U.S.C. Chapter 16	$180 ($180) [$180]	$180 ($90) [$45]	$0 (−$90) [−$135]	0 (−50) [−75]	n/a
Hague International Design Application Fees—Transmittal Fee	$120 ($120) [$120]	$120 ($60) [$30]	$0 (−$60) [−$90]	0 −50 −75	n/a

C. Discontinued or Replaced Fees

This section describes fees that are being discontinued and replaced with new fees. The purpose of this action is to simplify the fee schedule, more clearly inform customers of costs upfront, and align with the Office's new financial software for which fixed fee rates, not variable (*e.g.,* at cost) are preferred. This section also includes fees that are being discontinued because of disuse. The Office does not capture historical cost information for these discontinued or new fees.

(a) Discontinued and Replaced

TABLE 15—DISCONTINUED FEES WITH NEW FEE REPLACEMENTS

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Copy of Patent-Related File Wrapper and Contents of 400 or Fewer Pages, if Provided on Paper.	$200	discontinue	−$200	n/a	n/a
Additional Fee for Each Additional 100 Pages of Patent-Related File Wrapper and (Paper) Contents, or Portion Thereof.	$40	discontinue	−$40	n/a	n/a
Copy Patent File Wrapper, Paper Medium, Any Number of Sheets.	new	$280	+$280	n/a	n/a
Copy of Patent-Related File Wrapper and Contents if Provided on a Physical Electronic Medium as Specified in § 1.19(b)(1)(ii).	$55	discontinue	−$55	n/a	n/a
Copy of Patent-Related File Wrapper and Contents if Provided Electronically.	$55	discontinue	−$55	n/a	n/a
Additional Fee for Each Continuing Physical Electronic Medium in Single Order of § 1.19(b)(1)(ii)(B).	$15	discontinue	−$15	n/a	n/a
Copy Patent File Wrapper, Electronic Medium, Any Size or Provided Electronically.	new	$55	+$55	n/a	n/a
Computer Records	at cost	discontinue	at cost	n/a	n/a
Copy of Patent Grant Single-Page TIFF Images (52 week subscription).	new	$10,400	+$10,400	n/a	n/a

TABLE 15—DISCONTINUED FEES WITH NEW FEE REPLACEMENTS—Continued

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Copy of Patent Grant Full-Text W/Embedded Images, Patent Application Publication Single-Page TIFF Images, or Patent Application Publication Full-Text W/Embedded Images (52 week subscription).	new	$5,200	+$5,200	n/a	n/a
Copy of PTMT Patent Bibliographic Extract and Other DVD (Optical Disc) Products.	new	$50	+$50	n/a	n/a
Copy of U.S. Patent Custom Data Extracts	new	$100	+$100	n/a	n/a
Copy of Selected Technology Reports, Miscellaneous Technology Areas.	new	$30	+$30	n/a	n/a
Labor Charges for Services, per Hour or Fraction Thereof.	$40	discontinue	−$40	n/a	n/a
Additional Fee for Overnight Delivery	new	$40	+$40	n/a	n/a
Additional Fee for Expedited Service	new	$160	+$160	n/a	n/a

There are currently pairs of fees for copying patent-related file wrappers: a base fee and an excess fee. For both paper copies and electronic copies, these pairs are replaced with a single fee irrespective of size. A single fee allows customers to more easily budget and plan expenses for this service.

The catch-all fee of ''Computer Records'' currently priced ''at cost'' is being replaced by five fees that encompass the work currently performed using this code: Copy of Patent Grant Single-Page TIFF Images (52 week subscription); Copy of Patent Grant Full-Text W/Embedded Images, Patent Application Publication Single-Page TIFF Images, or Patent Application Publication Full-Text W/Embedded Images (52 week subscription); Copy of Patent Technology Monitoring Team (PTMT) Patent Bibliographic Extract and Other DVD (Optical Disc); Copy of U.S. Patent Custom Data Extracts; and Copy of Selected Technology Reports, Miscellaneous Technology Areas. Explicitly stating the service and fee at the start provides customers clearer information to aid decision making.

These specific fees recover the USPTO's costs for processing, validating, packaging, and shipping of these products to customers worldwide. For the copy of Patent Grant Single-Page TIFF Images, when a customer orders this service, the customer is sent expedited weekly packages (one for each Tuesday in the Calendar Year) via United Parcel Service. Each package contains at a minimum one Blu-ray and one DVD optical disc. For the other three services listed for $5,200, the expedited weekly packages (one for each Tuesday or Thursday in the Calendar Year) typically contain either a single Blu-ray or DVD optical disc. As an alternative to requesting and paying for these services, the USPTO has provided customers the ability to download this information at no cost since June 2010. This information is currently provided in the two locations referenced earlier, BDSS and PDD since October 2015 and June 2013 respectively.

Similar to the single fee for copying Patent-Related File Wrappers, the ''Labor Charge'' per hour with its variable charges is replaced with a single fee for ''Expedited Service.'' Following the same theme, shorter than standard shipping is currently billed under a catch-all code but is now replaced with a set fee for ''Overnight Delivery.''

(b) Discontinued

TABLE 16—DISCONTINUED FEES

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Self-Service Copy Charge, per Page	$0.25	discontinue	−$0.25	n/a	n/a
Establish Deposit Account	$10	discontinue	−$10	n/a	n/a
Uncertified Statement Re: Status of Maintenance Fee Payments.					
$10	discontinue	−$10	n/a	n/a	$10
Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits.	at cost	discontinue	at cost	n/a	n/a
Copy of Patent-Related File Wrapper Contents That Were Submitted and are Stored on Compact Disk or Other Electronic Form (e.g., Compact Disks Stored in Artifact Folder), Other Than as Available in § 1.19(b)(1); First Physical Electronic Medium in a Single Order.	$55	discontinue	−$55	n/a	n/a
Additional Fee for Each Continuing Copy of Patent-Related File Wrapper Contents as Specified in § 1.19(b)(2)(i)(A).	$15	discontinue	−$15	n/a	n/a

TABLE 16—DISCONTINUED FEES—Continued

Fee description	Current fees	Final rule fees	Dollar change	Percent change	FY 2015 unit cost
	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	Large (small) [micro] entity	
Copy of Patent-Related File Wrapper Contents That Were Submitted and are Stored on Compact Disk, or Other Electronic Form, Other Than as Available in § 1.19(b)(1); if Provided Electronically Other Than on a Physical Electronic Medium, per Order.	$55	discontinue	−$55	n/a	n/a

To comply with Presidential Executive Order 13681, Improving the Security of Consumer Financial Transactions, current self-service copiers will be discontinued and the USPTO will enter into a ''No Cost'' contract with a vendor who will keep all payments collected in exchange for providing this service.

The USPTO's new Financial Manager system allows users to create their own deposit accounts so the Office is retiring the ''Establish Deposit Account'' fee. The fee associated with ''Uncertified Statement Re Status of Maintenance Fee Payments'' is discontinued due to lack of use. Customers have had the ability to do this online for more than 10 years. The fee associated with ''Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits'' is also discontinued due to lack of use.

The remaining fees pertaining to Patent-Related File Wrapper copies have never been used since their inception many years ago and therefore are being discontinued.

VI. Discussion of Comments

Comments and Responses

The USPTO published a proposed rule on October 3, 2016 soliciting comments on the proposed fee schedule. In response, the USPTO received comments from five intellectual property organizations, one federal agency, and nineteen individual commenters representing law firms, corporations, or themselves. These comments are posted on the USPTO's Web site at *https://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

General Fee Setting Approach

Comment 1: Two commenters expressed general support for the increases, and another expressed understanding of the fee increases and asked how a change will affect his particular patenting situation.

Response: The USPTO appreciates the endorsement from the commenters, and is committed to achieving the goals developed in consultation with the stakeholder community as set forth in the Strategic Plan.

Comment 2: Three commenters objected to any increase in fees, as they believed such increases placed hardships on individual filers, small-business owners, and federal agencies or, due to the resulting growing operating reserve, makes the USPTO an easy target for fee diversion. A United States Federal agency objects to the proposed fee increases citing a direct and negative impact on its ability to apply for, obtain, and maintain patents on its inventions due to flat annual budgets. In the opinion of the Federal agency, the proposed fee increases will limit its patenting activity thus making it more difficult to attract commercial licensees.

Response: The USPTO appreciates the concern about rising fees, but points out the necessity of adjusting fees to recover the aggregate estimated cost to the Office for processing, activities, services, and materials relating to patents, including administrative costs of the Office with respect to such patent fees. As noted in the NPRM, FY 2018 President's Budget, and the FY 2016 Performance and Accountability Report (PAR) among other publications, the USPTO has made significant progress towards financial sustainability as a result of the initial AIA fee setting effort, including building towards a three-month optimal operating reserve for patents. The Office acutely recognizes that fees cannot simply increase for every improvement the Office deems desirable. Instead, for this rulemaking effort, the Office focused on prioritizing spending and gradually building the operating reserve in order to build resiliency against financial shocks. For small businesses and individual filers, the fees for small and micro entity rates are tiered, with small entities at a 50 percent discount and micro entities at a 75 percent discount. This final rule applies small entity discounts to two additional fees and applies micro entity discounts to six additional fees.

Comment 3: One commenter cites operating reserve level estimates from the FY 2017 President's Budget, as referred to in the NPRM, noting that the operating reserve level is estimated to exceed the optimal level in out years and that overfunding the operating reserve is unfair to applicants and could be a target for fee diversion.

Response: In the intervening months since the FY 2017 President's Budget, the Office's budgetary requirements and fee collection estimates have evolved. The USPTO continuously updates both patent fee collections projections and workload projections based on the latest data. Since the NPRM publication in October 2016 there is a revised understanding of expected incoming fees and projected spending.

Over the five year planning horizon budgetary requirements increased compared to the prior NPRM outlook projections. The primary drivers of the requirements variance are investments to modernize IT systems and infrastructure and updated assumptions about the resources necessary to meet production commitments in the Patent Pendency Model and PTAB model. In addition, UPR filings growth projections were revised downward during the FY 2018 budget formulation process due to revised RGDP estimates and more conservative estimates of out year growth. With the FY 2018 President's Budget, and under the fee rates included in this final rule, the operating reserve level estimates do not reach the optimal level of three months of expenses in the five year budget horizon.

As described in Part III. B. of the final rule, which summarizes the USPTO's operating reserve policy, the USPTO will continue to assess the patent operating reserve balance against its target balance annually, and at least every two years, the Office will evaluate whether the target balance continues to be sufficient to provide the funding stability needed by the Office. A key assumption is that the USPTO will

retain fee setting authority to adjust fee rates in the future as assumptions about the out years might change. For example, if the operating reserve balance is projected to exceed the optimal level by 10 percent for two consecutive years, the Office would consider using fee setting authority to reduce fees, per the operating reserve policy. Under the new fee structure, as in the past, the Office will remain a prudent steward of patent fees.

The USPTO continues to communicate the importance of continued access to all fees collected as a critical component of sustainable funding strategy to the public, lawmakers, and the executive branch. While fee diversion remains a possibility without an explicit law eliminating the possibility, the Office will continue its educational efforts in this area.

The financial outlook presented in this final rule reduces the trajectory of the estimated optimal operating reserve level because of changes in fees made in response to stakeholder feedback and in recognition of a changing outlook for Office operations and finances.

PTAB Fees

The Office received five comments regarding the proposed increases in PTAB fees, including two comments about fees for AIA trial proceedings.

Comment 4: One commenter noted that the work performed by the PTAB in AIA trial proceedings is time consuming, and the commenter supports the increase in fee rates in those proceedings to ensure high quality decisions continue.

Response: The Office appreciates the commenter's general support for fee increases in AIA trial proceedings. The USPTO is committed to maintaining the PTAB's ability to provide timely and high quality decisions. The AIA significantly affected the operations of the PTAB by establishing new types of trial proceedings. The AIA trial proceedings in the PTAB have been immensely popular (over 5,500 AIA trial proceedings filed through FY 2016) because they provide a less expensive and faster alternative to district court litigation. As a result, the PTAB workload has increased significantly. To accommodate the sudden growth in workload, the PTAB expanded its workforce and has continued to enhance its resources to meet the 12-month statutory requirement for completing each AIA trial proceeding. The fee rates in this final rule are the result of considering and analyzing historical data on the aggregate cost for conducting AIA trial proceedings, now that the proceedings have been in place for three fiscal years. The increase in AIA trial proceeding fees will help the PTAB maintain the level of judicial, legal, and administrative staff necessary to sustain the quality and timeliness of PTAB decisions, and close the gap between the costs and the fees associated with AIA trial proceedings.

Comment 5: One commenter sought small and micro entity discounts for AIA trial proceeding fees, and requested expansion of pro bono representation to small entities in AIA trial proceedings.

Response: The authority to reduce fees or to charge additional fees for small and micro entities under the USPTO's rulemaking authority is limited by the AIA to providing discounts to the six categories under Section 10(b) of the Act. AIA trial proceeding fees are outside of the six categories; therefore, absent a change in statutory authority, those fees are not eligible for discounts. The Office further notes that, in many cases, AIA trial proceedings serve as an alternative to more expensive litigation in the district court.

The patent pro bono programs are individually run as regional programs available to assist inventors and small businesses in their state or region. Each program sets the standards for participation, performs the intake function, screens potential clients, screens potential volunteer patent attorneys, and attempts to match the client with the volunteer attorney. These programs may be comprised of bar associations, non-profits, universities, or others. The USPTO, as a federal agency, does not direct the pro bono activities of these programs, but rather, provides resources and expertise to help establish and expand the reach of the programs.

Comment 6: Three commenters opposed the increase to appeal fees. One commenter specifically expressed concern over passing a large portion of the appeal unit costs as increased fee rates borne by an appellant. Thus, the commenter suggested eliminating, or substantially reducing, the notice of appeal fee. Another commenter questioned whether increasing appeal fees would discourage meritorious appeals, noting that, the reversal rate by the PTAB indicates that a large number of appeals are pursued to correct invalid rejections.

Response: The Office appreciates the commenters' concerns and, based on that feedback, has eliminated the proposed increase to the notice of appeal fee and reduced the proposed increase to the appeal forwarding fee. Thus, in this final rule, the Notice of Appeal fees will remain at current rates (*e.g.,* $800 for a large entity), and the Office has lowered the appeal forwarding fee from the proposed $2,500 (large entity) in the NPRM to $2,240 (large entity). The Office believes that those fees strike the appropriate balance between the expressed concerns and the Office's need to recover the costs for conducting an appeal. The Office notes that, even with the increase to the appeals forwarding fee, the true cost of an appeal is subsidized significantly. At the current rate, fees paid for an appeal cover 58 percent of the Office's cost for conducting the appeal. The increase to the appeal forwarding fee, which occurs after an examiner's answer, will result in total appeal fees covering approximately 63 percent of the cost for an appeal. Given the high cost of the appeals process to the Office, the appeal forwarding fee adjustment is necessary to decrease the gap between the total fees charged and the total costs in the aggregate for the appeals process.

The Office recognizes that applicants may in some cases need to appeal an examiner's decision. The appeal process, however, results in a high cost to the Office irrespective of whether the PTAB affirms or reverses the rejected claims on appeal because the PTAB must process, review, and decide the appeal on the merits. In addition, Office data show that more than 65 percent of the appeals decided on the merits by the PTAB result in an affirmance of at least some of the rejected claims (September 2016 Appeals and Interferences Statistics). The data demonstrate that the PTAB is affirming a larger percentage of rejected claims than it reverses.

The fee increase also will allow the PTAB to continue to reduce the appeals inventory and improve pendency for appeals. Additionally, the Office notes that the notice of appeal fee provides an appellant two months to file a brief, and to have that brief reviewed by two examiners and a supervisor with a subsequent conference regarding the rejection, the brief, and whether the appellant will forward the case to the PTAB for consideration of the appeal on the merits. If the examiner decides to reopen the case or allow it, the cost to an appellant for filing the notice of appeal would be less than the appellant would incur in filing an RCE, which is the other option available when facing rejection. The Office considered the relationship between the options of an appeal, on the one hand, and requesting an RCE, on the other, when determining the appropriate fee rates in this rulemaking.

Comment 7: A commenter suggested that the Office consider suspending the appeal forwarding fee until an application is taken up for review by PTAB, given the appeal backlog and the current state of flux of patent subject matter eligibility.

Response: In the future, the USPTO may consider changes to the timing of appeal fee payments. However, the general rule is that fees payable to the USPTO are required to be paid in advance; that is, at the time of requesting any action by the Office (37 CFR 1.22).

Comment 8: One commenter proposed a refund to an applicant for reversals by the PTAB.

Response: At this time, the USPTO does not have the statutory authority to issue refunds on the basis of *ex parte* appeal outcome.

Comment 9: One commenter expressed interest in seeing the increased fee data versus decrease in response time to determine if the fee increase resulted in increased productivity of the USPTO and PTAB.

Response: The Office appreciates the suggestion to compare data regarding increases in fee versus decrease in response time. The Office will continue to explore whether and how such comparative data fit within the overall fee setting strategy of allowing the Office to recover the aggregate cost of patent operations, while implementing key strategic initiatives, including decreasing pendency. The Office notes that the PTAB has made significant strides in reducing the appeals inventory and pendency of appeals over the past several years. Appeal inventory reached over 27,000 in 2012 (prior to the last fee setting rule), and the PTAB reduced that inventory to about 17,000 by the end of FY 2016. Thus, the PTAB has maintained a high level of productivity despite an increase in workload. The additional fees set forth in this rule will provide funds necessary to allow the PTAB to continue to maintain the appropriate level of judicial and administrative resources needed to provide high quality and timely decisions for *ex parte* appeals.

Between 2012 and 2016 the PTAB also received more than 5,500 petitions for AIA trial proceedings, and met all statutory deadlines in those proceedings. Despite the high demand for these services, the PTAB has continued to meet all AIA statutory deadlines. By targeting a fee increase to the AIA trial fees, the Office is addressing the subsidization of these proceedings in order to allow the PTAB to continue to maintain the appropriate level of judicial and administrative resources to provide high quality and timely decisions for AIA trial proceedings.

Examination Fees

Comment 10: A commenter questions the USPTO's statement that pendency has improved, noting that in the opinion of the commenter, at least a portion of the improvement is due to reduced quality. Specifically, the commenter questions whether examiners are properly incentivized to conduct adequate examinations; the comment describes several examples of rejections that allegedly illustrate poor quality examinations. The commenter closes by proposing that if the PTAB or the Court of Appeals reverses an examiner rejection, the fees paid or a multiple thereof would be refunded to the applicant and deducted from the bonus payments of the examiners who signed off on the rejection.

Response: As part of its current strategic plan, the Office has a goal to optimize patent quality and timeliness. The aim of the Office's processes for examiner oversight, review, and rewards, including the bonus payment program, is to provide high quality and timely examination at a reasonable cost. The Office continually assesses its operational strategies with respect to these processes to take into account changing circumstances, and the Office's efforts to reduce pendency have resulted in first action and average total pendency dropping from a high of 21.9 months and 32.4 months, respectively, in FY 2012 to 16.2 months and 25.3 months today. As pendency continues to decline, the Office's ability to test programs that may further enhance quality grows stronger, as demonstrated by the establishment of the Enhanced Patent Quality Initiative (EPQI) (*https://www.uspto.gov/patent/initiatives/enhanced-patent-quality-initiative-0*) in FY 2015.

As part of the EPQI, the USPTO solicited stakeholder feedback through various outreach efforts and used this feedback to develop and refine multiple programs to improve quality. One of these programs is the Increasing Clarity and Reasoning in Office Action program in which the Office included tips and techniques for drafting clear Office actions as part of examiner training. For example, as part of the Office's training on 35 U.S.C. 101, the USPTO not only taught the relevant changes in the law, but also included examples on how to write clear rejections as well as tips for responding to arguments. As a result of this training, there was a statistically significant improvement in the correctness and clarity of 35 U.S.C. 101 rejections. As part of the Quality Metrics program, the Office overhauled its quality metrics for work products and for examination processes. With respect to work products, the Office used data from the new Master Review Form to create clarity and correctness metrics on a per statute basis, which will allow the Office to better assess how to improve Office action quality. With respect to examination processes, the Office is evaluating certain types of transactions, such as rework and reopenings, to identify trends and examiner behaviors indicative of either best practices or potential quality concerns. Rather than setting targets for the particular transactions, the Office is conducting a root-cause analysis to allow for reopenings and rework where appropriate while providing training to ensure examiners have the necessary skills and resources to be as efficient as possible. These programs highlight only a couple of the programs that the Office is currently implementing to improve quality.

While providing refunds or deducting base or bonus pay from examiners is beyond the scope of this rulemaking, the Office continues to review new and revised approaches to determine what approaches may better incentivize the patent workforce to achieve its strategic goals.

Comment 11: One commenter expressed concerns regarding the proposed increased fee rates for excess claims in reexaminations.

Response: The large entity fee for a reexamination with unlimited pages is set at $12,000. The unit cost for performing this service was $23,288 in FY 2015. When fewer claims are filed, the time required for the assigned reexamination specialist to review the request and examine the requested claims is reduced, which translates to a reduced overall cost of conducting the proceeding. The excess claims fees charges help to subsidize the overall cost for performing a reexamination.

Comment 12: One commenter suggested that the Office should consider expanding the situations for which a portion of reexamination fees may be refunded. For example, a partial refund of the reexamination fees may be merited where a reexamination is ordered, but an examiner does not make any new art-based rejections.

Response: The USPTO is required to go through the entire reexamination process and the costs are calculated on the time an examiner spends on the reexamination. Whether the examiner makes a new rejection or not does not factor into how the Office calculates the cost of a reexamination proceeding. The

addition of claims by patent owner during an *ex parte* reexamination ordered pursuant to 35 U.S.C. 303 require the examiner to examine those claims during the proceeding, which includes making decisions which may be either adverse or favorable to patentability. Thus, even when the examiner does not make new art based rejections to new claims (*e.g.* makes a decision favorable to patentability with respect to the new claims to newly added claims), the addition of new claims by patent owner during the proceeding necessarily requires additional time by the examiner to fully search and examine those new claims. Further, even when the art cited by requester under 35 U.S.C. 301 is applicable to the newly added claims presented by the patent owner during the proceeding, the examiner will still need to search and examine the new claims to ensure the best art is presented with respect to those new claims. Thus, the time and cost of completing a reexamination proceeding is not necessarily predicated on whether or not new art based rejections are made by the examiner during the proceeding, but rather the amount of time needed to make decisions as to patentability. Accordingly, relating a fee refund to whether additional art rejections are made during the proceeding is not necessarily merited.

Design Fees

Comment 13: The Office received three comments concerning the increase in design patent issue fee rates. Commenters noted that design patent issue fees were being increased by a large percentage and significantly more than utility patent issue fees were being increased.

Response: As discussed in Part V. B., the increase to the design patent issue fee has been lowered twice from the initial proposal made in October 2015 based on stakeholder feedback. The final design patent issue fee is $700, an increase of $140 (25 percent) for large entities. The minimum required fees to obtain a design patent (filing, search, examination and issue) are set to increase slightly beyond cost recovery for large entities ($1,660 versus $1,596 in FY 2015) to subsidize the substantial number (almost half in FY 2015) of small and micro entity applicants who pay lower fee rates despite similar costs to the Office.

Further, given the lack of maintenance fees to subsidize front-end costs for design patents, the new fee rates aim to more closely align design-related fees with their costs. Even with the increased fee rates, design application processing costs will continue to be subsidized by non-design specific fee revenues. Still, the Office believes the moderate fee rate increases in filing, search, examination, and issue are more appropriately aligned to costs and support the policy factor to foster innovation.

Comment 14: Two commenters suggest that the increase of design patent fee rates are comparatively greater than similar fees charged by other national/regional IP offices.

Response: Substantive examination of design patent applications are conducted at the USPTO whereas most other national/regional IP offices do not conduct substantive examination of design patent applications. Substantive examination of design patent applications requires significant time from a highly trained patent examiner. Additionally, most other national/regional IP offices require design patent holders to pay renewal fees to maintain their property rights. As previously noted, in the United States, design patents are not subject to renewal fees.

Comment 15: Two commenters suggested allowing applicants to submit design patent applications with multiple designs per application instead of a single design per application, as required under current practice.

Response: Changes to design application practice are beyond the scope of the Office's fee setting authority. Currently, more than one embodiment of a design may be claimed so long as such embodiments involve a single inventive concept according to the obviousness-type double patenting practice for designs.

Comment 16: Three commenters questioned the calculation of the costs of filing, search, examination, and issuance of design patents.

Response: For detailed information about how the Office calculates these costs please *see* the appendix entitled ''Activity Based Information and Patent Fee Unit Expense Methodology,'' available at *https://www.uspto.gov/sites/default/files/documents/ABI%20Cost%20Supplement.docx.*

Comment 17: Three commenters pointed out that the costs of filing and issuance are the same for design patent applications as they are for utility, plant, and reissue patent applications.

Response: The pre-examination and issuance processing for all of these patent application types are similar, and vary little between types. Therefore, the costs for these services are the same among the different patent types.

Comment 18: Two commenters noted that the cost of search and examination of design patent applications is relatively high compared to other national/regional IP offices.

Response: As mentioned previously, this is because a substantive examination is required under U.S. statute, which is a costly process. Substantive examination of design patents is not common in other national/regional IP offices.

Plant Fees

Comment 19: The Office received ten comments from persons concerned with the increase in plant patent issue fee rates. These comments generally touched on the many years of development that go into new plant varieties, and noted that the resulting products are not sold in high volumes nor at high costs per unit, and therefore it can be difficult to recuperate costs.

Response: As first discussed in Part V. B., the increase to the plant patent issue fee has been lowered from the rate proposed in the NPRM based on stakeholder feedback. The final plant patent issue fee is $800, an increase of $40 (5 percent) for large entities. In both the current and final rule fee structure, front-end fees are set below the Office's costs to foster innovation, per the fee setting policy factor. In the case of utility patents, the Office recovers these costs at the end of the process through maintenance fees. Similar to design patents (discussed earlier), plant patent holders are not required to pay maintenance fees. Additionally, similar to design patents, a significant proportion of applicants are provided small or micro entity discounts. While the fee rates in this rule will allow plant patent fees to recover a greater share of plant patent related costs, the balance will continue to be subsidized by other types of patent fees. However, in response to stakeholder concerns, specifically those regarding the potential impacts on small entities and individual inventors, the Office determined that a smaller fee rate increase was acceptable. For more information on costs please *see* the Regulatory Impact Analysis, Table of Patent Fees, and Activity Based Information and Patent Fee Unit Expense Methodology, all available at *https://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

Request for Continued Examination (RCE) Fees

Comment 20: Four commenters had concerns about the proposed increased fees for RCEs, though two of these commenters did express appreciation that the proposed rates were lower than the original October 2015 proposal. One

commenter believed that an examiner should be familiar with the application, prior art, and issues when handling an RCE, and interpreted the increase of RCE fee rates as an attempt to dissuade applicants from filing RCEs, rather than a means to recoup costs.

Response: The Office appreciates the comments related to RCE costs. In setting the fee rates, the Office's goal is not to dissuade RCE filings, but to more closely align the fee rates with the cost of processing RCEs, as calculated using the most recently available cost data (FY 2015). The first RCE fee ($1,300 for large entities) has been set at a rate lower than both the cost of performing the services associated with an RCE ($2,187) and the fees for filing a continuing application ($1,720 for large entities), as well as much lower than the average historic cost of services associated with examining a new patent application ($4,255). Because the Office set the fee for the first RCE below the cost to process, the Office must recoup the costs elsewhere. Since most applicants that file one or more RCE resolve all remaining issues with a first RCE, the Office determined that applicants that file more than one RCE are using the patent system more extensively than those who file none or only one RCE. The fee set for the second and subsequent RCE ($1,900 for large entities) is above the cost of the Office processing those RCEs ($1,540). However, this does not fully recoup the costs associated with the first RCE, and the Office still must recoup the costs elsewhere for large entity applicants filing more than one RCE ($3,200 in RCE fees, $3,727 in costs).

Comment 21: Another commenter believed the process used to arrive at the unit cost estimates for RCE processing is opaque and unreliable, citing inconsistencies in reported data. This commenter also questioned the use of a survey to allocate expenses. The commenter believed that a more focused look at the unit cost estimates is necessary before increasing fee rates.

Response: The differences in the reported RCE costs from the initial proposal to PPAC and the NPRM are due to an improvement in the costing methodology. The approach was updated in FY 2015, and the data in more recent documents reflect the improved methodology, including updated historical data. Previously, the RCE cost was determined using the Total Activity Unit Expense Adjusted for Frequency of Occurrence approach, which based the cost of the RCE on activities performed only during the RCE process and summed the unit costs to obtain a final unit cost of an RCE. The updated methodology, the Incremental Expense approach, improves upon this by also capturing the increased cost of search and exam activities that occur prior to RCE filings. For those applications that reach an RCE, the initial cost of getting to that stage is greater than for an application that does not reach an RCE. When calculating the historical cost of standard search and examination fees, the Office uses the cost of only applications that do not undergo an RCE. By using the incremental costing approach, the increased initial cost for applications that reach an RCE is captured within the RCE fee expense number. The patent examiner survey captures an average level of effort for the various examination activities. However, the survey does not isolate RCEs and therefore does not capture the level of effort specific to an RCE. Year-to-year variations in results have been small, but because survey data is applied to approximately $2 billion worth of expense, very small changes in the survey responses could result in large dollar changes to various activity costs. The survey instrument and the associated burdening and factoring of workloads is the Office's best estimate for costs given available information.

The $411 increase in the RCE expense shown from FY 2014 to FY 2015 comes from an increase in cost for RCE specific work. Total Adjusted Activity expense for the activities 'Prepare All Subsequent Actions' and 'Perform Subsequent Search' increased the most for applications with RCE activities both before and during the RCE itself. No material changes were made in overhead allocations; however, overhead costs increased, specifically related to investment in Information Technology associated with the Patent End to End System.

Comment 22: A commenter expressed appreciation for the Office's efforts to reduce the need for RCEs, but noted that many RCE filings are due to the current final rejection and after final practices, and urged the Office to eliminate these policies. The commenter argued that allowing every response to be entered will improve quality and lower pendency. The commenter believes that, before increasing RCE fee rates, the Office should determine the cost of after final responses and advisory actions.

Response: The Office appreciates the comments on the various efforts to reduce the need for RCEs. These comments are outside the scope of this rulemaking, however, the Office looks forward to working with stakeholders as it continues efforts related to the Enhanced Patent Quality Initiative and any potential revisions to final rejection and after final policies. The AFCP 2.0—extended through September 30, 2017—is part of the USPTO's on-going efforts towards compact prosecution and increased collaboration between examiners and stakeholders. Regarding the cost of after final responses and advisory actions, the estimated the cost of these activities are calculated and included in the unit cost of other associated activities provided by the Office. For detailed information about how the Office calculates these costs please *see* the appendix entitled ''Activity Based Information and Patent Fee Unit Expense Methodology'' available at *https://www.uspto.gov/sites/default/files/documents/ABI%20Cost%20Supplement.docx.*

Comment 23: Another commenter also interpreted the fee rate increase as a way to discourage RCEs, but stated that the applicant community views RCEs as a necessity due to inefficiencies in the examination process. This commenter cited the *Alice Corp.* v. *CLS Bank International and the Mayo Collaborative Services v. Prometheus Laboratories, Inc.* decisions, and argued that RCEs allow applicants more time to await court decisions that may assist the applicant's case. Therefore the commenter believes RCEs should be encouraged, not discouraged. The commenter worries that small businesses and independent inventors would be unable or unwilling to pay increased RCE fees, and instead would abandon their patent applications.

Response: While the Office recognizes that recent court decisions have impacted patent-eligibility requirements, it disagrees with the commenter that the Office should incentivize RCE filings through lower fee rates. This would be in direct conflict with the current compact prosecution goals and would in effect increase the RCE subsidy. The Office would almost certainly need to charge higher issue and/or maintenance fees to offset the cost of processing increased RCEs at lower fee rates. Increasing the issue and/or maintenance fees to offset decreased cost recovery of RCEs would also cause filers who do not seek RCEs to more heavily subsidize services provided to the filers who seek RCEs. The Office does not believe such subsidization would be an optimal result. The Office also notes that small and micro entity fee discounts are available for RCEs.

Application Filing Fees

Comment 24: A commenter suggested that the Office consider specific increases only for continuation

applications filed late enough that third stage maintenance fees would not be applicable, due to the end of the patent term.

Response: In the future, the Office will evaluate the feasibility and potential impacts of implementing a change to continuation fees based on associated patent terms.

Information Disclosure Statement Fees

Comment 25: A commenter believes the Office should not increase the Information Disclosure Statement (IDS) submission fee rate until the issues raised in 81 FR 59197 (Aug. 29, 2016) ''Request for Comments and Notice of Roundtable Event on Leveraging Electronic Resources To Retrieve Information From Applicant's Other Applications and Streamline Patent Issuance'' have been considered and implemented. The commenter further suggested that the Office consider lengthening the time period set in 37 CFR 1.97(e)(1) for communications received from a foreign patent office in a counterpart application from three months to five months.

Response: In the future, the Office will continue to pursue efforts to improve IDS practice including the leverage of electronic resources to both increase Office efficiency and to provide additional services to applicants. Changes to 37 CFR 1.97(e)(1) are outside the scope of this rulemaking.

Excess Claims Fees

Comment 26: A commenter expressed concern with the increases for excess claim fee rates and questioned the fee set for excess claims. Additionally, this commenter recommended a refund system in which excess claim fees are returned when claims are canceled in response to a restriction requirement or when claims are canceled by an applicant before examination.

Response: There is excess burden associated with examining excess claims. The number of claims impact the complexity of the request and increases the demands placed on the examiner. The excess claims fee rates are aimed to permit applicants to include excess claims when necessary to obtain an appropriate scope of coverage for an invention, while deterring applicants from routinely presenting a copious number of claims for merely tactical reasons. Filing applications with the most prudent number of unambiguous claims will enable prompt conclusion of application processing, because more succinct applications facilitate faster examination with an expectation of fewer errors. Therefore, the Office is increasing excess claim fee rates to facilitate an efficient and compact application examination process, which benefits the applicant and the USPTO through more effective administration of patent prosecution. In addition to helping the Office meet its policy goals of reducing application processing time, application pendency, and examination burden, the increase in excess claims fee rates is also justified because fees paid by applicants filing a large number of claims will help establish the EPQI based on stakeholder feedback to provide better services and products as well as enhance customer service, and continue to provide patent examiners detailed training in efficient interview techniques and in compact prosecution. The revenue from excess claim fees also supports the front-end subsidies built into the fee rates for filing, search, and examination. The Office already has a practice to refund excess claim fees when the application is abandoned prior to examination. *See* 37 CFR 1.138(d) and MPEP 607.02, Subsection V & 711.01, Subsection III. However, as noted in the NPRM, the Office is committed to undertaking a study to determine the feasibility of a refund program in which excess claim fees are returned when claims are cancelled in response to a restriction requirement. However, cancelling claims on restriction impacts applicants rights to rejoinder. In addition, letting applicants obtain a refund if they cancel claims after rejoinder is considered requires the Office to consider rejoinder as to the withdrawn claims which can be costly.

Mega-Sequence Listings Fees

Comment 27: One commenter expressed concern with the proposed mega-sequence fees without historical cost information and suggests non-fee alternatives.

Response: The proposed fee for mega-sequence listings is based on data available at this time. The Office will collect activity based cost information if needed and will share this information with the public when available. The final rule fee is structured to fulfill the AIA authority to set fees so that aggregate revenue from patent fees recovers the aggregate estimated cost of patent operations.

Streamlined *ex parte* Reexamination Fees

Comment 28: One commenter favors the reduced fee for streamlined reexamination proceedings but questions the forty page limit.

Response: The streamlined *ex parte* reexamination option has been created to promote efficiency and cost reduction, while making it financially less burdensome for requesters with limited resources and encouraging focused submissions from all petitioners. As part of the Office's FY 2015 fee review process, the length of *ex parte* reexamination requests were studied. It was determined that, in many cases, clear, concise and focused requests can be written in fewer than forty pages (including claim charts). Further, the study demonstrated that when requests were less than forty pages, on average, the time required for the assigned Reexamination Specialist to review the request and examine the requested claims was reduced, which translates to a reduced overall cost of conducting the proceeding.

Disciplinary Proceeding Fees

Comment 29: One commenter applauds the USPTO for dropping the previously proposed new fee code for imposing costs of disciplinary proceedings on practitioners. Additionally this commenter states that disciplinary fees should not be imposed on practitioners when OED determines that no disciplinary action is warranted. If the USPTO were to attempt to assess a disciplinary fee again in the future, the commenter suggests that that fee should be outcome-dependent.

Response: The Office would like to clarify that Pursuant to 37 CFR 11.60(d)(2), the OED Director is currently authorized to recover expenses from a disciplined practitioner who seeks reinstatement. The purpose of listing this fee in § 1.21 is simply to establish a new fee code by which to account for the receipt of these reimbursements. The fee is only imposed on practitioners who seek reinstatement after having been suspended or excluded. Thus, there should be no concern that a practitioner would be subject to this fee if he or she has been investigated and cleared, or has been disciplined but not suspended or excluded.

Broader Comments

Comment 30: One commenter notes that the *FederalRegister.gov* search query did not categorize the rule as significant, and therefore it may have been overlooked.

Response: OMB is responsible for making significance determinations for rulemakings pursuant to Executive Order 12866. OMB determined this rule to be ''Economically Significant,'' a subset of ''Significant,'' pursuant to the EO, and this designation was reflected in the preamble to the proposed rule. While the Office of the Federal Register provides a convenient source for the

public to search and identify pending rules that have been deemed Significant under EO 12866, the primary Web site designated by OMB for identifying such rulemakings is at *Reginfo.gov*, which is jointly maintained by OMB/U.S. General Services Administration (GSA). An entry for the proposed rule was posted on that Web site (*https://www.reginfo.gov/public/do/eoDetails?rrid=126564*), as well as published in the United Agenda of Regulatory and Deregulatory Actions properly designated as an ''Economically Significant'' rule (*https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201610&RIN=0651-AD02*).

Comment 31: Two commenters sought more elasticity information. One commenter suggested that the assumption that demand for patent services is inelastic may be less true for design patents and another commenter noted that the elasticity supplement does not address elasticity separately for large, small, and micro entities.

Response: In this rule, the Office assumes that the fee rate adjustments are not substantial enough to create a significant and measurable change in demand for existing products and services regardless of entity size. For more information please refer to the Elasticity Supplement, available at *https://www.uspto.gov/sites/default/files/documents/Elasticity%20Supplement.pdf.*

Comment 32: One commenter notes that the Regulatory Impact Analysis (RIA) should have included more costs to the American economy. Specifically, the commenter suggested that patent applications, patent issues, and maintenance fees would decrease, all of which would lead to lost jobs, lost wages, and an increased trade deficit.

Response: The Office appreciates the attention paid to the costs and benefits detailed in the RIA. The OMB Office of Information and Regulatory Affairs has indicated that it considers the final rule to be a transfer rule, concerning payments from one group to another that does not affect the total resources available to society. The Office recognizes that innovation has become a principal driver of the modern economy by stimulating economic growth and creating high-paying jobs. However, monetizing and quantifying certain impacts of patent fees on the economy and the rate of innovation are inherently difficult due to the number of variables involved, the difficulty in predicting economic activity, and the availability of data, especially data on private sector behavior. The Office does provide some quantitative and qualitative data in the RIA to assist the reader in measuring the cost and benefits of the rulemaking. The Office follows the guidance set forth in Circular A–4 in determining which data to provide in this final rule.

Comment 33: One commenter suggested that the rule should be resubmitted under the current presidential administration.

Response: The USPTO recognizes the timing of the rule and confirms that the final rule has undergone review, discussion, and feedback from the current presidential administration via the Office of Management and Budget. This final rule has the approval of the current administration.

Comment 34: One commenter recommended that the USPTO increase fees from foreign firms that file in the United States.

Response: Charging higher fees to foreign applicants would likely be contrary to the USPTO's treaty obligations including those under Article 3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Article 2 of the Paris Convention. The USPTO has a strong commitment to the global IP community. The USPTO engages in international patent cooperation through various treaties, agreements, and programs to increase the certainty of IP rights while reducing stakeholder costs and moving towards a harmonized global patent system. By providing discounted fees for small businesses and independent inventors regardless of national origin, the USPTO takes an impartial fee setting approach that supports innovation by even the smallest economic interests. This promotes strong global IP rights which, in turn, helps American businesses.

Comment 35: One commenter sought more information about support for independent inventors.

Response: To support small and medium sized enterprises (SMEs), the USPTO has offered discounts for many patent fees since 1982. Initially, the discount was fifty percent of eligible patent fees. The AIA expanded the number of fees eligible for small entity discounts and created a sub-class of small entities, ''micro entities'', that are eligible for even greater discounts—seventy five percent. Fees set or adjusted for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents are subject to this discounting. The fee adjustments in this final rule include the expansion of the micro entity discount to greater numbers of fees. Additionally, the USPTO offers other assistance to SMEs, such as: The patent Pro Bono program, the patent Pro Se Assistance program, various outreach programs, the Inventors Assistance Center, the Patent and Trademark Resource Centers, and partnerships with law firms. More information about these programs are available at *https://www.uspto.gov/learning-and-resources/inventors-entrepreneurs-resources.*

VII. Discussion of Specific Rule

In this section the Office provides tables of all fees set or adjusted in the final rule.

Section 1.16: The changes to the fee amounts indicated in § 1.16 are shown in Table 17.

TABLE 17—CFR SECTION 1.16 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.16(a)	1011/2011/3011.	Basic Filing Fee—Utility (paper filing also requires non-electronic filing fee under 1.16(t)).	280	140	70	300	150	75
1.16(a)	4011	Basic Filing Fee—Utility (electronic filing for small entities).	n/a	70	n/a	n/a	75	n/a
1.16(b)	1012/2012/3012.	Basic Filing Fee—Design	180	90	45	200	100	50
1.16(b)	1017/2017/3017.	Basic Filing Fee—Design (CPA)	180	90	45	200	100	50
1.16(c)	1013/2013/3013.	Basic Filing Fee—Plant	180	90	45	200	100	50

TABLE 17—CFR SECTION 1.16 FEE CHANGES—Continued

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.16(d)	1005/2005/3005.	Provisional Application Filing Fee	260	130	65	280	140	70
1.16(e)	1014/2014/3014.	Basic Filing Fee—Reissue	280	140	70	300	150	75
1.16(e)	1019/2019/3019.	Basic Filing Fee—Reissue (CPA)	280	140	70	300	150	75
1.16(f)	1051/2051/3051.	Surcharge—Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at Least One Claim or by Reference.	140	70	35	160	80	40
1.16(h)	1201/2201/3201.	Independent Claims in Excess of Three.	420	210	105	460	230	115
1.16(h)	1204/2204/3204.	Reissue Independent Claims in Excess of Three.	420	210	105	460	230	115
1.16(i)	1202/2202/3202.	Claims in Excess of 20	80	40	20	100	50	25
1.16(i)	1205/2205/3205.	Reissue Claims in Excess of 20	80	40	20	100	50	25
1.16(j)	1203/2203/3203.	Multiple Dependent Claim	780	390	195	820	410	205
1.16(k)	1111/2111/3111.	Utility Search Fee	600	300	150	660	330	165
1.16(l)	1112/2112/3112.	Design Search Fee	120	60	30	160	80	40
1.16(m)	1113/2113/3113.	Plant Search Fee	380	190	95	420	210	105
1.16(n)	1114/2114/3114.	Reissue Search Fee	600	300	150	660	330	165
1.16(o)	1311/2311/3311.	Utility Examination Fee	720	360	180	760	380	190
1.16(p)	1312/2312/3312.	Design Examination Fee	460	230	115	600	300	150
1.16(q)	1313/2313/3313.	Plant Examination Fee	580	290	145	620	310	155
1.16(r)	1314/2314/3314.	Reissue Examination Fee	2,160	1,080	540	2,200	1,100	550

Section 1.17: The changes to the fee amounts indicated in § 1.17 are shown in Table 18.

TABLE 18—CFR SECTION 1.17 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.17(e)	1801/2801/3801.	Request for Continued Examination (RCE) (1st request) (*see* 37 CFR 1.114).	1,200	600	300	1,300	650	325
1.17(e)	1820/2820/3820.	Request for Continued Examination (RCE) (2nd and subsequent request).	1,700	850	425	1,900	950	475
1.17(m)	1453/2453/3453.	Petition for revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, or for the delayed response by the patent owner in any reexamination proceeding.	1,700	850	850	2,000	1,000	500
1.17(m)	1454/2454/3454.	Petition for the Delayed Submission of a Priority or Benefit Claim.	1,700	850	850	2,000	1,000	500
1.17(m)	1784/2784/3784.	Petition to Excuse Applicant's Failure to Act Within Prescribed Time Limits in an International Design Application.	1,700	850	850	2,000	1,000	500

TABLE 18—CFR SECTION 1.17 FEE CHANGES—Continued

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.17(m)	1558/2558/3558.	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force.	1,700	850	850	2,000	1,000	500
1.17(p)	1806/2806/3806.	Submission of an Information Disclosure Statement.	180	90	45	240	120	60
1.17(t)	1783/2783/3783.	Petition to convert an international design application to a design application under 35 U.S.C. chapter 16.	180	180	180	180	90	45

Section 1.18: The changes to the fee amounts indicated in § 1.18 are shown in Table 19.

Section 1.18(b)(3) is being amended to provide that the issue fee for issuing an international design application designating the United States, where the issue fee is paid through the International Bureau, is the amount established in Swiss currency pursuant to Hague Agreement Rule 28 as of the date of mailing of the notice of allowance (§ 1.311). The amendment would facilitate processing of the issue fee by the International Bureau and would maintain parity in the treatment of the amount of the issue fee due whether paid directly to the USPTO or through the International Bureau in the event the issue fee changes after the mailing of the notice of allowance.

TABLE 19—CFR SECTION 1.18 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.18(a)(1)	1501/2501/3501.	Utility Issue Fee	960	480	240	1,000	500	250
1.18(a)(1)	1511/2511/3511.	Reissue Issue Fee	960	480	240	1,000	500	250
1.18(b)(1)	1502/2502/3502.	Design Issue Fee	560	280	140	700	350	175
1.18(c)(1)	1503/2503/3503.	Plant Issue Fee	760	380	190	800	400	200

Section 1.19: The changes to the fee amounts indicated in § 1.19 are shown in Table 20.

TABLE 20—CFR SECTION 1.19 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.19(b)(1)(i)(A) and (ii)(A).	8007	Copy of Patent Application as Filed	20	20	20	35	35	35
1.19(b)(1)(i)(B).		Copy of Patent File Wrapper, Paper Medium, Any Number of Sheets.	n/a	n/a	n/a	280	280	280
1.19(b)(1)(ii)(B).		Copy Patent File Wrapper, Electronic Medium, Any Size or Provided Electronically.	n/a	n/a	n/a	55	55	55
1.19(b)(4)	8014	For Assignment Records, Abstract of Title and Certification, per Patent.	25	25	25	35	35	35
1.19(i)		Copy of Patent Grant Single-Page TIFF Images (52 week subscription).	n/a	n/a	n/a	10,400	10,400	10,400
1.19(j)		Copy of Patent Grant Full-Text W/Embedded Images, Patent Application Publication Single-Page TIFF Images, or Patent Application Publication Full-Text W/Embedded Images (52 week subscription).	n/a	n/a	n/a	5,200	5,200	5,200

TABLE 20—CFR SECTION 1.19 FEE CHANGES—Continued

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.19(k)		Copy of PTMT Patent Bibliographic Extract and Other DVD (Optical Disc) Products.	n/a	n/a	n/a	50	50	50
1.19(l)		Copy of U.S. Patent Custom Data Extracts.	n/a	n/a	n/a	100	100	100
1.19(m)		Copy of Selected Technology Reports, Miscellaneous Technology Areas.	n/a	n/a	n/a	30	30	30

Section 1.20: The changes to the fee amounts indicated in § 1.20 are shown in Table 21.

TABLE 21—CFR SECTION 1.20 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.20(a)	1811	Certificate of Correction	100	100	100	150	150	150
1.20(b)	1816	Processing Fee for Correcting Inventorship in a Patent.	130	130	130	150	150	150
1.20(c)(1)		*Ex Parte* Reexamination (§ 1.510(a)) Streamlined.	n/a	n/a	n/a	6,000	3,000	1,500
1.20(c)(2)	1812/2812/3812.	*Ex Parte* Reexamination § 1.510(a)) Non-Streamlined.	12,000	6,000	3,000	12,000	6,000	3,000
1.20(c)(3)	1821/2821/3821.	Reexamination Independent Claims in Excess of Three and also in Excess of the Number of Such Claims in the Patent Under Reexamination.	420	210	105	460	230	115
1.20(c)(4)	1822/2822/3822.	Reexamination Claims in Excess of 20 and Also in Excess of the Number of Claims in the Patent Under Reexamination.	80	40	20	100	50	25

Section 1.21: The changes to the fee amounts indicated in § 1.21 are shown in Table 22.

TABLE 22—CFR SECTION 1.21 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.21(a)(1)(i)	9001	Application Fee (non-refundable)	40	40	40	100	100	100
1.21(a)(1)(ii)(A)	9010	For Test Administration by Commercial Entity.	200	200	200	200	200	200
1.21(a)(1)(ii)(B)	9011	For Test Administration by the USPTO.	450	450	450	450	450	450
1.21(a)(1)(iii)		For USPTO-Administered Review of Registration Examination.	n/a	n/a	n/a	450	450	450
1.21(a)(2)(i)	9003	On Registration to Practice Under § 11.6.	100	100	100	200	200	200
1.21(a)(2)(ii)		On Grant of Limited Recognition under § 11.9(b).	100	100	100	200	200	200
1.21(a)(2)(iii)	9025	On change of registration from agent to attorney.	100	100	100	100	100	100
1.21(a)(4)(i)	9005	Certificate of Good Standing as an Attorney or Agent, Standard.	10	10	10	40	40	40
1.21(a)(4)(ii)	9006	Certificate of Good Standing as an Attorney or Agent, Suitable for Framing.	20	20	20	50	50	50

TABLE 22—CFR SECTION 1.21 FEE CHANGES—Continued

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.21(a)(5)(i)	9012	Review of Decision by the Director of Enrollment and Discipline under § 11.2(c).	130	130	130	400	400	400
1.21(a)(5)(ii)	9013	Review of Decision of the Director of Enrollment and Discipline under § 11.2(d).	130	130	130	400	400	400
1.21(a)(6)(i)		For USPTO-Assisted Recovery of ID or Reset of Password for the Office of Enrollment and Discipline Information System.	n/a	n/a	n/a	70	70	70
1.21(a)(6)(ii)		For USPTO-Assisted Change of Address Within the Office of Enrollment and Discipline Information System.	n/a	n/a	n/a	70	70	70
1.21(a)(9)(ii)	9004	Administrative Reinstatement Fee	100	100	100	200	200	200
1.21(a)(10)	9014	On petition for reinstatement by a person excluded or suspended on ethical grounds, or excluded on consent from practice before the Office.	1,600	1,600	1,600	1,600	1,600	1,600
1.21(h)(2)	8021	Recording Each Patent Assignment, Agreement or Other Paper, per Property if not Submitted Electronically.	40	40	40	50	50	50
1.21(o)(1)		Submission of sequence listings ranging in size of 300 MB to 800 MB.	n/a	n/a	n/a	1,000	1,000	1,000
1.21(o)(2)		Submission of sequence listings exceeding 800 MB.	n/a	n/a	n/a	10,000	10,000	10,000
1.21(p)		Additional Fee for Overnight Delivery.	n/a	n/a	n/a	40	40	40
1.21(q)		Additional Fee for Expedited Service.	n/a	n/a	n/a	160	160	160

Section 1.445: The changes to the fee amounts indicated in § 1.445 are shown in Table 23.

TABLE 23—CFR SECTION 1.445(a)(5) FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.445(a)(5)		Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter*.	n/a	n/a	n/a	300	150	75

Section 1.482: The changes to the fee amounts indicated in § 1.482 are shown in Table 24.

TABLE 24—CFR SECTION 1.482(C) FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.482(c)		Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter*.	n/a	n/a	n/a	300	150	75

Section 1.492: The changes to the fee amounts indicated in § 1.492 are shown in Table 25.

TABLE 25—CFR SECTION 1.492 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.492(a)	1631/2631/3631.	Basic PCT National Stage Fee	280	140	70	300	150	75
1.492(b)(2)	1641/2641/3641.	PCT National Stage Search Fee—U.S. was the ISA.	120	60	30	140	70	35
1.492(b)(3)	1642/2642/3642.	PCT National Stage Search Fee—Search Report Prepared and Provided to USPTO.	480	240	120	520	260	130
1.492(b)(4)	1632/2632/3632.	PCT National Stage Search Fee—All Other Situations.	600	300	150	660	330	165
1.492(c)(2)	1633/2633/3633.	National Stage Examination Fee—All Other Situations.	720	360	180	760	380	190
1.492(d)	1614/2614/3614.	PCT National Stage Claims—Extra Independent (over three).	420	210	105	460	230	115
1.492(e)	1615/2615/3615.	PCT National Stage Claims—Extra Total (over 20).	80	40	20	100	50	25
1.492(f)	1616/2616/3616.	PCT National Stage Claims—Multiple Dependent.	780	390	195	820	410	205

Section 1.1031: The changes to the fee amounts indicated in § 1.031 are shown in Table 26.

Section 1.1031 is being amended by adding paragraph (f) concerning the designation fee for the United States. As § 1.1031 concerns international design application fees, the Office believes it appropriate to include a provision therein regarding the U.S. designation fee. The amendment is consistent with the U.S. designation fee currently in effect. *See* ''Individual Fees under the Hague Agreement,'' available on the WIPO Web site at *http://www.wipo.int/hague/en/fees/individ-fee.html,* and § 1.18(b).

TABLE 26—CFR SECTION 1.1031(a) FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
1.1031(a)	1781/2781/3781.	International Design Application Transmittal Fee.	120	120	120	120	60	30

Section 41.20: The changes to the fee amounts indicated in § 41.20 are shown in Table 27.

TABLE 27—CFR SECTION 41.20 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
41.20(b)(4)	1413/2413/3413.	Forwarding an Appeal in an Application or *Ex Parte* Reexamination Proceeding to the Board.	2,000	1,000	500	2,240	1,120	560

Section 42.15: The changes to the fee amounts indicated in § 42.15 are shown in Table 28.

TABLE 28—CFR SECTION 42.15 FEE CHANGES

CFR section	Fee code	Description	Current fees (dollars)			Final rule fees (dollars)		
			Large	Small	Micro	Large	Small	Micro
42.15(a)(1)	1406	*Inter Partes* Review Request Fee	9,000	9,000	9,000	15,500	15,500	15,500
42.15(a)(2)	1414	*Inter Partes* Review Post-Institution Fee.	14,000	14,000	14,000	15,000	15,000	15,000
42.15(a)(3)	1407	In Addition to the *Inter Partes* Review Request Fee, for Requesting Review of Each Claim in Excess of 20.	200	200	200	300	300	300
42.15(a)(4)	1415	In addition to the *Inter Partes* Post-Institution Fee, for Requesting Review of Each Claim in Excess of 15.	400	400	400	600	600	600
42.15(b)(1)	1408	Post-Grant or Covered Business Method Patent Review Request Fee.	12,000	12,000	12,000	16,000	16,000	16,000
42.15(b)(2)	1416	Post-Grant or Covered Business Method Patent Review Post-Institution Fee.	18,000	18,000	18,000	22,000	22,000	22,000
42.15(b)(3)	1409	In Addition to the Post-Grant or Covered Business Method Patent Review Request Fee, for Requesting Review of Each Claim in Excess of 20.	250	250	250	375	375	375
42.15(b)(4)	1417	In Addition to the Post-Grant or Covered Business Method Patent Review Post-Institution Fee, for Requesting Review of Each Claim in Excess of 15.	550	550	550	825	825	825

VIII. Rulemaking Considerations

A. America Invents Act

This final rule sets and adjusts fees under Section 10(a) of the AIA. Section 10(a) of the AIA authorizes the Director of the USPTO to set or adjust by rule any patent fee established, authorized, or charged under Title 35 of the United States Code (U.S.C.) for any services performed, or materials furnished, by the Office. Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated cost to the Office for processing, activities, services, and materials relating to patents, including administrative costs of the Office with respect to such patent fees. Section 10 authority includes flexibility to set individual fees in a way that furthers key policy factors, while taking into account the cost of the respective services. Section 10(e) of the AIA sets forth the general requirements for rulemakings that set or adjust fees under this authority. In particular, Section 10(e)(1) requires the Director to publish in the **Federal Register** any proposed fee change under Section 10, and include in such publication the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change. For such rulemakings, the AIA requires that the Office provide a public comment period of not less than 45 days.

The PPAC advises the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management, policies, goals, performance, budget, and user fees of patent operations. When proposing fees under Section 10 of the Act, the Director must provide the PPAC with the proposed fees at least 45 days prior to publishing the proposed fees in the **Federal Register**. The PPAC then has at least 30 days within which to deliberate, consider, and comment on the proposal, as well as hold public hearing(s) on the proposed fees. The PPAC must make a written report available to the public of the comments, advice, and recommendations of the committee regarding the proposed fees before the Office issues any final fees. The Office considers and analyzes any comments, advice, or recommendations received from the PPAC before finally setting or adjusting fees.

Consistent with this framework, on October 20, 2015, the Director notified the PPAC of the Office's intent to set or adjust patent fees and submitted a preliminary patent fee proposal with supporting materials. The preliminary patent fee proposal and associated materials are available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The PPAC held a public hearing in Alexandria, Virginia, on November 19, 2015. Transcripts of the hearing are available at *http://www.uspto.gov/sites/default/files/documents/PPAC_Hearing_Transcript_20151119.pdf.* Members of the public were invited to the hearing and given the opportunity to submit written and/or oral testimony for the PPAC to consider. The PPAC considered such public comments from this hearing and made all comments available to the public via the Fee Setting Web site, available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.* The PPAC also provided a written report setting forth in detail the comments, advice, and recommendations of the committee regarding the preliminary proposed fees. The report regarding the preliminary proposed fees was released on February 29, 2016, and is available at *http://www.uspto.gov/sites/default/files/documents/PPAC_Fee%20_Setting_Report_2016%20%28Final%29.pdf.* The Office considered and analyzed all comments, advice, and recommendations received from the PPAC before publishing the NPRM on October 3, 2016 (81 FR 68150). The public was then provided a 60-day period during which to provide comments to be considered by the USPTO. The NPRM comment period

closed on December 2, 2016. Section 10(e) of the Act requires the Director to publish the final fee rule in the **Federal Register** and the Official Gazette of the Patent and Trademark Office at least 45 days before the final fees become effective. Pursuant to this requirement, this rule is effective on January 16, 2018.

B. Regulatory Flexibility Act

The USPTO publishes this Final Regulatory Flexibility Analysis (FRFA) as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, *et seq.*) to examine the impact of the Office's rule to implement the fee setting provisions of the Leahy-Smith America Invents Act (Pub. L. 112–29, 125 Stat. 284) (the Act) on small entities. Under the RFA, whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish an NPRM, the agency must prepare and make available for public comment an Initial Regulatory Flexibility Analysis (IRFA), unless the agency certifies under 5 U.S.C. 605(b) that the rule, if implemented, will not have a significant impact on a substantial number of small entities. 5 U.S.C. 603, 605. The Office published an IRFA, along with the NPRM, on October 3, 2016 (81 FR 68150). The Office received no comments from the public directly applicable to the IRFA.

1. A Statement of the Need for, and Objectives of, the Rule

The objective of the rule is to implement the fee setting provisions of Section 10 of the Act by setting or adjusting patent fees to recover the aggregate cost of patent operations, including administrative costs, while facilitating effective administration of the U.S. patent system. In setting fees under the Act, the Office seeks to secure a sufficient amount of aggregate revenue to recover the aggregate cost of patent operations, including for achieving strategic and operational goals, such as enhancing patent quality, optimizing the timeliness of patent processing (through reducing patent backlog and pendency), delivering high quality and timely PTAB decisions, invest in modernizing the Patent business IT systems and infrastructure, and implementing a sustainable funding model. Additional information on the Office's strategic goals may be found in the Strategic Plan, available at *https://www.uspto.gov/about-us/performance-and-planning/strategy-and-reporting.* Additional information on the Office's goals and operating requirements may be found in the annual budgets, available at *https://www.uspto.gov/about-us/performance-and-planning/budget-and-financial-information.*

2. A Statement of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Statement of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

The Office did not receive any public comments in response to the IRFA. The Office received comments about fees in general as well as particular fees. Details of those comments are discussed and analyzed above in Part VI. Discussion of Comments.

3. The Response of the Agency to Any Comments Filed by the Chief Counsel for Advocacy of the Small Business Administration in Response to the Proposed Rule, and a Detailed Statement of Any Change Made to the Proposed Rule in the Final Rule as a Result of the Comments

The Office did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

4. A Description of and an Estimate of the Number of Small Entities To Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

SBA Size Standard

The Small Business Act (SBA) size standards applicable to most analyses conducted to comply with the RFA are set forth in 13 CFR 121.201. These regulations generally define small businesses as those with less than a specified maximum number of employees or less than a specified level of annual receipts for the entity's industrial sector or North American Industry Classification System (NAICS) code. As provided by the RFA, and after consulting with the SBA, the Office formally adopted an alternate size standard for the purpose of conducting an analysis or making a certification under the RFA for patent-related regulations. *See* Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations, 71 FR 67109 (Nov. 20, 2006), 1313 Off. Gaz. Pat. Office 60 (Dec. 12, 2006). The Office's alternate small business size standard consists of the SBA's previously established size standard for entities entitled to pay reduced patent fees. *See* 13 CFR 121.802. Unlike the SBA's generally applicable small business size standards, the size standard for the USPTO is not industry specific. The Office's definition of a small business concern for RFA purposes is a business or other concern that: (1) Meets the SBA's definition of a ''business concern or concern'' set forth in 13 CFR 121.105; and (2) meets the size standards set forth in 13 CFR 121.802 for the purpose of paying reduced patent fees, namely, an entity: (a) Whose number of employees, including affiliates, does not exceed 500 persons; and (b) which has not assigned, granted, conveyed, or licensed (and is under no obligation to do so) any rights in the invention to any person who made it and could not be classified as an independent inventor, or to any concern that would not qualify as a nonprofit organization or a small business concern under this definition. *See* Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations, 71 FR 67109 (Nov. 20, 2006), 1313 Off. Gaz. Pat. Office at 63 (Dec. 12, 2006). If a patent applicant self-identifies on a patent application as qualifying as a small entity for reduced patent fees under the Office's alternative size standard, the Office captures this data in the Patent Application Location and Monitoring (PALM) database system, which tracks information on each patent application submitted to the Office.

Small Entities Affected by This Rule

Small Entity Defined

The Act provides that fees set or adjusted under Section 10(a) ''for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents shall be reduced by 50 percent'' with respect to the application of such fees to any ''small entity'' (as defined in 37 CFR 1.27) that qualifies for reduced fees under 35 U.S.C. 41(h)(1). 125 Stat. at 316–17. 35 U.S.C. 41(h)(1), in turn, provides that certain patent fees ''shall be reduced by 50 percent'' for a small business concern as defined by Section 3 of the SBA, and to any independent inventor or nonprofit organization as defined in regulations described by the Director.

Micro Entity Defined

Section 10(g) of the Act creates a new category of entity called a ''micro entity.'' 35 U.S.C. 123; *see* also 125 Stat. at 318–19. Section 10(b) of the Act provides that the fees set or adjusted under Section 10(a) ''for filing, searching, issuing, appealing, and maintaining patent applications and patents shall be reduced by 75 percent with respect to

the application of such fees to any micro entity as defined by 35 U.S. Code § 123.'' 125 Stat. at 315–17. 35 U.S.C. 123(a) defines a ''micro entity'' as an applicant who certifies that the applicant: (1) Qualifies as a small entity as defined in 37 CFR 1.27; (2) has not been named as an inventor on more than four previously filed patent applications, other than applications filed in another country, provisional applications under 35 U.S.C. 111(b), or Patent Cooperation Treaty (PCT) applications for which the basic national fee under 35 U.S.C. 41(a) was not paid; (3) did not, in the calendar year preceding the calendar year in which the applicable fee is being paid, have a gross income, as defined in Section 61(a) of the Internal Revenue Code of 1986 (26 U.S.C. 61(a)), exceeding three times the median household income for that preceding calendar year, as most recently reported by the Bureau of the Census; and (4) has not assigned, granted, conveyed, and is not under an obligation by contract or law, to assign, grant, or convey, a license or other ownership interest in the application concerned to an entity exceeding the income limit set forth in (3) above. *See* 125 Stat. at 318. 35 U.S.C. 123(d) also defines a ''micro entity'' as an applicant who certifies that: (1) The applicant's employer, from which the applicant obtains the majority of the applicant's income, is an institution of higher education as defined in Section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or (2) the applicant has assigned, granted, conveyed, or is under an obligation by contract or law, to assign, grant, or convey, a license or other ownership interest in the particular applications to such an institution of higher education.

Estimate of Number of Small Entities Affected

The changes in the rule apply to any entity, including a small or micro entity that pays any patent fee set forth in the final rule. The reduced fee rates (50 percent for small entities and 75 percent for micro entities) apply to any small entity asserting small entity status and to any micro entity certifying micro entity status for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Office reviews historical data to estimate the percentages of application filings asserting small entity status. Table 29 presents a summary of such small and micro entity filings by type of application (utility, reissue, plant, design) over the last five years.

TABLE 29—NUMBER OF PATENT APPLICATIONS FILED IN LAST FIVE YEARS *

		FY 2016 **	FY 2015	FY 2014	FY 2013	FY 2012	Average ***
Utility	All	607,753	578,121	579,873	564,007	530,915	572,134
	Small	147,076	142,796	133,930	136,490	132,198	138,498
	% Small	24.2	24.7	23.1	24.2	24.9	24.2
	Micro	30,995	28,906	18,553	7,896	N/A	21,588
	% Micro	5.1	5.0	3.2	1.4	N/A	3.7
Reissue	All	1,072	1,087	1,207	1,074	1,212	1,130
	Small	258	246	280	229	278	258
	% Small	24.1	22.6	23.2	21.3	22.9	22.8
	Micro	19	12	24	9	N/A	16
	% Micro	1.8	1.1	2.0	0.8	N/A	1.4
Plant	All	1,180	1,119	1,123	1,318	1,181	1,184
	Small	589	673	581	655	576	615
	% Small	49.9	60.1	51.7	49.7	48.8	52.0
	Micro	9	4	22	3	N/A	10
	% Micro	0.8	0.4	2.0	0.2	N/A	0.9
Design	All	40,406	37,735	36,254	35,065	32,258	36,344
	Small	16,890	14,981	14,740	15,814	15,806	15,646
	% Small	41.8	39.7	40.7	45.1	49.0	43.3
	Micro	4,364	4,000	3,622	1,683	N/A	3,417
	% Micro	10.8	10.6	10.0	4.8	N/A	9.1

* The patent application filing data in this table includes RCEs.
** FY 2016 application filing data are preliminary and will be finalized in the FY 2017 Performance and Accountability Report (PAR).
*** The micro entity average is from FY 2013 to FY 2016. All other averages are for all time periods shown.

Because the percentage of small entity filings varies widely between application types, the Office has averaged the small entity filing rates over the past five years for those application types in order to estimate future filing rates by small and micro entities. Those average rates appear in the last column of Table 29. The Office estimates that small entity filing rates will continue for the next five years at these average historic rates.

The Office forecasts the number of projected patent applications (*i.e.,* workload) for the next five years using a combination of historical data, economic analysis, and subject matter expertise. The Office estimates that utility, plant, and reissue (UPR) patent application filings will grow by 0.7 percent in FY 2017, 2.1 percent in FY 2018, 1.2 percent in FY 2019, 0.8 percent in FY 2020, and decline by 0.5 percent in FY 2021. The Office forecasts design patent applications independently of UPR applications because they exhibit different behavior.

Using the estimated filings for the next five years, and the average historic rates of small entity filings, Table 30 presents the Office's estimates of the number of patent application filings by all applicants, including small and micro entities, over the next five fiscal years by application type.

The Office has undertaken an elasticity analysis to examine if fee adjustments may impact small entities and, in particular, whether increases in fees would result in some such entities not submitting applications. Elasticity measures how sensitive patent applicants and patentees are to fee changes. If elasticity is low enough (demand is *inelastic*), then fee increases will not reduce patenting activity enough to negatively impact overall revenues. If elasticity is high enough (demand is *elastic*), then increasing fees will decrease patenting activity enough to decrease revenue. The Office analyzed elasticity at the overall filing level across all patent applicants

regardless of entity size and determined that, as none of the fee changes are large enough to create a sizable change in demand for products and services, elasticity impacts are negligible and therefore not included in this iteration of fee adjustments. Additional information about elasticity estimates is available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting* in the document entitled ''*USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—Description of Elasticity Estimates.*''

TABLE 30—ESTIMATED NUMBERS OF PATENT APPLICATIONS IN FY 2017–FY 2021

		FY 2017 (current)	FY 2018	FY 2019	FY 2020	FY 2021
Utility	All	612,255	625,296	632,975	637,937	634,657
Reissue	All	818	823	829	834	840
Plant	All	1,180	1,155	1,130	1,107	1,083
Design	All	41,218	43,548	46,013	48,620	51,379
Total	All	655,471	670,822	680,947	688,498	687,959

The USPTO continuously updates both patent fee collections projections and workload projections based on the latest data. The estimated number of patent applications have been updated since the NPRM was published in October 2016. UPR filings growth projections were revised downward during the FY 2018 budget formulation process due to revised RGDP estimates and more conservative estimates of out year growth. The most recent projections are shown in Table 30.

5. A Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and Type of Professional Skills Necessary for Preparation of the Report or Record

When implemented, this rule will not change the burden of existing reporting and recordkeeping requirements for payment of fees. The current requirements for small and micro entities will continue to apply. Therefore, the professional skills necessary to file and prosecute an application through issue and maintenance remain unchanged. This action is only to adjust patent fees and not to set procedures for asserting small entity status or certifying micro entity status, as previously discussed.

The full fee schedule (*see* Part VII. Discussion of Specific Rule) is set forth in the final rule. The fee schedule sets or adjusts 202 patent fees in total. This includes 14 fees that are discontinued and 42 new fees, including small entity discounts to two additional fees and micro entity discounts to six additional fees.

6. A Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and why Each one of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

The USPTO considered several alternative approaches to this rule, discussed below, including full cost recovery for individual services, an across the board adjustment to fees, and a baseline (current fee rates). The discussion here begins with a description of the fee schedule adopted for this final rule.

i. Alternative 1: Final Rule Fee Schedule—Setting and Adjusting Patent Fees During Fiscal Year 2017

The USPTO chose the patent fee schedule in this final rule because it will enable the Office to achieve its goals effectively and efficiently without unduly burdening small entities, erecting barriers to entry, or stifling incentives to innovate. The alternative selected here achieves the aggregate revenue needed for the Office to offset aggregate cost, and is therefore beneficial to all entities that seek patent protection. Also, the alternative selected here benefits from improvements in the design of the fee schedule.

This alternative offers small entities a 50 percent fee reduction and micro entities a 75 percent fee reduction. Under this selected alternative, small and micro entities will pay some higher fees than under some of the other alternatives considered. However, the fees are not as high as those initially proposed to PPAC or in the NPRM.

In summary, the fees to obtain a patent will increase slightly. For example, fees for both tiers of RCEs will increase slightly. Maintenance fee rates remain unchanged at all three stages; however, all reissue patents are now subject to maintenance fee payments if the patent owner wishes to maintain them. In an effort to continue reducing the inventory of *ex parte* appeals and help recapture a portion of the cost of providing these services, fees will increase for forwarding an appeal, but not as high as proposed in the NPRM. The fee increase proposed in the NPRM for notice of appeal has been removed. Two of the fees for *inter partes* reviews have changed from the NPRM. The *Inter Partes* Review Request Fee—Up to 20 Claims Final Rule rate is $15,500; the NRPM rate was $14,000. The *Inter Partes* Review Post-Institution Fee—Up to 15 Claims Final Rule rate is $15,000; the NPRM rate was $16,500. These adjustments are made to better align AIA trial fee rates and costs. ABI costing data since the inception of AIA trial fees shows that the unit costs to the Office for *Inter Partes* Review requests have consistently outpaced unit costs for *Inter Partes* Review post-institutions. Fee increases for both post-grant reviews and covered-business-method reviews are based on FY 2015 cost data and resources needed to sustain compliance with AIA deadlines. Finally, in response to feedback from members of the public, the design and plant issue fees are increasing by less than proposed in the NPRM. Design issues will increase to $700 instead of $800 and plant issues will increase to $800 instead of $1,000.

The final fee schedule for this rule, as compared to existing fees (labeled Alternative 1—Final Rule Fee Schedule—Setting and Adjusting Patent Fees during Fiscal Year 2017) is available at *http://www.uspto.gov/about-us/performance-and-planning/*

fee-setting-and-adjusting, in the document entitled ''USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—FRFA Tables.'' Fee changes for small and micro entities are included in the tables. For the comparison between final fees and current fees, as noted above, the ''current fees'' column displays the fees that were in effect as of January 14, 2017.

ii. Other Alternatives Considered

In addition to the fee schedule set forth in Alternative 1, above, the Office considered several other alternative approaches.

a. Alternative 2: Unit Cost Recovery

The USPTO considered setting most individual large entity fees at the historical cost of performing the activities related to the particular service in FY 2015. This alternative continues existing and offers new small and micro entity discounts where eligible under AIA authority. Aside from maintenance fees, fees for which there is no FY 2015 cost data would be set at current rates under this alternative. The Office no longer collects activity based information for maintenance fees, and previous year unit costs were negligible. This alternative sets maintenance fees at approximately half of the amount of current maintenance fee rates. For the small number of services that have a variable fee, the aggregate revenue table does not list a fee. Instead, for those services with an estimated workload, the workload is listed in dollars rather than units to develop revenue estimates. Fees without either a fixed fee rate or a workload estimate are assumed to provide zero revenue to the Office. Note, this alternative bases fee rates for FY 2017 through FY 2021 on FY 2015 historical costs. The Office recognizes that this approach does not account for inflationary factors that would likely increase costs and necessitate higher fees in the out years.

It is common practice in the Federal government to set individual fees at a level sufficient to recover the cost of that single service. In fact, official guidance on user fees, as cited in OMB Circular A–25: *User Charges,* states that user charges (fees) should be sufficient to recover the full cost to the Federal government of providing the particular service, resource, or good, when the government is acting in its capacity as sovereign.

Alternative 2 would not generate enough aggregate revenue to sufficiently cover the aggregate cost of patent operations and support the Office's strategic priorities to optimize the quality and timeliness of patent processing, deliver high quality and timely PTAB decisions, continue investing in modernizing the USPTO IT systems and infrastructure, or implement a sustainable funding model for operations (this alternative produces enough revenue to meet the minimum patent operating reserve level by the end of FY 2019, but does not keep building towards the optimal patent operating reserve level). It is important for the Office to balance accomplishing the priorities together so that it has sufficient resources to maintain them.

Both the current and final fee schedules are structured to collect more fees at the back-end (*i.e.* issue fees and maintenance fees), where the patent owner has the best information about a patent's value, rather than at the front-end (*i.e.* filing fees, search fees, and examination fees), when applicants are most uncertain about the value of their art, even though the front-end services are costlier to the Office. This alternative presents significant barriers to those seeking patent protection, because if the Office were to immediately shift from the current front-end/back-end balance to a unit cost recovery structure, front-end fees would increase significantly, nearly tripling in some cases (*e.g.,* search fees), even with small and micro entity fee reductions.

The Office has not attempted to estimate the quantitative elasticity impacts for application filings (*e.g.,* filing, search, and examination fees) or maintenance renewals (all stages) due to a lack of historical data that could inform such a significant shift in the Office's fee setting methodology. However, the Office suspects that the high costs of entry into the patent system could lead to a significant decrease in the incentives to invest in innovative activities among all entities and especially for small and micro entities. Under the current fee schedule, maintenance fees subsidize all applications, including those applications for which no claims are allowed. By insisting on unit cost payment at each point in the application process, the Office is effectively charging high fees for every attempted patent, meaning those applicants who have less information about the patentability of their claims may be less likely to pursue initial prosecution (*e.g.,* filing, search, and examination) or subsequent actions to continue prosecution (*e.g.,* RCE). The ultimate effect of these changes in behavior are likely to stifle innovation.

Similarly, the Office suspects that renewal rates could change as well, given significant fee reductions for maintenance fees at each of the three stages. While some innovators and firms may choose to file fewer applications given the higher front-end costs, others, whose claims are allowed or upheld, may seek to fully maximize the benefits of obtaining a patent by keeping those patents in force for longer than they would have previously (*i.e.,* under the current fee schedule). In the aggregate, patents that are maintained beyond their useful life weaken the intellectual property system by slowing the rate of public accessibility and follow-on inventions, which is contrary to the Office's policy factor of fostering innovation. In sum, this alternative is inadequate to accomplish the goals and strategies as stated in Part III of this rulemaking.

The fee schedule for Alternative 2: Unit Cost Recovery is available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting*, in the document entitled ''USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—FRFA Tables.'' For the comparison between unit cost recovery fees and current fees, the ''current fees'' column displays the fees that are in effect as of January 14, 2017.

b. Alternative 3: Across the Board Adjustment

In years past, the USPTO used its authority to adjust statutory fees annually according to increases in the consumer price index (CPI), which is a commonly used measure of inflation. Building on this prior approach and incorporating the additional authority under the AIA to set small and micro entity fees, Alternative 3 would set fees by applying a one-time 5.0 percent, across the board inflationary increase to the baseline (current fees) beginning in FY 2017. Five percent represents the change in revenue needed to cover budgetary requirements.

As estimated by the Congressional Budget Office, projected CPI rates by fiscal year are: 2.17 percent in FY 2017, 2.39 percent in FY 2018, 2.38 percent in FY 2019, and 2.42 percent in both FY 2020 and FY 2021. The Office elected not to apply the estimated cumulative inflationary adjustment (9.96 percent), from FY 2017 through FY 2021, because doing so would result in significantly more fee revenue than needed to meet the Office's core mission and strategic priorities. Under this alternative, nearly every existing fee would be increased and no fees would be discontinued or reduced. Given that all entities (large,

small, and micro) would pay unilaterally higher fees, this alternative does not adequately support the Office's policy factor to foster innovation for all.

The fee schedule for Alternative 3: Across the Board Adjustment is available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting*, in the document entitled ''USPTO Setting and Adjusting Patent Fees during Fiscal Year 2017—FRFA Tables.'' For the comparison between across the board fees and current fees, the ''current fees'' column displays the fees that are in effect as of January 14, 2017.

c. Alternative 4: Baseline (Current Fee Schedule)

The Office considered a no-action alternative. This alternative would retain the current fee schedule, meaning that the Office would continue the small and micro entity discounts that Congress provided in Section 10 of the Act and maintain fees as of January 14, 2017.

This approach would not provide sufficient aggregate revenue to accomplish the Office's rulemaking goals, as set forth in the FY 2018 President's Budget or the Strategic Plan. Optimizing patent quality and timeliness, delivering high quality and timely PTAB decisions and investing in modernizing the USPTO IT systems and infrastructure would continue, but at a slower rate due to funding limitations. Sustainable funding would not be achieved. Without a fee increase, the USPTO would draw the operating reserve down to nothing by FY 2020, and have to cut expenditures.

iii. Alternatives Specified by the RFA

The RFA provides that an agency also consider four specified ''alternatives'' or approaches, namely: (1) Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarifying, consolidating, or simplifying compliance and reporting requirements under the rule for small entities; (3) using performance rather than design standards; and (4) exempting small entities from coverage of the rule, or any part thereof. 5 U.S.C. 604(c). The USPTO discusses each of these specified alternatives or approaches below and describes how this rule is adopting these approaches.

Differing Requirements

As discussed above, the changes in this rule would continue existing fee discounts for small and micro entities that take into account the reduced resources available to them as well as offer new discounts when applicable under AIA authority. Specifically, micro entities would continue to pay a 75 percent reduction in patent fees and non-micro, small entities would continue to pay 50 percent of the fee.

This rule sets fee levels but does not set or alter procedural requirements for asserting small or micro entity status. To pay reduced patent fees, small entities must merely assert small entity status to pay reduced patent fees. The small entity may make this assertion by either checking a box on the transmittal form, ''Applicant claims small entity status,'' or by paying the small entity fee exactly. The process to claim micro entity status is similar in that eligible entities need only submit a written certification of their status prior to or at the time a reduced fee is paid. This rule does not change any reporting requirements for any small or micro entity. For both small and micro entities, the burden to establish their status is nominal (making an assertion or submitting a certification) and the benefit of the fee reductions (50 percent for small entities and 75 percent for micro entities) is significant.

This rule makes the best use of differing requirements for small and micro entities. It also makes the best use of the redesigned fee structure, as discussed further below.

Clarification, Consolidation, or Simplification of Requirements

This rule does not take any actions beyond setting or adjusting patent fees; therefore, there are no clarifications, consolidations, or simplifications subject to discussion here.

Performance Standards

Performance standards do not apply to the current rule.

Exemption for Small and Micro Entities

This rule maintains a 50 percent reduction in fees for small entities and a 75 percent reduction in fees for micro entities. The Office considered exempting small and micro entities from paying patent fees, but determined that the USPTO would lack statutory authority for this approach. Section 10(b) of the Act provides that ''fees set or adjusted under subsection (a) for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents *shall* be reduced by 50 percent [for small entities] and *shall* be reduced by 75 percent [for micro entities]'' (emphasis added). Neither the AIA nor any other statute authorizes the USPTO simply to exempt small or micro entities, as a class of applicants, from paying patent fees.

7. Identification, to the Extent Practicable, of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Rule

The USPTO is the sole agency of the United States Government responsible for administering the provisions of title 35, United States Code, pertaining to examining and granting patents. It is solely responsible for issuing rules to comply with Section 10 of the AIA. No other Federal, state, or local entity has jurisdiction over the examination and granting of patents.

Other countries, however, have their own patent laws, and an entity desiring a patent in a particular country must make an application for patent in that country, in accordance with the applicable law. Although the potential for overlap exists internationally, this cannot be avoided except by treaty (such as the Paris Convention for the Protection of Industrial Property, or the PCT). Nevertheless, the USPTO believes that there are no other duplicative or overlapping rules.

C. Executive Order 12866 (Regulatory Planning and Review)

This rule has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993), as amended by Executive Order 13258 (Feb. 26, 2002) and Executive Order 13422 (Jan. 18, 2007). The Office has developed a RIA as required for rulemakings deemed to be significant. The complete RIA is available at *http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting.*

D. Executive Order 13563 (Improving Regulation and Regulatory Review)

The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and

identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

This final rule is not subject to the requirements of Executive Order 13771 (82 FR 9339, February 3, 2017) because this rule involves a transfer payment.

F. Executive Order 13132 (Federalism)

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Congressional Review Act

Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801–808), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this final rule are expected to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this final rule is expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

H. Unfunded Mandates Reform Act of 1995

The changes in this rule do not involve a Federal intergovernmental mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501–1571.

I. Paperwork Reduction Act

This rule involves information collection requirements 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 *et seq.*). The collection of information involved in this rulemaking has been reviewed and previously approved by OMB under control numbers 0651–0016, 0651–0024, 0651–0031, 0651–0032, 0651–0033, 0651–0059, 0651–0064, and 0651–0069.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

37 CFR Parts 41 and 42

Administrative practice and procedure, Inventions and patents, Lawyers.

For the reasons set forth in the preamble, 37 CFR parts 1, 41, and 42 are to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

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

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Section 1.16 is amended by revising paragraphs (a) through (f) and (h) through (r) to read as follows:

§ 1.16 National application filing, search, and examination fees.

(a) Basic fee for filing each application under 35 U.S.C. 111 for an original patent, except design, plant, or provisional applications:

By a micro entity (§ 1.29)	$75.00
By a small entity (§ 1.27(a))	150.00
By a small entity (§ 1.27(a)) if the application is submitted in compliance with the Office electronic filing system (§ 1.27(b)(2))	75.00
By other than a small or micro entity	300.00

(b) Basic fee for filing each application under 35 U.S.C. 111 for an original design patent:

By a micro entity (§ 1.29)	$50.00
By a small entity (§ 1.27(a))	100.00
By other than a small or micro entity	200.00

(c) Basic fee for filing each application for an original plant patent:

By a micro entity (§ 1.29)	$50.00
By a small entity (§ 1.27(a))	100.00
By other than a small or micro entity	200.00

(d) Basic fee for filing each provisional application:

By a micro entity (§ 1.29)	$70.00
By a small entity (§ 1.27(a))	140.00
By other than a small or micro entity	280.00

(e) Basic fee for filing each application for the reissue of a patent:

By a micro entity (§ 1.29)	$75.00
By a small entity (§ 1.27(a))	150.00
By other than a small or micro entity	300.00

(f) Surcharge for filing the basic filing fee, search fee, examination fee, or the inventor's oath or declaration on a date later than the filing date of the application, an application that does not contain at least one claim on the filing date of the application, or an application filed by reference to a previously filed application under § 1.57(a), except provisional applications:

By a micro entity (§ 1.29)	$40.00
By a small entity (§ 1.27(a))	80.00
By other than a small or micro entity	160.00

* * * * *

(h) In addition to the basic filing fee in an application, other than a provisional application, for filing or later presentation at any other time of each claim in independent form in excess of 3:

By a micro entity (§ 1.29)	$115.00
By a small entity (§ 1.27(a))	230.00
By other than a small or micro entity	460.00

(i) In addition to the basic filing fee in an application, other than a provisional application, for filing or later presentation at any other time of each claim (whether dependent or independent) in excess of 20 (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):

By a micro entity (§ 1.29)	$25.00
By a small entity (§ 1.27(a))	50.00
By other than a small or micro entity	100.00

(j) In addition to the basic filing fee in an application, other than a provisional application, that contains, or is amended to contain, a multiple dependent claim, per application:

By a micro entity (§ 1.29)	$205.00
By a small entity (§ 1.27(a))	410.00
By other than a small or micro entity	820.00

(k) Search fee for each application filed under 35 U.S.C. 111 for an original

patent, except design, plant, or provisional applications:

By a micro entity (§ 1.29)	$165.00
By a small entity (§ 1.27(a))	330.00
By other than a small or micro entity	660.00

(l) Search fee for each application under 35 U.S.C. 111 for an original design patent:

By a micro entity (§ 1.29)	$40.00
By a small entity (§ 1.27(a))	80.00
By other than a small or micro entity	160.00

(m) Search fee for each application for an original plant patent:

By a micro entity (§ 1.29)	$105.00
By a small entity (§ 1.27(a))	210.00
By other than a small or micro entity	420.00

(n) Search fee for each application for the reissue of a patent:

By a micro entity (§ 1.29)	$165.00
By a small entity (§ 1.27(a))	330.00
By other than a small or micro entity	660.00

(o) Examination fee for each application filed under 35 U.S.C. 111 for an original patent, except design, plant, or provisional applications:

By a micro entity (§ 1.29)	$190.00
By a small entity (§ 1.27(a))	380.00
By other than a small or micro entity	760.00

(p) Examination fee for each application under 35 U.S.C. 111 for an original design patent:

By a micro entity (§ 1.29)	$150.00
By a small entity (§ 1.27(a))	300.00
By other than a small or micro entity	600.00

(q) Examination fee for each application for an original plant patent:

By a micro entity (§ 1.29)	$155.00
By a small entity (§ 1.27(a))	310.00
By other than a small or micro entity	620.00

(r) Examination fee for each application for the reissue of a patent:

By a micro entity (§ 1.29)	$550.00
By a small entity (§ 1.27(a))	1,100.00
By other than a small or micro entity	2,200.00

* * * * *

■ 3. Section 1.17 is amended by revising paragraphs (e), (h), (m), (p) and (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(e) To request continued examination pursuant to § 1.114:

(1) For filing a first request for continued examination pursuant to § 1.114 in an application:

By a micro entity (§ 1.29)	$325.00
By a small entity (§ 1.27(a))	650.00
By other than a small or micro entity	1,300.00

(2) For filing a second or subsequent request for continued examination pursuant to § 1.114 in an application:

By a micro entity (§ 1.29)	$475.00
By a small entity (§ 1.27(a))	950.00
By other than a small or micro entity	1,900.00

* * * * *

(h) For filing a petition under one of the following sections which refers to this paragraph (h):

By a micro entity (§ 1.29)	$35.00
By a small entity (§ 1.27(a))	70.00
By other than a small or micro entity	140.00

§ 1.84—for accepting color drawings or photographs.

§ 1.91—for entry of a model or exhibit.

§ 1.102(d)—to make an application special.

§ 1.138(c)—to expressly abandon an application to avoid publication.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

* * * * *

(m) For filing a petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, for the extension of the twelve-month (six-month for designs) period for filing a subsequent application (§§ 1.55(c) and (e), 1.78(b), (c), and (e), 1.137, 1.378, and 1.452), or for filing a petition to excuse applicant's failure to act within prescribed time limits in an international design application (§ 1.1051):

By a micro entity (§ 1.29)	$500.00
By a small entity (§ 1.27(a))	1,000.00
By other than a small or micro entity	2,000.00

* * * * *

(p) For an information disclosure statement under § 1.97(c) or (d):

By a micro entity (§ 1.29)	$60.00
By a small entity (§ 1.27(a))	120.00
By other than a small or micro entity	240.00

* * * * *

(t) For filing a petition to convert an international design application to a design application under 35 U.S.C. chapter 16 (§ 1.1052):

By a micro entity (§ 1.29)	$45.00
By a small entity (§ 1.27(a))	90.00
By other than a small or micro entity	180.00

■ 4. Section 1.18 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

(a)(1) Issue fee for issuing each original patent, except a design or plant patent, or for issuing each reissue patent:

By a micro entity (§ 1.29)	$250.00
By a small entity (§ 1.27(a))	500.00
By other than a small or micro entity	1,000.00

(2) [Reserved]

(b)(1) Issue fee for issuing an original design patent:

By a micro entity (§ 1.29)	$175.00
By a small entity (§ 1.27(a))	350.00
By other than a small or micro entity	700.00

(2) [Reserved]

(3) Issue fee for issuing an international design application designating the United States, where the issue fee is paid through the International Bureau (Hague Agreement Rule 12(3)(c)) as an alternative to paying the issue fee under paragraph (b)(1) of this section: The amount established in Swiss currency pursuant to Hague Agreement Rule 28 as of the date of mailing of the notice of allowance (§ 1.311).

(c)(1) Issue fee for issuing an original plant patent:

By a micro entity (§ 1.29)	$200.00
By a small entity (§ 1.27(a))	400.00
By other than a small or micro entity	800.00

(2) [Reserved]

* * * * *

■ 5. Section 1.19 is amended by revising paragraphs (b) introductory text and (b)(1), removing and reserving paragraph (b)(2), revising paragraphs (b)(4) and (c), removing and reserving paragraphs (d) and (e), revising paragraph (f), removing and reserving paragraph (g), and adding paragraphs (h) through (l) to read as follows:

§ 1.19 Document supply fees.

* * * * *

(b) Copies of Office documents to be provided in paper, or in electronic form, as determined by the Director (for other patent-related materials *see* § 1.21(k)):

(1) Copy of a patent application as filed, or a patent-related file wrapper and contents, stored in paper in a paper file wrapper, in an image format in an image file wrapper, or if color documents, stored in paper in an Artifact Folder:

(i) If provided on paper:

(A) Application as filed: $35.00.

(B) File wrapper and contents: $280.00.

(C) [Reserved]

(D) Individual application documents, other than application as filed, per document: $25.00.

(ii) If provided on compact disc or other physical electronic medium in single order or if provided electronically (*e.g.,* by electronic transmission) other than on a physical electronic medium:

(A) Application as filed: $35.00.

(B) File wrapper and contents: $55.00.

(C) [Reserved]

(iii) [Reserved]

(iv) If provided to a foreign intellectual property office pursuant to a bilateral or multilateral agreement (*see* § 1.14(h)): $0.00.

* * * * *

(4) For assignment records, abstract of title and certification, per patent: $35.00.

(c) Library service (35 U.S.C. 13): For providing to libraries copies of all patents issued annually, per annum: $50.00.

* * * * *

(f) Uncertified copy of a non-United States patent document, per document: $25.00.

* * * * *

(h) Copy of Patent Grant Single-Page TIFF Images (52 week subscription): $10,400.00.

(i) Copy of Patent Grant Full-Text W/Embedded Images, Patent Application Publication Single-Page TIFF Images, or Patent Application Publication Full-Text W/Embedded Images (52 week subscription): $5,200.00.

(j) Copy of Patent Technology Monitoring Team (PTMT) Patent Bibliographic Extract and Other DVD (Optical Disc) Products: $50.00.

(k) Copy of U.S. Patent Custom Data Extracts: $100.00.

(l) Copy of Selected Technology Reports, Miscellaneous Technology Areas: $30.00.

■ 6. Section 1.20 is amended by revising paragraphs (a) through (c) and (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

(a) For providing a certificate of correction for applicant's mistake (§ 1.323)	$150.00
(b) Processing fee for correcting inventorship in a patent (§ 1.324)	150.00

(c) In reexamination proceedings:

(1)(i) For filing a request for *ex parte* reexamination (§ 1.510(a)) having:

(A) Forty (40) or fewer pages;

(B) Lines that are double-spaced or one-and-a-half spaced;

(C) Text written in a non-script type font such as Arial, Times New Roman, or Courier;

(D) A font size no smaller than 12 point;

(E) Margins which conform to the requirements of § 1.52(a)(1)(ii); and

(F) Sufficient clarity and contrast to permit direct reproduction and electronic capture by use of digital imaging and optical character recognition.

By a micro entity (§ 1.29)	$1,500.00
By a small entity (§ 1.27(a))	3,000.00
By other than a small or micro entity	6,000.00

(ii) The following parts of an *ex parte* reexamination request are excluded from paragraphs (c)(1)(i)(A) through (F) of this section:

(A) The copies of every patent or printed publication relied upon in the request pursuant to § 1.510(b)(3);

(B) The copy of the entire patent for which reexamination is requested pursuant to § 1.510(b)(4); and

(C) The certifications required pursuant to § 1.510(b)(5) and (6).

(2) For filing a request for *ex parte* reexamination (§ 1.510(b)) which has sufficient clarity and contrast to permit direct reproduction and electronic capture by use of digital imaging and optical character recognition, and which otherwise does not comply with the provisions of paragraph (c)(1) of this section:

By a micro entity (§ 1.29)	$3,000.00
By a small entity (§ 1.27(a))	6,000.00
By other than a small or micro entity	12,000.00

(3) For filing with a request for reexamination or later presentation at any other time of each claim in independent form in excess of three and also in excess of the number of claims in independent form in the patent under reexamination:

By a micro entity (§ 1.29)	$115.00
By a small entity (§ 1.27(a))	230.00
By other than a small or micro entity	460.00

(4) For filing with a request for reexamination or later presentation at any other time of each claim (whether dependent or independent) in excess of 20 and also in excess of the number of claims in the patent under reexamination (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):

By a micro entity (§ 1.29)	$25.00
By a small entity (§ 1.27(a))	50.00
By other than a small or micro entity	100.00

* * * * *

(e) For maintaining an original or any reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years, the fee being due by three years and six months after the original grant:

By a micro entity (§ 1.29)	$400.00
By a small entity (§ 1.27(a))	800.00
By other than a small or micro entity	1,600.00

(f) For maintaining an original or any reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years, the fee being due by seven years and six months after the original grant:

By a micro entity (§ 1.29)	$900.00
By a small entity (§ 1.27(a))	1,800.00
By other than a small or micro entity	3,600.00

(g) For maintaining an original or any reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years, the fee being due by eleven years and six months after the original grant:

By a micro entity (§ 1.29)	$1,850.00
By a small entity (§ 1.27(a))	3,700.00
By other than a small or micro entity	7,400.00

* * * * *

■ 7. Section 1.21 is revised to read as follows:

§ 1.21 Miscellaneous fees and charges.

The Patent and Trademark Office has established the following fees for the services indicated:

(a) Registration of attorneys and agents:

(l) For admission to examination for registration to practice:

(i) Application Fee (non-refundable): $100.00.

(ii) Registration examination fee.

(A) For test administration by commercial entity: $200.00.

(B) For test administration by the USPTO: $450.00.

(iii) For USPTO-administered review of registration examination: $450.00.

(2) On registration to practice or grant of limited recognition:

(i) On registration to practice under § 11.6 of this chapter: $200.00.

(ii) On grant of limited recognition under § 11.9(b) of this chapter: $200.00.

(iii) On change of registration from agent to attorney: $100.00.

(3) [Reserved]

(4) For certificate of good standing as an attorney or agent:

(i) Standard: $40.00.

(ii) Suitable for framing: $50.00.

(5) For review of decision:

(i) By the Director of Enrollment and Discipline under § 11.2(c) of this chapter: $400.00.

(ii) Of the Director of Enrollment and Discipline under § 11.2(d) of this chapter: $400.00.

(6) Recovery/Retrieval of OED Information System Customer Interface account by USPTO:

(i) For USPTO-assisted recovery of ID or reset of password: $70.00.

(ii) For USPTO-assisted change of address: $70.00.

(7) [Reserved]

(8) [Reserved]

(9)(i) Delinquency fee: $50.00.

(ii) Administrative reinstatement fee: $200.00.

(10) On application by a person for recognition or registration after

disbarment or suspension on ethical grounds, or resignation pending disciplinary proceedings in any other jurisdiction; on application by a person for recognition or registration who is asserting rehabilitation from prior conduct that resulted in an adverse decision in the Office regarding the person's moral character; and on application by a person for recognition or registration after being convicted of a felony or crime involving moral turpitude or breach of fiduciary duty; on petition for reinstatement by a person excluded or suspended on ethical grounds, or excluded on consent from practice before the Office: $1,600.00.

(b) Deposit accounts:

(1) [Reserved]

(2) Service charge for each month when the balance at the end of the month is below $1,000: $25.00.

(3) Service charge for each month when the balance at the end of the month is below $300 for restricted subscription deposit accounts used exclusively for subscription order of patent copies as issued: $25.00.

(c) [Reserved]

(d) [Reserved]

(e) International type search reports: For preparing an international type search report of an international type search made at the time of the first action on the merits in a national patent application: $40.00.

(f) [Reserved]

(g) [Reserved]

(h) For recording each assignment, agreement, or other paper relating to the property in a patent or application, per property:

(1) If submitted electronically, on or after January 1, 2014: $0.00.

(2) If not submitted electronically: $50.00.

(i) Publication in Official Gazette: For publication in the Official Gazette of a notice of the availability of an application or a patent for licensing or sale: Each application or patent: $25.00.

(j) [Reserved]

(k) [Reserved]

(l) [Reserved]

(m) For processing each payment refused (including a check returned ''unpaid'') or charged back by a financial institution: $50.00.

(n) For handling an application in which proceedings are terminated pursuant to § 1.53(e): $130.00.

(o) The submission of very lengthy sequence listings (mega-sequence listings) are subject to the following fees:

(1) Submission of sequence listings in electronic form ranging in size from 300 MB to 800 MB:

By a micro entity (§ 1.29)	$250.00
By a small entity (§ 1.27(a))	500.00
By other than a small or micro entity	1,000.00

(2) Submission of sequence listings in electronic form exceeding 800 MB in size:

By a micro entity (§ 1.29)	$2,500.00
By a small entity (§ 1.27(a))	5,000.00
By other than a small or micro entity	10,000.00

(p) Additional Fee for Overnight Delivery: $40.00.

(q) Additional Fee for Expedited Service: $160.00.

■ 8. Section 1.362 is amended by revising paragraph (b) to read as follows:

§ 1.362 Time for payment of maintenance fees.

* * * * *

(b) Maintenance fees are not required for any plant patents or for any design patents.

* * * * *

■ 9. Section 1.445 is amended by adding paragraph (a)(5) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(5) Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter:*

By a micro entity (§ 1.29)	$75.00
By a small entity (§ 1.27(a))	150.00
By other than a small or micro entity	300.00

* * * * *

■ 10. Section 1.482 is amended by revising the section heading and adding paragraph (c) to read as follows:

§ 1.482 International preliminary examination and processing fees.

* * * * *

(c) Late furnishing fee for providing a sequence listing in response to an invitation under PCT Rule 13*ter:*

By a micro entity (§ 1.29)	$75.00
By a small entity (§ 1.27(a))	150.00
By other than a small or micro entity	300.00

■ 11. Section 1.492 is amended by revising paragraphs (a), (b)(2) through (4), (c) introductory text, (c)(2), and (d) through (f) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) The basic national fee for an international application entering the national stage under 35 U.S.C. 371:

By a micro entity (§ 1.29)	$75.00
By a small entity (§ 1.27(a))	150.00
By other than a small or micro entity	300.00

(b) * * *

(2) If the search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a micro entity (§ 1.29)	$35.00
By a small entity (§ 1.27(a))	70.00
By other than a small or micro entity	140.00

(3) If an international search report on the international application has been prepared by an International Searching Authority other than the United States International Searching Authority and is provided, or has been previously communicated by the International Bureau, to the Office:

By a micro entity (§ 1.29)	$130.00
By a small entity (§ 1.27(a))	260.00
By other than a small or micro entity	520.00

(4) In all situations not provided for in paragraph (b)(1), (2), or (3) of this section:

By a micro entity (§ 1.29)	$165.00
By a small entity (§ 1.27(a))	330.00
By other than a small or micro entity	660.00

(c) The examination fee for an international application entering the national stage under 35 U.S.C. 371:

* * * * *

(2) In all situations not provided for in paragraph (c)(1) of this section:

By a micro entity (§ 1.29)	$190.00
By a small entity (§ 1.27(a))	380.00
By other than a small or micro entity	760.00

(d) In addition to the basic national fee, for filing or on later presentation at any other time of each claim in independent form in excess of 3:

By a micro entity (§ 1.29)	$115.00
By a small entity (§ 1.27(a))	230.00
By other than a small or micro entity	460.00

(e) In addition to the basic national fee, for filing or on later presentation at any other time of each claim (whether dependent or independent) in excess of 20 (note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes):

By a micro entity (§ 1.29)	$25.00
By a small entity (§ 1.27(a))	50.00
By other than a small or micro entity	100.00

(f) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim, per application:

By a micro entity (§ 1.29)	$205.00
By a small entity (§ 1.27(a))	410.00
By other than a small or micro entity	820.00

* * * * *

■ 12. Section 1.1031 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 1.1031 International design application fees.

(a) International design applications filed through the Office as an office of indirect filing are subject to payment of a transmittal fee (35 U.S.C. 382(b) and Article 4(2)) in the amount of:

By a micro entity (§ 1.29)	$30.00
By a small entity (§ 1.27(a))	60.00
By other than a small or micro entity	120.00

* * * * *

(f) The designation fee for the United States shall consist of:

(1) A first part established in Swiss currency pursuant to Hague Rule 28 based on the combined amounts of the basic filing fee (§ 1.16(b)), search fee (§ 1.16(l)), and examination fee (§ 1.16(p)) for a design application. The first part is payable at the time of filing the international design application; and

(2) A second part (issue fee) as provided in § 1.18(b). The second part is payable within the period specified in a notice of allowance (§ 1.311).

PART 41—PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 13. The authority citation for part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135, and Public Law 112–29.

■ 14. Section 41.20 is amended by revising paragraph (b)(4) to read as follows:

§ 41.20 Fees.

* * * * *

(b) * * *

(4) In addition to the fee for filing a notice of appeal, for forwarding an appeal in an application or *ex parte* reexamination proceeding to the Board:

By a micro entity (§ 1.29 of this chapter)	$560.00
By a small entity (§ 1.27(a)) of this chapter)	1,120.00
By other than a small or micro entity	2,240.00

PART 42—TRIAL PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 15. The authority citation for part 42 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 6, 21, 23, 41, 135, 311, 312, 316, 321–326; Pub. L. 112–29, 125 Stat. 284; and Pub. L. 112–274, 126 Stat. 2456.

■ 16. Section 42.15 is amended by revising paragraphs (a) and (b) to read as follows:

§ 42.15 Fees.

(a) On filing a petition for *inter partes* review of a patent, payment of the following fees are due:

(1) *Inter Partes* Review request fee: $15,500.00.

(2) *Inter Partes* Review Post-Institution fee: $15,000.00.

(3) In addition to the *Inter Partes* Review request fee, for requesting review of each claim in excess of 20: $300.00.

(4) In addition to the *Inter Partes* Post-Institution request fee, for requesting review of each claim in excess of 15: $600.00.

(b) On filing a petition for post-grant review or covered business method patent review of a patent, payment of the following fees are due:

(1) Post-Grant or Covered Business Method Patent Review request fee: $16,000.00.

(2) Post-Grant or Covered Business Method Patent Review Post-Institution fee: $22,000.00.

(3) In addition to the Post-Grant or Covered Business Method Patent Review request fee, for requesting review of each claim in excess of 20: $375.00

(4) In addition to the Post-Grant or Covered Business Method Patent Review Post-Institution fee, for requesting review of each claim in excess of 15: $825.00.

* * * * *

Joseph Matal,

Associate Solicitor, performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2017–24390 Filed 11–13–17; 8:45 am]

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FEDERAL REGISTER

Vol. 82 Tuesday,

No. 218 November 14, 2017

Part III

The President

Proclamation 9673—World Freedom Day, 2017

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 9673 of November 8, 2017

World Freedom Day, 2017

By the President of the United States of America

A Proclamation

For 28 years, the Berlin Wall divided families, friends, and communities, barricading oppressed Germans living on the Eastern side from seeking the freedom they deserved in the West. This World Freedom Day, 28 years after the fall of the Berlin Wall, we celebrate the day on November 9, 1989, when people of East and West Germany tore down the Berlin Wall and freedom triumphed over Communism. We laud the courage of all people who insist on a better future for themselves, their families, and their country, as we reflect on the state of freedom in our world today and those who have made the ultimate sacrifice defending it.

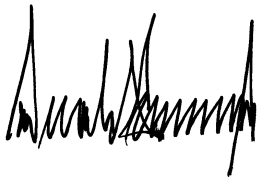
The fall of the Berlin Wall spurred the reunification of Germany and the spread of democratic values across Central and Eastern Europe. Through democratic elections, and a strong commitment to human rights, these determined men and women ensured that their fellow and future citizens could live their lives in freedom. Today, we are reminded that the primary function of government is precisely this, to secure precious individual liberties.

While we live in a time of unprecedented freedom, terrorism and extremism around the world continue to threaten us. The ultimate triumph of freedom, peace, and security over repressive totalitarianism depends on our ability to work side-by-side with our friends and allies. When nations work together, we have and we will secure and advance freedom and stability throughout our world.

On World Freedom Day, we recommit to the advancement of freedom over the forces of repression and radicalism. We continue to make clear that oppressive regimes should trust their people and grant their citizens the liberty they deserve. The world will be better for it.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 9, 2017, as World Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities, reaffirming our dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



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