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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–3324; Special Conditions No. 25–650–SC]

Special Conditions: L–3 Communications Integrated Systems; Boeing Model 747–8 Series Airplanes, Large Non-Structural Glass in the Passenger Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 747–8 airplane. This airplane, as modified by L–3 Communications Integrated Systems (L–3 Communications), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is the installation of large, non-structural glass panels in the cabin area of an executive interior occupied by passengers and crew. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective April 17, 2017.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2194; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2011, L–3 Communications applied for a supplemental type certificate for large, non-structural glass panels in the passenger compartment in Boeing Model 747–8 airplanes. The Model 747–8 airplane is a derivative of the Boeing Model 747–400 airplane approved under type certificate no. A20WE. The airplane, as modified by L–3 Communications, is a four-engine, transport-category airplane that will have a maximum takeoff weight of 970,000 lbs, capacity for 24 crewmembers, and seating for 143 passengers.

Type Certification Basis

The certification basis for the Boeing Model 747–8 airplane, as defined in type certificate no. A20WE, is Title 14, Code of Federal Regulations (14 CFR) part 25 as amended by amendments 25–1 through 25–120, with exceptions for structures and systems that were unchanged from the 747–400 design.

Under the provisions of § 21.101, L–3 Communications must show that the Model 747–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in type certificate no. A20WE, or the applicable regulations in effect on the date of application for the change.

The certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–8 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model 747–8 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

L–3 Communications Integrated Systems is modifying a Boeing Model 747–8 airplane to install an executive interior. This airplane, as modified, will have a novel or unusual design feature that is the installation of large, non-structural glass panels in the cabin area of an executive interior occupied by passengers and crew. The installation of these glass items in the passenger compartment, which can be occupied during taxi, takeoff, and landing, is a novel or unusual design feature with respect to the material being installed. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature.

Discussion

No specific regulations address the design and installation of large glass components in airplane passenger cabins. Existing requirements, such as §§ 25.561, 25.562, 25.601, 25.603, 25.613, 25.775, and 25.789, in the Boeing Model 747–8 airplane certification basis applicable to this supplemental type certificate project, provide some design standards appropriate for large glass component installations. However, additional design standards for non-structural glass are needed to complement the existing requirements. The addition of glass involved in this installation, and the potentially unsafe conditions caused by damage to such components from external sources, necessitate assuring that adequate safety standards are applied to the design and installation of the feature in Boeing Model 747–8 airplanes.

For purposes of these special conditions, a large glass component is defined as a glass component weighing 4 kg (9 lbs) or more. Groupings of glass items that individually weigh less than 4 kg, but collectively weigh 4 kg or more, also would need to be included. These special conditions also apply when showing compliance with the applicable performance standards in the

regulations for the installation of these components. For example, heat-release and smoke-density testing must not result in fragmentation of the component.

The use of glass has resulted in trade-offs between the one unique characteristic of glass—its capability for undistorted or controlled light transmittance, or transparency—and the negative aspects of the material, such as extreme notch-sensitivity, low fracture resistance, low modulus of elasticity, and highly variable properties. While reasonably strong, glass is nonetheless not a desirable material for traditional airplane applications because it is heavy (about the same density as aluminum), and when it fails, it breaks into extremely sharp fragments that have the potential for injury and which have been known to be lethal. Thus, the use of glass traditionally has been limited to windshields, and instrument or display transparencies. The regulations only address, and thus only recognize, the use of glass in windshield or window applications. These regulations do address the adverse properties of glass, but even so, pilots are occasionally injured from shattered glass windshields. FAA policy allows glass on instruments and display transparencies.

Other installations of large, non-structural glass items have included the following:

☐ Glass panels integrated onto a stairway handrail closeout.

☐ Glass panels mounted in doors to allow visibility through the door when desired.

☐ Glass doors on some galley compartments containing small amounts of service items.

These special conditions will reduce the hazards from breakage, or from these panels' potential separation from the cabin interior.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions no. 25–16–04–SC, for L–3 Communications modifications to the Boeing Model 747–8 airplane, was published in the **Federal Register** on February 25, 2016 (81 FR 9365). One comment was received.

By letter no. B–H020–REG–16–TLM–16 dated March 24, 2016, on behalf of The Boeing Company (Boeing), Capt. Terry L. McVenes, Director, System Safety & Regulatory Affairs, wrote that Boeing provides a

> . . . comprehensive set of comments that identify areas of the proposed text where changes would be beneficial for better clarity and accuracy. [Boeing] consider[s] such clarifications important to ensure consistent and standardized interpretation and application of the requirements and guidance provided in the document.

Boeing recommends that proposed special condition no. 1, Material, and proposed special condition no. 2, Fragmentation, be revised to more-clearly define what each of these special conditions require, and how these two requirements are different. We agree that those two conditions could be addressed with a single test, so we combined those two conditions into a single condition, special condition no. 1, in this document, for clarity. The subsequent special conditions have been renumbered accordingly.

Boeing commented that the load conditions in special condition no. 4, which corresponds to special condition no. 3 in this document, should include all flight and landing loads, rather than only emergency landing. These special conditions are in addition to the load requirements in the certification basis for the glass installation, rather than in lieu of the load requirements. Thus, it is not necessary to repeat that all of these loads apply to this installation. The emergency-landing load condition is not normally applied to installations of this type, but for the use of large glass in the cabin, we determined that this additional safety standard is necessary. We made no changes to special condition number 3 in response to the Boeing comments.

Boeing recommends that the loading conditions in proposed special condition no. 3 (which is now special condition no. 2), Strength, and proposed special condition no. 4 (which is now special condition no. 3), Retention, be the same. Proposed special condition no. 3 (which is now special condition no. 2), Strength, is required to address the unique, extremely notch-sensitive characteristics of the glass as having low fracture resistance, low modulus of elasticity, and highly variable properties. Special condition no. 3 (which is now special condition no. 2) specifically accounts for abuse loads in addition to the loads required per subparts C & D of 14 CFR part 25. Special condition no. 4 (which is now special condition no. 3) accounts for loads encountered during directional loading and rebound resulting from emergency landing loads of 14 CFR part 25. We have made minor grammatical modifications to the requirements.

Boeing recommends that, for proposed special condition no. 4 (which is now special condition no. 3), Retention, the statement, ''Both the directional loading and rebound conditions must be assessed,'' be removed, because these both are covered in proposed special condition no. 3. As explained above, special condition nos. 3 (which is now special condition no. 2) and 4 (which is now special condition no. 3) account for different loading conditions. We have made minor grammatical modifications to the requirements.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 747–8 series airplanes as modified by L–3 Communications. Should L–3 Communications apply at a later date for a supplemental type certificate to modify any other model included on type certificate no. A20WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued, for large glass components installed in a cabin occupied by passengers or crew who are not otherwise protected from the injurious effects of failure of the glass installations, as part of the type certification basis for Boeing 747–8 airplanes modified by L–3 Communications.

1. *Material Fragmentation*—The applicant must use tempered or otherwise treated glass to ensure that, when fractured, the glass breaks into small pieces with relatively dull edges. The glass component installation must retain all glass fragments to minimize the danger from flying glass shards or pieces. The applicant must demonstrate

this characteristic by impact and puncture testing, and testing to failure. The applicant may conduct this test with or without any glass coating that may be utilized in the design.

2. *Strength*—In addition to meeting the load requirements for all flight and landing loads, including any of the applicable emergency-landing conditions in subparts C & D of 14 CFR part 25, the glass components that are located such that they are not protected from contact with cabin occupants must not fail due to abusive loading, such as impact from occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact with the glass component. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

3. *Retention*—The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing, considering both the directional loading and resulting rebound conditions. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

4. *Instructions for Continued Airworthiness:* The instructions for continued airworthiness must reflect the method used to fasten the panel to the cabin interior, and must ensure the reliability of the methods used (*e.g.,* life limit of adhesives, or clamp connection). The applicant must define any inspection methods and intervals based upon adhesion data from the manufacturer of the adhesive, or upon actual adhesion-test data, if necessary.

Issued in Renton, Washington, on February 14, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05330 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9489; Special Conditions No. 25–649–SC]

Special Conditions: Textron Aviation Inc. Model 700 Airplane; Isolation of Airplane Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Aviation Inc. (Textron) Model 700 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is airplane electronic systems and networks that allow access, from aircraft internal sources (*e.g.,* wireless devices, Internet connectivity), to the airplane's previously isolated, internal, electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron on March 17, 2017. We must receive your comments by May 1, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9489 using any of the following methods:

☐ *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.

☐ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

☐ *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

☐ *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1320.

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

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On November 20, 2014, Textron applied for a type certificate for their new Model 700 airplane. The Textron

Model 700 airplane is a twin-engine, transport-category executive airplane with seating for 2 crewmembers and 12 passengers, and a maximum takeoff weight of 38,514 lbs.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Textron must show that the Model 700 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–139, 25–141, and 25–143.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model 700 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model 700 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Textron Model 700 airplane will incorporate the following novel or unusual design feature:

Airplane electronic systems and networks that allow access, from airplane internal sources (*e.g.,* wireless devices, Internet connectivity), to the previously isolated airplane electronic assets.

Discussion

Networks, both in safety-related and non-safety-related applications, have been implemented in existing commercial-production airplanes. However, network security considerations and functions have played a relatively minor role in the certification of such systems because of the isolation, protection mechanisms, and limited connectivity between these networks.

To provide an understanding of the airplane electronic equipment, systems, and assets, these special conditions use the concept of domains. However, this does not prescribe any particular architecture.

The aircraft-control domain consists of the airplane electronic systems, equipment, instruments, networks, servers, software and hardware components, databases, etc., which are part of the type design of the airplane and are installed in the airplane to enable the safe operation of the airplane. These can also be referred to as flight-safety-related systems, and include flight controls, communication, display, monitoring, navigation, and related systems.

The airline-information-services domain generally consists of functions that the airplane operator manages or controls, such as administrative functions, cabin-support functions, etc.

The passenger-information-services domain consists of all functions required to provide the passengers with information.

The Textron Model 700 airplane design introduces the potential for access to aircraft-control domain and airline-information-services domain by unauthorized persons through the passenger-information-services domain; and the security vulnerabilities related to the introduction of viruses, worms, user mistakes, and intentional sabotage of airplane networks, systems, and databases.

For electronic systems and assets security in these domains, the level of protection provided against security threats should be based on a security-risk assessment, noting that the level of protection could differ between domains and within domains, depending on the security threat. For each security vulnerability and airplane electronic asset, Textron should identify in which domain the asset will be addressed.

In addition, the operating systems for current airplane systems are usually and historically proprietary. Therefore, they are not as susceptible to corruption from worms, viruses, and other malicious actions as are more widely used commercial operating systems, because access to the design details of these proprietary operating systems is limited to the system developer and airplane integrator. Some airplanes are equipped with operating systems that are widely used and commercially available from third-party software suppliers. The security vulnerabilities of these operating systems may be more widely known than are the vulnerabilities of proprietary operating systems that the avionics manufacturers currently use.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Textron Model 700 airplane. Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Model 700 airplanes.

1. The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to,

and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Renton, Washington, on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05333 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–6137; Special Conditions No. 25–644–SC]

Special Conditions: The Boeing Company Model 787–10 Airplane; Aeroelastic Stability Requirements, Flaps-Up Vertical Modal-Suppression System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Company (Boeing) Model 787–10 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is a flaps-up vertical modal-suppression system, which is in lieu of traditional methods of improving airplane flutter characteristics. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective April 17, 2017.

FOR FURTHER INFORMATION CONTACT: Wael Nour, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2143; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2013, Boeing applied for an amendment to Type Certificate No. T00021SE to include the new Model 787–10 airplane. This twin-engine, transport-category airplane is a stretched-fuselage derivative of the 787–9, with maximum seating capacity of 440 passengers. The 787–10 has a maximum takeoff weight of 560,000 lbs.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Boeing must show that the Model 787–10 airplane meets the applicable provisions of the regulations listed in Type Certificate No. T00021SE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

In addition, the certification basis includes other regulations, special conditions, and exemptions that are not relevant to these proposed special conditions. Type Certificate No. T00021SE will be updated to include a complete description of the certification basis for this airplane model.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model 787–10 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Model 787–10 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Model 787–10 airplane will incorporate the following novel or unusual design feature:

A flaps-up vertical modal suppression system.

Discussion

The Boeing Model 787–10 will add a new flaps-up vertical modal-suppression (F0VMS) system to the Normal mode of the primary flight-control system (PFCS). The F0VMS system is needed to satisfy the flutter-damping margin requirements of § 25.629 and the means-of-compliance provisions in Advisory Circular (AC) 25.629–1B. This system will be used in lieu of typical methods of improving the flutter characteristics of an airplane, such as increasing the torsional stiffness of the wing or adding wingtip ballast weights.

The F0VMS system is an active modal-suppression system that will provide additional damping to an already stable, but low-damped, 3Hz symmetric wing, nacelle, and body aeroelastic mode of the airplane. This feedback-control system will maintain adequate damping margins to flutter. The F0VMS system accomplishes this by oscillating the elevators, and, when needed, the flaperons.

Because Boeing's flutter analysis shows that the 3Hz mode is stable and does not flutter, the F0VMS system is not an active flutter-suppression system, but, rather, a damping-augmentation system. At this time, the FAA is not prepared to accept an active flutter-suppression system that suppresses a divergent flutter mode in the operational or design envelope of the airplane.

This will be the first time an active modal-suppression system will be used for § 25.629 compliance. The use of this new active modal-suppression system for flutter compliance is novel or unusual when compared to the technology envisioned in the current airworthiness standards. Consequently, special conditions are required in consideration of the effects of this new system on the aeroelastic stability of the airplane, both in the normal and failed state, to maintain the level of safety intended by § 25.629.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–16–05–SC for the

Boeing Model 787–10 airplane was published in the **Federal Register** on September 20, 2016 (81 FR 64360). One substantive comment was received.

By letter no. B–H020–REG–16–TLM–68 dated November 1, 2016, Boeing stated that they ''. . . recommend that development of future requirements for the application of [active modal-suppression system for flutter compliance] technology be the subject of an Aviation Rulemaking Advisory Committee (ARAC).'' Boeing adds that ''. . . standard requirements should be developed which reflect this state-of-the-art system and apply to all airplane manufacturers. The development of these requirements would benefit from the collaborative effort of an ARAC.''

The FAA agrees with Boeing and currently has plans to task ARAC to develop recommendations on this subject.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 787–10 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 787–10 airplanes.

The following special conditions are proposed to address the aeroelastic stability of the 787–10 airplane with the F0VMS system as an integral part of the PFCS Normal mode:

Analytical Flutter-Clearance Requirements

1. The airplane in the PFCS Normal mode (which includes F0VMS) must meet the nominal (no failures) flutter and aeroelastic stability requirements of § 25.629(b)(1), and the damping-margin criteria of AC 25.629–1B, Section 7.1.3.3. Figure 1, below, illustrates the Damping versus Airspeed plot.

a. The aeroservoelastic analysis must take into account the effect of the following items:

i. Significant structural and aerodynamic nonlinearities.

ii. Significant F0VMS nonlinearities, including control-surface rate and displacement saturation, and blowdown.

iii. The range of design maneuver load factors.

iv. Control surface freeplay.

v. Any other items that may affect the performance of the F0VMS system in maintaining adequate modal damping margins.

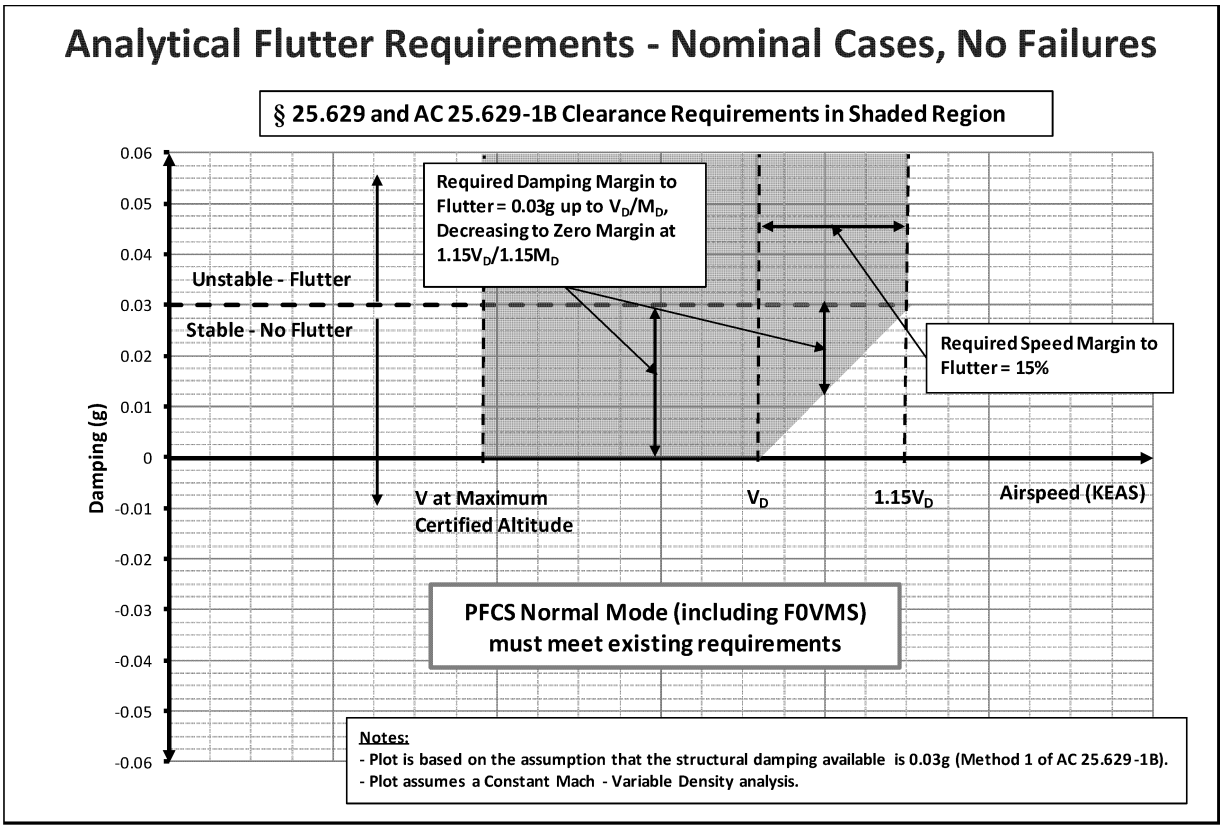

Figure 1: Damping vs. Airspeed; PFCS Normal mode, F0VMS system operative

2. The airplane in the PFCS Normal mode, but with the F0VMS system inoperative, must exhibit a damping margin to flutter of 0.015g within the V_D/M_D envelope, linearly decreasing (in KEAS) to zero damping margin to flutter at 1.15 V_D/1.15 M_D, limited to Mach 1.0. That is, the 3Hz mode should not cross the g = 0.015 line below V_D, or the g = 0.03 line below 1.15 V_D, assuming the use of analysis Method 1 of AC 25.629–1B, Section 7.1.3.3. Figure 2, below, illustrates the Damping versus Airspeed plot.

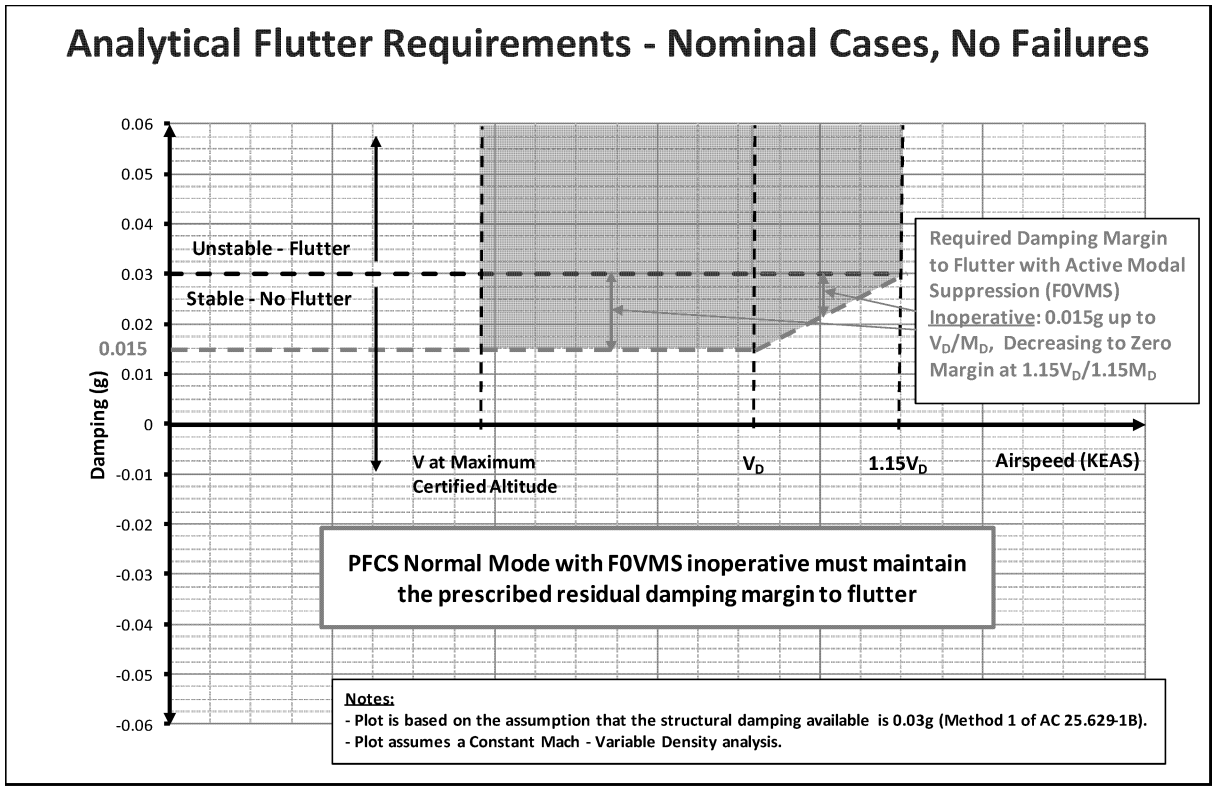

Figure 2: Damping vs. Airspeed; PFCS Normal mode, F0VMS system inoperative

3. The airplane in the PFCS Normal mode (which includes F0VMS) must meet the fail-safe flutter and aeroelastic stability requirements of § 25.629(b)(2), and the damping-margin criteria of AC 25.629–1B, Section 7.1.3.5.

4. The airplane in the PFCS Secondary and Direct modes must meet the fail-safe flutter and aeroelastic-stability requirements of § 25.629(b)(2), and the damping-margin criteria of AC 25.629–1B, Section 7.1.3.5.

Issued in Renton, Washington, on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05326 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9403; Special Conditions No. 25–643–SC] Special Conditions: Embraer, S.A., Model ERJ 190–300 Airplane; Dive-Speed Definition with High-Speed-Protection System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Embraer, S.A., (Embraer) Model ERJ 190–300 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is a high-speed-protection system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Embraer on March 17, 2017. We must receive your comments by May 1, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9403 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Schneider, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2116; facsimile 425–227–1320.

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

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On September 13, 2013, Embraer S.A. applied for an amendment to Type Certificate No. A57NM to include the new Model ERJ 190–300 series airplanes. The ERJ 190–300, which is a derivative of the ERJ 190–100 STD currently approved under Type Certificate No. A57NM, is a 97 to 114-passenger transport-category airplane designed with a new wing with a high aspect ratio and raked wingtip, and a new electrical-distribution system. The maximum take-off weight is 124,340 lbs (56,400 kg).

Type Certification Basis

Under the provisions of § 21.101, Embraer must show that the ERJ 190–300 meets the applicable provisions of the regulations listed in Type Certificate No. A57NM, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Embraer Model ERJ 190–300 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Embraer Model ERJ 190–300 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Embraer Model ERJ 190–300 airplane will incorporate the following novel or unusual design feature: a high-speed-protection system.

Discussion

Section 25.335(b)(1) addresses a dive-speed condition, that was originally adopted in part 4b of the Civil Air Regulations, to provide an acceptable speed margin between design cruise speed and design dive speed. Design dive speed impacts flutter-clearance design speeds and airframe design loads. While the initial condition for the upset specified in the rule is 1 g level flight, protection is provided for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for potential overspeed conditions, including non-symmetric conditions. To ensure that potential overspeed conditions are covered, the applicant should demonstrate that the airplane will not exceed dive speed in inadvertent, or gust-induced, upsets resulting in initiation of the dive from non-symmetric attitudes; or that the airplane is protected, by the flight-control laws, from getting into non-symmetric upset conditions. The applicant should conduct a demonstration that includes a comprehensive set of conditions, as described in the special conditions.

These special conditions are in lieu of § 25.335(b)(1). Section 25.335(b)(2), which also addresses the design dive speed, is applied separately. Advisory Circular (AC) 25.335–1A, Design Dive Speed, dated September 29, 2000, provides an acceptable means of compliance to § 25.335(b)(2)).

Special conditions are necessary to address the high-speed-protection system on the Embraer Model ERJ 190–300 airplane. The special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ 190–300 airplane. Should Embraer apply at a later date for a change to the type certificate to include

another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Embraer Model ERJ 190–300 airplanes.

1. In lieu of compliance with § 25.335(b)(1), if the flight-control system includes functions that act automatically to initiate recovery before the end of the 20-second period specified in § 25.335(b)(1), V_D/M_D must be determined from the greater of the speeds resulting from special conditions 1(a) and 1(b), below. The speed increase occurring in these maneuvers may be calculated if reliable or conservative aerodynamic data are used.

a. From an initial condition of stabilized flight at V_C/M_C, the airplane is upset so as to take up a new flight path 7.5 degrees below the initial path. Control application, up to full authority, is made to try to maintain this new flight path. Twenty seconds after initiating the upset, manual recovery is made at a load factor of 1.5 g (0.5 g acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power, as specified in § 25.175(b)(1)(iv), is assumed until recovery is initiated, at which time power reduction and the use of pilot-controlled drag devices may be used.

b. From a speed below V_C/M_C, with power to maintain stabilized level flight at this speed, the airplane is upset so as to accelerate through V_C/M_C at a flight path 15 degrees below the initial path (or at the steepest nose-down attitude that the system will permit with full control authority if less than 15 degrees). The pilot's controls may be in the neutral position after reaching V_C/M_C and before recovery is initiated. Recovery may be initiated three seconds after operation of the high-speed warning system by application of a load of 1.5 g (0.5 g acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power may be reduced simultaneously. All other means of decelerating the airplane, the use of which is authorized up to the highest speed reached in the maneuver, may be used. The interval between successive pilot actions must not be less than one second.

2. The applicant must also demonstrate that the speed margin, established as above, will not be exceeded in inadvertent or gust-induced upsets resulting in initiation of the dive from non-symmetric attitudes, unless the airplane is protected, by the flight-control laws, from getting into non-symmetric upset conditions. The upset maneuvers described in Advisory Circular 25–7C, ''Flight Test Guide for Certification of Transport Category Airplanes,'' section 8, paragraph 32, sub-paragraphs c(3)(a) and (b), may be used to comply with this requirement.

3. The probability of any failure of the high-speed-protection system that would result in an airspeed exceeding those determined by special conditions 1 and 2, above, must be less than 10^{-5} per flight hour.

4. Failures of the system must be annunciated to the pilots. Airplane flight-manual instructions must be provided that reduce the maximum operating speeds, V_{MO}/M_{MO}. With the system failed, the operating speed must be reduced to a value that maintains a speed margin between V_{MO}/M_{MO} and V_D/M_D, and that is consistent with showing compliance with § 25.335(b) without the benefit of the high-speed-protection system.

5. Dispatch of the airplane with the high-speed-protection system inoperative could be allowed under an approved minimum equipment list that would require airplane flight-manual instructions to indicate reduced maximum operating speeds, as described in special condition 4, above. In addition, the flight-deck display of the reduced operating speeds, as well as the overspeed warning for exceeding those speeds, must be equivalent to that of the normal airplane with the high-speed-protection system operative. Also, the applicant must show that no additional hazards are introduced with the high-speed-protection system inoperative.

Issued in Renton, Washington, on February 7, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05329 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9401; Special Conditions No. 25–651–SC]

Special Conditions: Avionics Design Services Ltd., Textron Model 550/S550/560/560XL Airplanes; Rechargeable Lithium Batteries and Battery Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Model 550/S550/560/560XL airplanes. These airplanes, as modified by Avionics Design Services Ltd., will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is rechargeable lithium batteries and battery systems installed in the airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron on March 17, 2017. We must receive your comments by May 1, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9401 using any of the following methods:

☐ *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow

the online instructions for sending your comments electronically.

☐ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.

☐ *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

☐ *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Nazih Khaouly, FAA, Airplane and Flightcrew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

The substance of these special conditions has been subject to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On July 9, 2015, Avionics Design Services Ltd. applied for a supplemental type certificate for rechargeable lithium batteries and battery systems installed in Textron Model 550/S550/560/560XL airplanes. These airplanes are twin-engine, transport-category business jets with a maximum capacity of 8 (Models 550 and 560) or 9 (Models S550 and 560XL) passengers, and maximum takeoff weights of 15,100 lbs. (Models 550 and S550), 16,300 lbs. (Model 560), and 20,200 lbs. (Model 560XL).

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Avionics Design Services Ltd. must show that the Textron Model 550/S550/560/560XL airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A22CE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model 550/S550/560/560XL airplanes, as modified by Avionics Design Services Ltd., because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model 550/S550/560/560XL airplanes, as modified by Avionics Design Services Ltd., must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Textron Model 550/S550/560/560XL airplanes, as modified by Avionics Design Services Ltd., will incorporate the following novel or unusual design feature:

Installed rechargeable lithium batteries and battery systems.

Rechargeable lithium batteries are a novel or unusual design feature in transport-category airplanes. This type of battery has certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on transport-category airplanes.

Discussion

Rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery-cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy-storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries demonstrated unanticipated failure modes. These events are described in a National Transportation Safety Board letter to the FAA, dated May 22, 2014, which is available at: *http://www.ntsb.gov/doclib/recletters/2014/A-14-032-036.pdf.*

On July 12, 2013, an event involving a non-rechargeable lithium battery in an emergency-locator transmitter installation demonstrated unanticipated failure modes. This event is described in Air Accident Investigations Branch Bulletin S5/2013, available at: *http://www.aaib.gov.uk/cms_resources.cfm?file=/S5-2013%20ET-AOP.pdf.*

Some other known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

☐ Flight deck and avionics systems such as displays, global-positioning systems, cockpit voice recorders, flight-data recorders, underwater-locator beacons, navigation computers, integrated avionics computers, satellite network/communication systems, communication-management units, and remote-monitor electronic line replaceable units (LRU);

☐ Cabin safety, entertainment and communications equipment including life rafts, escape slides, seatbelt air bags, cabin-management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, and remote controls and handsets; and,

☐ Systems in cargo areas including door controls, sensors, video surveillance equipment and security systems.

Some known potential hazards and failure modes associated with rechargeable lithium batteries are:

☐ Internal failures. In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.

☐ Fast or imbalanced discharging. Fast discharging, or an imbalanced discharge of one cell of a multi-cell battery, may create an overheating condition that results in an uncontrollable venting condition which, in turn, leads to a thermal event or an explosion.

☐ Flammability. Unlike nickel-cadmium and lead-acid batteries, these batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium, and use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Textron Model 550/S550/560/560XL airplanes as modified by Avionics Design Services Ltd. Should Avionics Design Services Ltd. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A22CE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Model 550/S550/560/560XL airplanes modified by Avionics Design Services Ltd.

Each rechargeable lithium battery installation must:

1. Be designed so that safe cell temperatures and pressures are maintained under all foreseeable operating conditions to preclude fire and explosion.

2. Be designed to preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

3. Not emit explosive or toxic gases in normal operation, or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of Title 14, Code of Federal Regulations 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the installation can generate due to any failure of it or its individual cells.

7. Be capable of automatically controlling the charge rate of each cell to prevent cell imbalance, back charging, overcharging, overheating, and uncontrollable temperature and pressure.

8. Have a means to be automatically disconnected from its charging source in the event of an over-temperature condition, cell failure, or battery failure.

9. Have a failure sensing and warning system to alert the flightcrew if the installation's failure affects safe operation of the airplane.

10. If its function is required for safe operation of the airplane, the installment must have a monitoring and warning feature that alerts the flightcrew when its charge state falls below acceptable levels.

Note 1: A battery system consists of the battery, battery charger, and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a battery and battery system are referred to as a battery.

Note 2: These special conditions apply to all rechargeable lithium battery installations in lieu of Title 14, Code of Federal Regulations 25.1353(c)(1) through (c)(4) at Amendment 25–42. Section 25.1353(c)(1) through (c)(4) at Amendment 25–42 remains in effect for other battery installations.

Note 3: Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Rechargeable lithium batteries contain electrolyte that is a flammable fluid. The FAA includes special condition 4 to make it clear to applicants that the flammable-fluid fire-protection requirements of § 25.863 apply to rechargeable lithium battery installations.

Note 4: Special conditions 7 and 8 require rechargeable lithium batteries to have ''automatic'' means, for charge rate and disconnect, due to the fast-acting nature of lithium battery chemical reactions. Manual intervention would not be timely or effective in mitigating the hazards associated with these batteries.

Issued in Renton, Washington, on February 23, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05334 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0078; Special Conditions No. 25–543–SC]

Special Conditions: Embraer S.A. Model ERJ–170 Airplanes; Seats With Large, Non-Traditional, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments; correction.

SUMMARY: This document corrects an error that appeared in Federal Docket no. FAA–2014–0078, Special Conditions no. 25–543–SC, which was published in the **Federal Register** on March 3, 2014 (79 FR 11679). The error is in the type-certificate number referenced in the Background and Type Certification Basis sections of the special conditions. It is being corrected herein.

DATES: The effective date of this correction is March 17, 2017

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2194; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

Special Conditions no. 25–543–SC was published in the **Federal Register** on March 3, 2014 (79 FR 11679). The document issued special conditions pertaining to seats with large, non-traditional, non-metallic panels.

As published, the document contained four errors, each referring to the type-certificate number for the Embraer S.A. Model ERJ–170 airplane.

Because no other part of the regulatory information has been changed, the special conditions document is not being re-published.

Correction

In the Final Special Conditions, Request for Comments document [FR Doc. 2014–04559 Filed 2–28–14; 8:45 a.m.] published on March 3, 2014 (79 FR 11679), make the following correction:

On page 11679, column 3, in the first and second paragraphs of the Background section; and on page 11680, column 1, in the first paragraph of the Type Certification Basis section, change ''A57NM'' to ''A56NM.''

Issued in Renton, Washington on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05328 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–8247; Special Conditions No. 25–652–SC]

Special Conditions: Aerocon Engineering Company, Boeing Model 777–200 Airplane; Access Hatch Installed Between the Cabin and the Class C Cargo Compartment To Allow In-Flight Access to the Cargo Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 777–200 airplane. This airplane, as modified by Aerocon Engineering Company (Aerocon), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is an access hatch, installed between the cabin and the Class C cargo compartment, to allow in-flight access to the Class C cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective April 17, 2017.

FOR FURTHER INFORMATION CONTACT: John Shelden, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2785; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 2015, Aerocon applied for a supplemental type certificate to install an access hatch between the cabin and Class C cargo compartment in the Boeing Model 777–200 airplane. This airplane is a twin-engine, transport-category airplane with a VIP interior configuration. The Model 777–200 has a maximum passenger capacity of 440, and a maximum takeoff weight of 535,000 pounds.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Aerocon must show that the Boeing Model 777–200 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. T00001SE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 airplane, as changed, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200 airplane, as modified by Aerocon, must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Boeing Model 777–200 airplane, as modified by Aerocon, will incorporate the following novel or unusual design feature: An access hatch installed between the cabin and the Class C cargo compartment, to allow in-

flight access to the Class C cargo compartment.

Discussion

The VIP operator requests to have access to the aft lower-deck Class C cargo compartment on their Boeing Model 777–200 airplane to store trash during flight. The installation consists of an access hatch from the main passenger cabin, with an access ladder, and a trash container mounted on its own standard airliner pallet in the lower-deck Class C cargo compartment.

The FAA considers that the access hatch may impact the isolation of the passenger cabin from the cargo compartment. Isolation is necessary to protect the passengers, as required by § 25.857(c), from fire and smoke that may start within the cargo compartment. In addition, the in-flight access to the lower-deck Class C cargo compartment creates unique hazards resulting from passengers having access to cargo and baggage in the compartment. These hazards include the safety of the persons entering the cargo compartment, possible hazards to the airplane as a result of the access, and security concerns with access to the checked baggage and cargo. The special conditions defined herein provide additional requirements necessary to ensure sufficient cabin isolation from fire and smoke in this unusual design configuration, and for passenger safety while occupying the Class C cargo compartment.

The current rules relating to Class C cargo compartments do not address provisions for in-flight accessibility. The intent of the Class C cargo compartment was that it be a self-contained and isolated compartment intended to carry baggage and cargo, but not intended for human habitation. The FAA gave no consideration to an in-flight-accessible Class C cargo compartment when the classification was first developed, as no manufacturer had ever incorporated such a feature into their design. Inherently, a ''cargo compartment'' was not intended for in-flight access, especially by the traveling public. An allowance has been made specifically for crew access into a Class B cargo compartment for the express purpose of firefighting. Access into a cargo compartment carries with it an increased level of risk to the occupant entering the compartment, and to the airplane, as baggage or cargo could shift, a decompression could occur in the compartment, or a fire could develop during flight.

The FAA has determined that the existing airworthiness standards do not contain adequate or appropriate safety standards relative to passenger access to cargo compartments. As a result, special conditions are the appropriate means to address this and all future in-flight-accessible Class C cargo compartments.

Based upon the above discussion, the cargo-compartment isolation criterion is the main concern related to the access-hatch design, which is intended to be installed between the cabin and the Class C cargo compartment.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–16–08–SC for the Boeing Model 777–200 airplane, as modified by Aerocon, was published in the **Federal Register** on October 26, 2016 (81 FR 74350). The FAA received 6 comments from two commenters.

The Boeing Company (Boeing) comment 1 states, in pertinent part, that,

In addition to items 1 through 9, the following additional features should be considered in providing the necessary protection to passengers as required by Sec. 25.857(c):

Amount of time hatch to be left in the open condition—with the hatch open it is conceivable that the smoke detection system could be disrupted due to the change in air flow.

Similar access to class E compartments has required that the door/hatch remain closed while the occupant is in the compartment to minimize the time that the barrier between cargo compartment and occupied areas is compromised.

The FAA concurs that the airflow in the Class C cargo compartment would be affected during the time the access door is open. However, the intended provision of access to the lower-deck Class C cargo compartment is to enable a crewmember (in this case, a flight attendant) to place trash in a palletized container. The duration during which the access door is opened is expected to be very brief. If a fire occurs in the Class C cargo compartment during the time the crewmember is present, then the crew procedure requires vacating the compartment immediately and informing the flight crew after closing the access door. After the door is closed, the normal ventilation flow in the compartment should be reestablished, and the built-in fire detection system should provide annunciation of a fire to the flight deck within the required time, per 14 CFR 25.858.

The FAA finds that the limited time during which a crewmember is present in the Class C cargo compartment, and the access door is open, should not result in an appreciable increase in the fire risk. The FAA made no changes to the proposed special conditions in response to this comment.

Boeing states that some certified designs with access to Class E cargo compartments have required a door or hatch to remain closed while the compartment is occupied. However, the duration of the occupancy of those configurations may have been for a long period of time for such tasks as providing care to an animal. As stated previously, these special conditions pertain to a configuration that permits a limited duration of cargo-compartment occupancy. The FAA made no changes to the proposed special conditions in response to this comment.

Boeing comment 2 states, in pertinent part, that,

In addition to items 1 through 9, the following additional features should be considered in providing the necessary protection for occupants entering the class C cargo compartment:

Required lighting for visibility of cargo compartment hazards (shifting cargo, open holes in floor, trip hazards, etc.)

The FAA concurs that the Class C cargo compartment should have lighting installed to mitigate the hazards that may be encountered. We have added this requirement to these final special conditions.

Boeing comment 3 states, in pertinent part, that,

Means of communication from hatch to occupant needs to consider distance from opening to occupant, noise level of compartment.

The FAA concurs that adequate communication procedures must be established when the crew is accessing the Class C cargo compartment. We have added this requirement to these final special conditions.

Boeing comment 4 states, in pertinent part, that,

[14] CFR 25.1439 requires the installation of protective breathing equipment in each isolated separate compartment in which crew member occupancy is permitted during flight for the maximum number of crew members expected to be in the area during any operation.

The FAA concurs that the crew should have protective breathing equipment available and carried into the compartment if the compartment is occupied for a significant amount of time. However, as stated previously, the intended use of the compartment is to place trash in a palletized container.

The duration of cargo-compartment access required by the applicant for these special conditions is considered minimal, and therefore the installation

of protective breathing equipment is not required. The FAA made no changes to the proposed special conditions in response to this comment.

Boeing comment 5 states, in pertinent part, that,

[14] CFR 121.309 requires at least one fire extinguisher for each class E cargo compartment that is accessible to crew members during flight. Crew members entering class C cargo compartments should have similar protection to occupants entering class E cargo compartments.

The FAA acknowledges the intent of Boeing's comment. The fire-safety design features in a Class C cargo compartment include a total-flooding fire suppression system that does not rely upon the presence of a crewmember to fight a fire.

The FAA has stated in different sources, and most recently in a preamble to Amendment 25–142, that the effectiveness of a crewmember fighting a fire is limited to small compartments where the crewmember must be able to reach any part of the compartment using the contents of a hand-held fire extinguisher, and that access should be a function of how the compartment is configured, rather than according to compartment volume.

Considering the volume and configuration of Class C cargo compartments, the FAA finds that the appropriate procedure for a crewmember present in a Class C cargo compartment, in the event of a fire, is to vacate the compartment immediately and inform the flight crew after closing the access door. In addition, carrying a hand-held fire extinguisher into the Class C cargo compartment may impede the crewmember's movements, such as during escape from a Class C cargo compartment in the event of a fire, and may increase the time the crewmember is accessing the compartment; both of those scenarios may increase crewmember risk in the event of a fire. The FAA made no changes to the proposed special conditions in response to this comment.

Embraer S. A. (Embraer) states, in pertinent part, that,

The proposed special condition for access hatch installed between the cabin and the class C cargo compartment to allow in-flight access to the cargo compartment has several requirements that are different from those used in a similar past special condition (25–273–SC). The preamble of this special condition notice does not indicate why these additional requirements are deemed necessary, so it would be helpful if some explanation was provided for why additional requirements are now being proposed for this project since we are unaware of any adverse service history or other evidence that shows that the requirements used in previous special conditions are now inadequate.

The relevant additional requirements are:

2. One cabin crewmember must be present to monitor the hatch from the main cabin when another cabin crewmember is using the access hatch to access the aft lower-deck Class C cargo compartment.

6. The airplane must be operated as private, not for hire, not for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR parts 125 and 91, subpart F, as applicable.

7. Use of the access hatch, and access to the aft Class C cargo compartment, is limited to the crew only. A placard stating, ''Crew Only Access'' must be located outside of, and on or near the access hatch of, the aft lower-deck Class C cargo compartment.

The FAA concurs with the Embraer comment in that there is a similar special condition with different requirements. However, Special Conditions 25–273–SC has other requirements, such as the installation of warning systems and emergency equipment, that these special conditions do not require. Instead of these systems and equipment, the applicant has proposed to limit the use of the operation to private, not for hire, not for common carriage; and to have a crewmember present at the access hatch to monitor activity in the Class C cargo compartment. The FAA determines that Embraer's comment does not necessitate a change to the proposed special conditions.

Applicability

As discussed above, these proposed special conditions are applicable to the Boeing Model 777–200 airplane modified by Aerocon. Should Aerocon apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 777–200 airplanes modified by Aerocon.

1. The flight deck must contain an indicator to advise the flightcrew when the access hatch for the Class C cargo compartment is opened.

2. One cabin crewmember must be present to monitor the hatch from the main cabin when another cabin crewmember is using the access hatch to access the aft lower-deck Class C cargo compartment. Adequate communication procedures must be established between the crewmembers to maintain verbal contact between the main cabin and the Class C cargo compartment. These procedures must be included in the Cabin Crew Operating Manual.

3. Means must be provided to keep the access hatch open while the aft lower-deck Class C cargo compartment is occupied during flight.

4. Means must be provided to keep the occupied area of the Class C cargo compartment illuminated during use.

5. Access to the aft lower-deck Class C cargo compartment or using the access hatch is not allowed during:

a. Taxi, takeoff, and landing,

b. when the fasten-seat-belt sign is illuminated,

c. in the event of emergency not limited to smoke and fire detected in the cargo compartment.

6. A placard stating, ''Do Not Enter During Taxi, Takeoff, Landing, or Emergency'' (or similar wording) must be located outside of, and on or near the access hatch of, the aft lower-deck Class C cargo compartment.

7. The airplane must be operated as private, not for hire, not for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR parts 125 and 91, subpart F, as applicable.

8. Use of the access hatch, and access to the aft Class C cargo compartment, is limited to the crew only.

9. A placard stating, ''Crew Only Access'' must be located outside of, and on or near the access hatch of, the aft lower-deck Class C cargo compartment.

10. The Airplane Flight Manual must instruct the crew to close the access hatch when crew are not accessing the aft lower-deck Class C cargo compartment.

11. Special conditions 5, 7, 8, and 10 must be documented in the Limitations section of the Airplane Flight Manual.

Note: The airplane owner or operator must contact the Transportation Security

Administration (TSA) prior to operating within United States airspace to ensure that this design, and related operational procedures, comply with TSA requirements.

Issued in Renton, Washington, on March 2, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05325 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9297; Special Conditions No. 25–648–SC]

Special Conditions: Textron Aviation Inc. Model 700 Airplane; Airplane Electronic-System Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Textron Aviation Inc. (Textron) Model 700 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is airplane electronic systems and networks that allow access from external sources (*e.g.,* wireless devices, Internet connectivity) to the airplane's internal electronic components. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Textron on March 17, 2017. We must receive your comments by May 1, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9297 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1320.

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

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On November 20, 2014, Textron applied for a type certificate for their new Model 700 airplane. The Textron Model 700 airplane is a twin-engine, transport-category executive airplane with seating for 2 crewmembers and 12 passengers, and a maximum takeoff weight of 38,514 lbs.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Textron must show that the Model 700 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–139, 25–141, and 25–143.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Textron Model 700 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Textron Model 700 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Textron Model 700 airplane will incorporate the following novel or unusual design feature: A digital-systems network architecture composed of several connected networks. This network architecture and network configuration will have the capability to allow access to or by external network sources, and may be used for or

interfaced with a diverse set of functions, including:

- Flight-safety-related control, communication, and navigation systems (airplane-control domain);
- Operator business and administrative support (operator-information domain); and
- Passenger information and entertainment systems (passenger-entertainment domain).

Discussion

The Textron Model 700 airplane allows connection to airplane electronic systems and networks, and access from airplane external sources (*e.g.,* operator networks, wireless devices, Internet connectivity, service-provider satellite communications, electronic flight bags, etc.) to the airplane's previously isolated, internal, electronic components. These airplane internal electronic components include electronic equipment and systems, instruments, networks, servers, software and electronic components, field-loadable software and hardware applications, and databases. This proposed design may otherwise result in network security vulnerabilities, if not appropriately protected, from intentional or unintentional corruption of data and systems required for the safety, operation, and maintenance of the airplane. The existing regulations and guidance material did not anticipate this type of system architecture, nor external wired and wireless electronic access to airplane electronic systems. Furthermore, regulations, and current system safety-assessment policy and techniques, do not address potential security vulnerabilities that could be caused by unauthorized access to airplane electronic systems and networks.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Textron Model 700 airplane. Should Textron apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Textron Model 700 airplanes.

1. The applicant must ensure that the airplane electronic systems are protected from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system-security threats are identified and assessed, and that effective electronic system-security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic system-security safeguards.

Issued in Renton, Washington, on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05332 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2016–9296; Special Conditions No. 25–647–SC]

Special Conditions: Bombardier Inc., Model BD–700–2A12 and BD–700–2A13 Series Airplanes, Electronic Flight Control System: Lateral-Directional and Longitudinal Stability, and Low-Energy Awareness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Bombardier Inc. (Bombardier) Model BD–700–2A12 and BD–700–2A13 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is lateral-directional and longitudinal stability, and low-energy awareness, provided through an electronic flight-control system (EFCS). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier on March 17, 2017. We must receive your comments by May 1, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–9296 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change,

to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2011; facsimile 425–227–1320.

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

In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 30, 2012, Bombardier applied for an amendment to Type Certificate No. T00003NY to include the new Model BD–700–2A12 and BD–700–2A13 series airplanes. The Model BD–700–2A12 and BD–700–2A13 series airplanes, which are derivatives of the BD–700 currently approved under Type Certificate No. T00003NY, are ultra-long-range, executive-interior business jets, with a passenger capacity of 19.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Bombardier must show that the Model BD–700–2A12 and BD–700–2A13 series airplanes meet the applicable provisions of the regulations listed in Type Certificate No. T00003NY, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes will incorporate the following novel or unusual design feature:

Lateral-directional and longitudinal stability, and low-energy awareness, through an electronic flight-control system.

Discussion

The EFCS on the Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes contain fly-by-wire control laws that can impact static stability; therefore, the conventional requirements in the regulations are not always met.

Positive static-directional stability is defined as the tendency to recover from a skid with the rudder free. Positive static-lateral stability is defined as the tendency to raise the low wing in a sideslip with the aileron controls free. These control criteria are intended to accomplish the following:

- Provide additional cues of inadvertent sideslips and skids through control-force changes.
- Ensure that short periods of unattended operation do not result in any significant changes in yaw or bank angle.
- Provide predictable roll and yaw response.
- Provide an acceptable level of pilot attention (workload) to attain and maintain a coordinated turn.

Static longitudinal stability on airplanes with mechanical links to the pitch-control surface means that a pull force on the controller results in a reduction in speed relative to the trim speed, and a push force on the controller results in higher than trim speed. Longitudinal stability is required by the regulations for the following reasons:

- Speed change cues are provided to the pilot through increased and decreased forces on the controller.
- Short periods of unattended control of the airplane do not result in significant changes in attitude, airspeed, or load factor.
- A predictable pitch response is provided to the pilot.
- An acceptable level of pilot attention (workload) to attain and maintain trim speed and altitude is provided to the pilot.
- Longitudinal stability provides gust stability.

Past experience on airplanes fitted with a flight-control system providing neutral longitudinal stability reveals insufficient feedback cues to the pilot for excursion below normal operational speeds. The maximum angle-of-attack protection system limits the airplane angle of attack and prevents stall during normal operating speeds, but this system is not sufficient to prevent stall at low-speed excursions below normal operational speeds. Until intervention, the pilot receives no stability cues because the airplane remains trimmed. Additionally, due to thrust variation,

flight-control laws reduce feedback from the pitching moment. Low-speed excursions may become more hazardous without the typical longitudinal stability, and recovery may become more difficult when the low-speed situation is associated with a low altitude, and with the engines at low thrust or in performance-limiting conditions.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on Bombardier Model BD–700–2A12 and BD–700–2A13 series airplanes. It is not a rule of general applicability.

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

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Inc. Model BD–700–2A12 and BD–700–2A13 series airplanes.

In lieu of the requirements of §§ 25.171, 25.173, 25.175 and 25.177(c), the following special conditions apply:

1. The airplane must be shown to have suitable static lateral, directional, and longitudinal stability in any condition normally encountered in service, including from the effects of atmospheric disturbance. The showing of suitable static lateral, directional, and longitudinal stability must be based on the airplane handling qualities, including pilot workload and pilot compensation, for specific test procedures during the flight-test evaluations.

2. The airplane must provide to the pilot adequate awareness of a low-energy (low speed, low thrust, low height) state when fitted with flight-control laws presenting neutral longitudinal stability significantly below the normal operating speeds. ''Adequate awareness'' means warning information that alerts the flightcrew of unsafe operating conditions, allowing the flightcrew to take appropriate corrective action.

3. The following requirement must be met for the configurations and speed specified in paragraph (a) of § 25.177. In straight, steady sideslips over the range of sideslip angles appropriate to the operation of the airplane, the rudder-control movements and forces must be substantially proportional to the angle of sideslip in a stable sense. This factor of proportionality must lie between limits found necessary for safe operation. The range of sideslip angles evaluated must include those sideslip angles resulting from the lesser of:

a. One-half of the available rudder-control input; and

b. A rudder-control force of 180 pounds.

Issued in Renton, Washington, on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05327 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–7689; Special Conditions No. 25–645–SC]

Special Conditions: Lufthansa Technik AG; Boeing Model 747–8 Series Airplanes, Large Non-Structural Glass in the Passenger Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 747–8 airplane. This airplane, as modified by Lufthansa Technik AG (Lufthansa), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is the installation of large, non-structural glass panels in the cabin area of an executive interior occupied by passengers and crew. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective April 17, 2017.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2194; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 2012, Lufthansa Technik AG applied for a supplemental type certificate for large, non-structural glass panels in the passenger compartment in a Boeing Model 747–8 airplane. The Model 747–8 airplane is a derivative of the Boeing Model 747–400 airplane approved under type certificate no. A20WE. The airplane, as modified by Lufthansa Technik AG, is a four-engine, transport-category airplane that will have a maximum takeoff weight of 970,000 lbs, capacity for 24 crewmembers, and seating for 143 passengers.

Type Certification Basis

The certification basis for the Boeing Model 747–8 airplane, as defined in

type certificate no. A20WE, is Title 14, Code of Federal Regulations (14 CFR) part 25 as amended by amendments 25–1 through 25–120, with exceptions for structures and systems that were unchanged from the 747–400 design.

Under the provisions of § 21.101, Lufthansa Technik AG must show that the Model 747–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in type certificate no. A20WE, or the applicable regulations in effect on the date of application for the change.

The certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–8 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Model 747–8 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

Lufthansa Technik AG is modifying a Boeing Model 747–8 airplane to install an executive interior. This airplane, as modified, will have a novel or unusual design feature that is the installation of large, non-structural glass panels in the cabin area of an executive interior occupied by passengers and crew. The installation of these glass items in the passenger compartment, which can be occupied during taxi, takeoff, and landing, is a novel or unusual design feature with respect to the material being installed. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature.

Discussion

No specific regulations address the design and installation of large glass components in airplane passenger cabins. Existing requirements, such as §§ 25.561, 25.562, 25.601, 25.603, 25.613, 25.775, and 25.789, in the Boeing Model 747–8 airplane certification basis applicable to this supplemental type certificate project, provide some design standards appropriate for large glass component installations. However, additional design standards for non-structural glass augmenting the existing design are needed to complement the existing requirements. The addition of glass involved in this installation, and the potentially unsafe conditions caused by damage to such components from external sources, necessitate assuring that adequate safety standards are applied to the design and installation of the feature in Boeing Model 747–8 airplanes.

For purposes of these special conditions, a large glass component is defined as a glass component weighing 4 kg (9 lbs) or more. Groupings of glass items that individually weigh less than 4 kg, but collectively weigh 4 kg or more, also would need to be included. These special conditions also apply when showing compliance with the applicable performance standards in the regulations for the installation of these components. For example, heat-release and smoke-density testing must not result in fragmentation of the component.

The use of glass has resulted in trade-offs between the one unique characteristic of glass—its capability for undistorted or controlled light transmittance, or transparency—and the negative aspects of the material, such as extreme notch-sensitivity, low fracture resistance, low modulus of elasticity, and highly variable properties. While reasonably strong, glass is nonetheless not a desirable material for traditional airplane applications because it is heavy (about the same density as aluminum), and when it fails, it breaks into extremely sharp fragments that have the potential for injury and have been known to be lethal. Thus the use of glass traditionally has been limited to windshields, and instrument and display transparencies. The regulations for certification of transport-category airplanes only address, thus only recognize, the use of glass in windshield or window applications. These regulations do address the adverse properties of glass, but even so, pilots are occasionally injured from shattered glass windshields. FAA policy allows glass on instruments and display transparencies.

Other installations of large, non-structural glass items have included the following:

- Glass panels integrated onto a stairway handrail closeout.
- Glass panels mounted in doors to allow visibility through the door when desired.
- Glass doors on some galley compartments containing small amounts of service items.

These special conditions will reduce the hazards from breakage, or from these panels' potential separation from the cabin interior.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of Proposed Special Conditions no. 25–16–03–SC for Lufthansa modifications to the Boeing Model 747–8 airplane was published in the **Federal Register** on February 25, 2016 (81 FR 9363). One comment was received.

By letter no. B–H020–REG–16–TLM–17 dated March 24, 2016, on behalf of The Boeing Company (Boeing), Capt. Terry L. McVenes, Director, System Safety & Regulatory Affairs, wrote that Boeing provides a

> . . . comprehensive set of comments that identify areas of the proposed text where changes would be beneficial for better clarity and accuracy. [Boeing] consider[s] such clarifications important to ensure consistent and standardized interpretation and application of the requirements and guidance provided in the document.

Boeing recommends that proposed special condition no. 1, Material, and proposed special condition no. 2, Fragmentation, be revised to more-clearly define what each of these special conditions require, and how these two requirements are different. We agree that those two conditions could be addressed with a single test, so we combined those two conditions into a single condition, special condition no. 1, in this document, for clarity. The subsequent special conditions have been renumbered accordingly.

Boeing commented that the load conditions in special condition no. 4, in Notice no. 25–16–03–SC, which corresponds to special condition no. 3 in this document, should include all flight and landing loads, rather than only emergency landing. These special conditions are in addition to the load requirements in the certification basis

for the glass installation, rather than in lieu of the load requirements. Thus, it is not necessary to repeat that all of these loads apply to this installation. The emergency-landing load condition is not normally applied to installations of this type, but for the use of large glass in the cabin, we determined that this additional safety standard is necessary. We made no changes to special condition number 3 in response to the Boeing comments.

Boeing recommends that the loading conditions in proposed special condition no. 3 (which is now special condition no. 2), Strength, and proposed special condition no. 4 (which is now special condition no. 3), Retention, be the same. Proposed special condition no. 3 (which is now special condition no. 2), Strength, is required to address the unique, extremely notch-sensitive characteristics of the glass as having low fracture resistance, low modulus of elasticity, and highly variable properties. Special condition no. 3 (which is now special condition no. 2) specifically accounts for abuse loads in addition to the loads required per subparts C & D of 14 CFR part 25. Special condition no. 4 (which is now special condition no. 3) accounts for loads encountered during directional loading and rebound resulting from emergency landing loads of 14 CFR part 25. We have made minor grammatical modifications to the requirements.

Boeing recommends that, for proposed special condition no. 4 (which is now special condition no. 3), Retention, the statement, ''Both the directional loading and rebound conditions must be assessed,'' be removed, because these both are covered in proposed special condition no. 3. As explained above, special condition nos. 3 (which is now special condition no. 2) and 4 (which is now special condition no. 3) account for different loading conditions. We have made minor grammatical modifications to the requirements.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 747–8 series airplanes as modified by Lufthansa. Should Lufthansa apply at a later date for a supplemental type certificate to modify any other model included on type certificate no. A20WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model series of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued, for large glass components installed in a cabin occupied by passengers or crew who are not otherwise protected from the injurious effects of failure of the glass installations, as part of the type certification basis for Boeing 747–8 airplanes modified by Lufthansa Technik AG.

1. Material Fragmentation—The applicant must use tempered or otherwise treated glass to ensure that, when fractured, the glass breaks into small pieces with relatively dull edges. The glass component installation must retain all glass fragments to minimize the danger from flying glass shards or pieces. The applicant must demonstrate this characteristic by impact and puncture testing, and testing to failure. The applicant may conduct this test with or without any glass coating that may be utilized in the design.

2. Strength—In addition to meeting the load requirements for all flight and landing loads, including any of the applicable emergency-landing conditions in subparts C & D of 14 CFR part 25, the glass components that are located such that they are not protected from contact with cabin occupants must not fail due to abusive loading, such as impact from occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact with the glass component. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

3. Retention—The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing, considering both the directional loading and resulting rebound conditions. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

4. Instructions for Continued Airworthiness: The instructions for continued airworthiness must reflect the method used to fasten the panel to the cabin interior and must ensure the reliability of the methods used (*e.g.,* life limit of adhesives, or clamp connection). The applicant must define any inspection methods and intervals based upon adhesion data from the manufacturer of the adhesive, or upon actual adhesion-test data, if necessary.

Issued in Renton, Washington, on February 10, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05331 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 232, 239 and 249

[Release Nos. 33–10322; 34–80132; File No. S7–19–16]

RIN 3235–AL95

Exhibit Hyperlinks and HTML Format

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting amendments that will require registrants that file registration statements and reports subject to the exhibit requirements under Item 601 of Regulation S–K, or that file Forms F–10 or 20–F, to include a hyperlink to each exhibit listed in the exhibit index of these filings. To enable the inclusion of such hyperlinks, the amendments also require that registrants submit all such filings in HyperText Markup Language (''HTML'') format.

DATES: Effective on September 1, 2017.

Compliance Dates: Registrants must comply with the final rules for filings submitted on or after September 1, 2017. A registrant that is a ''smaller reporting company,'' as defined in Securities Act Rule 405 and Exchange Act Rule 12b–2, or that is neither a ''large accelerated filer'' nor an ''accelerated filer,'' as defined in Exchange Act Rule 12b–2, and that submits filings in ASCII need not comply with the final rules until September 1, 2018, one year after the effective date.

The compliance date with respect to any Form 10–D that will require hyperlinks to any exhibits filed with Form ABS–EE is delayed until Commission staff has completed

technical programming changes to allow issuers to include such forms in a single submission. Once these programming changes are complete, the Commission will publish in the **Federal Register** a document notifying the public of the compliance date for Form 10–D.

FOR FURTHER INFORMATION CONTACT: N. Sean Harrison, Special Counsel, at (202) 551–3430, in the Office of Rulemaking, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Item 601 of Regulation S–K,[1] Forms 20–F [2] and F–10,[3] and Rules 11,[4] 102 [5] and 105 [6] of Regulation S–T.[7]

I. Introduction

On August 31, 2016, we proposed rule and form amendments to require registrants to include a hyperlink to each exhibit identified in the exhibit index in any registration statement or report that is required to include exhibits under Item 601 of Regulation S–K or under Form F–10 or Form 20–F.[8] In addition, because the text-based American Standard Code for Information Interchange (''ASCII'') format cannot support functional hyperlinks, we proposed to require registrants filing such registration statements or reports to file these forms on EDGAR in HTML. These proposals were intended to facilitate easier access to these exhibits for investors and other users of the information.

We received comment letters from individuals, professional and trade associations, law firms and other interested parties.[9] The commenters overwhelmingly supported the proposal to require registrants to include hyperlinks to the exhibits filed with registration statements or reports. Some commenters suggested that we adopt additional requirements, such as requiring registrants to refile exhibits that were previously filed in paper. Other commenters expressed concerns about some aspects of the proposed amendments and suggested modifications to the proposals. We have reviewed and considered all of the comments that we received on the proposals. The final rules reflect changes made in response to these comments. We discuss the changes in more detail below.

II. Discussion of the Final Amendments

A. Hyperlinking to Exhibits

We proposed to amend Item 601 of Regulation S–K and Rules 11 and 102 [10] of Regulation S–T to require registrants to include a hyperlink to each filed exhibit as identified in the exhibit index, unless the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 [11] or 202 [12] of Regulation S–T or pursuant to Rule 311 [13] of Regulation S–T. We proposed corresponding amendments to Form F–10 and Form 20–F to require foreign private issuers to include hyperlinks to the exhibits filed with these forms. We are adopting these requirements substantially as proposed, but with some changes reflecting comments we received.[14]

1. Proposed Amendments

Item 601 of Regulation S–K specifies the exhibits that registrants must file with registration statements filed under the Securities Act of 1933 (''Securities Act'') [15] and Securities Exchange Act of 1934 (''Exchange Act'') [16] and with periodic and current reports under the Exchange Act, which we refer to collectively in this release as the ''registration statements and reports.'' Item 601 also requires registrants to include an exhibit index that lists each exhibit included with the filing.[17] Once an exhibit is filed, registrants can incorporate it by reference to meet the exhibit requirements in subsequent filings to the extent permitted by our rules or the applicable disclosure form.[18]

Under the current system, someone seeking to retrieve and access an exhibit that has been incorporated by reference must review the exhibit index to determine the filing in which the exhibit is included, and then must search through the registrant's filings to locate the relevant filing. This process can be both time consuming and cumbersome.

We proposed to apply the amendments to nearly all of the registration statements and reports that are required to include exhibits under Item 601, specifically Forms S–1,[19] S–3,[20] S–4,[21] S–8,[22] S–11,[23] F–1,[24] F–3,[25] F–4,[26] SF–1,[27] and SF–3 [28] under the Securities Act; and Forms 10,[29] 10–K,[30] 10–Q, 8–K,[31] and 10–D [32] under the Exchange Act. In addition, we proposed corresponding amendments to Form F–10 and Form 20–F. However, the proposed amendments excluded the exhibits filed with Form ABS–EE as well as any XBRL exhibits. We excluded the exhibits filed with Form ABS–EE because the form is used solely to facilitate the filing of tagged data and related information that must be filed as exhibits to that form. Form ABS–EE does not permit exhibits to be incorporated by reference and is filed in unconverted code. XBRL exhibits are similarly filed in unconverted code.[33]

[1] 17 CFR 229.601.

[2] 17 CFR 249.20f.

[3] 17 CFR 239.40.

[4] 17 CFR 232.11.

[5] 17 CFR 232.102.

[6] 17 CFR 232.105.

[7] 17 CFR 232.10 *et seq.*

[8] *See* Release No. 33–10201 (Aug. 31, 2016) [81 FR 62689] (the ''Proposing Release'').

[9] The commenters were: The Center for Audit Quality (''CAQ''); the Corporate Governance Coalition for Investor Value (''CGCIV''); the Council of Institutional Investors (''CII''); the Credit Roundtable (''CRT''); Davis Polk & Wardwell LLP (''Davis Polk''); the Chamber of Commerce; Ernst & Young LLP (''E&Y''); the Investor Advocacy Clinic at Georgia State University College of Law (''IAC''); Veronique Joseph; Mary Sue; the Maryland State Bar Association (''MDSBA''); Reed Smith LLP; the Securities Industry and Financial Markets Association (''SIFMA''); the Structured Finance Industry Group (''SFIG''); Jacob Vollmer; and John Wahh.

[10] Rule 102 of Regulation S–T requires each exhibit to an electronic filing to be filed electronically unless there is an applicable exemption.

[11] 17 CFR 232.201.

[12] 17 CFR 232.202.

[13] 17 CFR 232.311.

[14] We are also adopting an amendment to Rule 102(a) of Regulation S–T to correct an outdated reference to a rule that was rescinded.

[15] 15 U.S.C. 77a *et seq.*

[16] 15 U.S.C. 78a *et seq.*

[17] *See* Item 601(a)(2) of Regulation S–K [17 CFR 229.601(a)(2)]. Rule 102(d) of Regulation S–T [17 CFR 232.102(d)] and Exchange Act Rule 0–3(c) [17 CFR 240.0–3(c)] also require filings with exhibits to include an exhibit index.

[18] *See, e.g.,* Item 10(d) of Regulation S–K [17 CFR 229.10(d)]. Item 10(d) provides, with certain exceptions, that where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and to the prior filing or submission in which such document was physically filed or submitted.

[19] 17 CFR 239.11.

[20] 17 CFR 239.13.

[21] 17 CFR 239.25.

[22] 17 CFR 239.16b.

[23] 17 CFR 239.18.

[24] 17 CFR 239.31.

[25] 17 CFR 239.33.

[26] 17 CFR 239.34.

[27] 17 CFR 239.44.

[28] 17 CFR 239.45.

[29] 17 CFR 249.210.

[30] 17 CFR 249.310.

[31] 17 CFR 249.308.

[32] 17 CFR 249.312.

[33] The Commission announced in June 2016 a time-limited program to permit registrants to voluntarily file structured financial statement data using Inline XBRL. Inline XBRL allows registrants to file the required information and data tags in one document rather than requiring a separate exhibit for the interactive data. *Order Granting Limited and Conditional Exemption Under Section 36(a) of the Securities Exchange Act of 1934 from Compliance with Interactive Data File Exhibit Requirement in Forms 6–K, 8–K, 10–Q, 10–K, 20–F and 40–F to Facilitate Inline Filing of Tagged Financial Data,*

Continued

Therefore, we concluded preliminarily that it was not necessary to require hyperlinks to exhibits filed with Form ABS–EE or to XBRL exhibits.

The proposed amendments would require a registrant to include an active hyperlink to each exhibit identified in the exhibit index of the filing. If the filing is a periodic or current report under the Exchange Act, a registrant would be required to include an active hyperlink to each exhibit listed in the exhibit index when the report is filed. If the filing is a registration statement, the registrant would only be required to include an active hyperlink to each exhibit in the version of the registration statement that becomes effective. This was to ensure that the most complete exhibit index was hyperlinked and located in one primary document.

2. Comments on the Proposed Rule

Commenters overwhelmingly supported the proposed amendments to require exhibit hyperlinks.[34] Many commenters agreed that hyperlinking to exhibits would make it easier for investors and other users to retrieve and access these documents from Commission filings.[35] Several commenters stated that the proposal would significantly reduce the amount of time required for investors to access information and also enhance the functionality of the EDGAR filing system.[36] Two commenters supported the proposed exclusion of Form ABS–EE exhibits and XBRL exhibits because the exhibits are directly attached to that Form ABS–EE filing, and therefore an investor should have no difficulties locating the applicable attached exhibits.[37] The same two commenters supported the proposed exclusion of XBRL exhibits.

We requested comment on whether we should we revise Form 6–K[38] filed by foreign private issuers or other multi-jurisdictional disclosure system forms used by certain Canadian issuers, such as Forms F–7,[39] F–8,[40] and F–80,[41] to require exhibit hyperlinks. One commenter stated that the benefits of requiring exhibit hyperlinks in Form 6–K would be minor.[42] This commenter observed that Form 6–K does not have any prescribed exhibit requirements, in contrast to Form 20–F, which does require the filing of relevant disclosure documents as exhibits.

In the Proposing Release, we also requested comment on whether we should require registrants to include hyperlinks to the exhibits filed with an initial registration statement and each pre-effective amendment to the registration statement. One commenter supported requiring exhibit hyperlinks in the version of the registration statement that becomes effective, as proposed.[43] This commenter stated that the effective version of the registration statement would be the version that is most often reviewed by an investor and other users, and because exhibits may be revised or replaced during the registration process, it would be the version that properly referenced all of the exhibits filed with the registration statement that had not been replaced or revised.

Two commenters stated that exhibit hyperlinks should be required in the pre-effective amendment to the registration statement that includes the preliminary prospectus distributed in connection with an offering.[44] One of these commenters stated that the information found in exhibits would be most relevant when the preliminary prospectus used to market an offering is distributed because that is when investors are beginning to make an investment decision.[45]

Another commenter supported requiring exhibit hyperlinks in the initial registration statement and each subsequent pre-effective amendment rather than just in the registration statement that becomes effective.[46] This commenter stated that exhibit hyperlinks would improve the navigability of the pre-effective amendments, and that the incremental burden of including hyperlinks in the initial registration statement and any pre-effective amendments would not be significant because each subsequent pre-effective amendment would only add or update hyperlinks (in the event of superseded or amended exhibits) to the exhibit index that was last filed.

We also requested comment on whether we should require registrants to refile in electronic format any exhibit previously filed in paper so that a registrant can include a hyperlink from the exhibit index to such exhibits. We received a number of comments on this question. Three commenters stated we should require registrants to file electronically all previously filed paper exhibits.[47] Two of these commenters stated that it would be particularly beneficial to investors if organizational documents, such as certificates of incorporation, were made available on EDGAR.[48] The other commenter maintained that any burden and expense of refiling a previously filed paper exhibit would be minimal because it was unlikely that many registrants would have a significant number of paper exhibits created prior to the time that the registrant became subject to mandated electronic filing on EDGAR.[49] A different commenter suggested that registrants should be permitted to post organizational documents on their Web sites as an alternative to refiling paper exhibits.[50]

Conversely, three commenters did not support requiring registrants to refile previously filed paper exhibits.[51] Two of these commenters stated that requiring registrants to refile paper exhibits could significantly increase the cost burden to registrants.[52] The other commenter suggested that, rather than requiring the refiling of paper exhibits, we should instead encourage registrants to voluntarily refile exhibits originally filed in paper.[53]

3. Final Rule

After considering the comments, we are adopting the exhibit hyperlinking requirement substantially as proposed with some modifications. Under the final rules, registrants will be required to include a hyperlink to each exhibit identified in the exhibit index, unless the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S–T, or pursuant to Rule 311 of Regulation S–T. This requirement will apply to the forms for which exhibits are required under Item 601 of Regulation S–K.

Release No. 34–78041 (June 13, 2016) [81 FR 39741]. In a companion release issued on March 1, 2017, the Commission proposed amendments that, among other things, would require the use of the Inline XBRL format for the submission of operating company financial statement information and mutual fund risk/return summaries. *Inline XBRL Filing of Tagged Data,* Release No. 33–10323 (Mar. 1, 2017). The amendments we are adopting in this release, the Inline XBRL proposals and the voluntary filing program are part of the Commission's continuing efforts and interest in modernizing the format of the information filed on EDGAR to make it more accessible to investors and other users.

[34] No commenters opposed these proposals.

[35] *See, e.g.,* letters from CII, E&Y, IAC and MDSBA.

[36] *See* letters from CII, CRT and IAC.

[37] *See* letters from Davis Polk and SFIG.

[38] 17 CFR 249.306.

[39] 17 CFR 239.37.

[40] 17 CFR 239.38.

[41] 17 CFR 239.41.

[42] *See* letter from Davis Polk.

[43] *See* letter from SFIG.

[44] *See* letters from Reed Smith and SIFMA.

[45] *See* letter from SIFMA.

[46] *See* letter from Davis Polk.

[47] *See* letters from CII, MDSBA and Reed Smith.

[48] *See* letters from CII and Reed Smith.

[49] *See* letter from MDSBA.

[50] *See* letter from Reed Smith.

[51] *See* letters from Davis Polk, SFIG and SIFMA.

[52] *See* letters from Davis Polk and SFIG.

[53] *See* letter from SIFMA.

However, as proposed, the final rules exclude any XBRL exhibits.[54] The final rules also exclude exhibits that are filed with Form ABS–EE. Since these exhibits are directly attached to that Form ABS–EE filing, which is essentially a cover page, an investor should have no difficulties locating the applicable exhibits.[55] In addition, we are adopting, as proposed, the amendments to Forms F–10 and 20–F to require exhibit hyperlinks in these forms. At this time, we are not requiring exhibit hyperlinks in other forms under the multi-jurisdictional disclosure system used by certain Canadian issuers or in Form 6–K, as we agree with the commenter's suggestion that hyperlinks in these forms may have less utility because exhibits, and an exhibit index, are not required for these forms.[56]

We are persuaded by commenters that exhibit hyperlinks in the initial registration statement and each subsequent pre-effective amendment, rather than just the registration statement that becomes effective, would further enhance the navigability of these documents, which may be used by investors to begin making investment decisions before effectiveness. Accordingly, we are amending Item 601 of Regulation S–K to require that each exhibit identified in the exhibit index (other than exhibits filed with Form ABS–EE or an exhibit filed in XBRL) must include an active link to an exhibit that is filed with the registration statement or report, or if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR.

In order to provide electronic filers time to prepare filings to include hyperlinks to exhibits, the final rules will take effect on September 1, 2017. However, we encourage early compliance with the new filing requirements.

As noted above, a few commenters suggested that we require the refiling of any exhibits previously filed only in paper. In particular, commenters stated that articles of incorporation and by-laws should be required to be refiled electronically, given the importance of these documents to investors.[57] We are not amending the final rules to require registrants to refile electronically any documents in paper, including organizational documents. In our experience, only a limited number of registrants have not electronically filed their articles of incorporation or by-laws, and we are mindful of commenters' concerns about imposing additional compliance burdens.[58]

B. HTML Format for Registration Statements and Reports

In connection with the proposed exhibit hyperlinking requirements, we proposed amendments to Rule 105 of Regulation S–T to require registrants to file registration statements and reports that include exhibits in the HTML format.[59] We are adopting this proposal with a few changes made in response to comments.

1. Proposed Rules

Rule 105 of Regulation S–T sets forth the limitations on, and liability for, the use of HTML documents and hyperlinks in electronic filings. Rule 105, among other things, currently permits hyperlinking to other documents within the same filing, such as exhibits, and to documents contained in other forms or schedules that have been previously filed on EDGAR. In addition, Rule 105 prohibits hyperlinking to Web sites, locations or other documents that are outside of the EDGAR system.

Currently, registrants must submit electronic filings to the Commission using the EDGAR system in either the ASCII format or the HTML format. HTML has features that allow documents prepared in this format to include hyperlinks to another place within the same document or to a separate document. In contrast, documents prepared in the ASCII format cannot support functional hyperlinks.[60] Because the ASCII format does not support hyperlink functionality, the exhibit hyperlinking requirement would be feasible only if registrants are required to file in HTML. Under the proposed amendment, registrants would be required to file registration statements and reports subject to the exhibit filing requirements under Item 601 of Regulation S–K, and Forms 20–F and F–10, in HTML format. In the Proposing Release, we noted that, during 2015, only 175 registrants made filings in ASCII and that the HTML format has largely replaced ASCII as the filing format for the forms that would be affected by the amendments.[61]

2. Comments on the Proposed Rules

No commenter opposed the proposed amendment to require HTML filings and two commenters specifically supported it.[62] Three commenters suggested that we establish a phase-in or transition period for ASCII filers.[63] Two of these commenters advocated providing smaller reporting companies and non-accelerated filers with one additional year beyond the compliance date for accelerated filers to comply with the exhibit hyperlinking proposals,[64] and the third commenter did not specify the length of the extension.

In the Proposing Release, we requested comment on whether there are any particular difficulties in requiring registrants to provide hyperlinks to the exhibits identified in Item 601 of Regulation S–K that are filed with a registration statement or report, as proposed. Several commenters took this opportunity to provide their views on the liability issues concerning inadvertent or inaccurate hyperlinks. Two commenters expressed concern that Rule 105(c) of Regulation S–T would extend civil and antifraud liability to hyperlinks that are automatically created by software programs.[65] Three commenters

[54] Although these exhibits are excluded under the final rules, the Commission is continuing efforts to modernize the format of information filed on EDGAR. *See* note 33 above.

[55] Asset-backed issuers are required to incorporate by reference Form ABS–EE information in Form 10–D. Therefore, under the final rule, issuers will be required to include hyperlinks in the Form 10–D to any asset data file or asset-related document filed on Form ABS–EE that is incorporated by reference into the Form 10–D. We are, however, delaying the compliance date for any Form 10–D that will require hyperlinks to any exhibits filed with Form ABS–EE. *See* Section II.B.3 below.

[56] *See* letter from Davis Polk.

[57] *See* letters from CII and MDSBA.

[58] For example, in connection with the economic analysis of the final rules, we examined a random sample of 146 Form 10–K filings made from October 1, 2015 to September 30, 2016. The articles of incorporation and by-laws filed with the Form 10–Ks in the sample were all filed electronically. *See* Section IV.A below. In addition, we note that registrants have the option to restate in electronic format an exhibit that was previously filed in paper. *See* Rule 102(a) of Regulation S–T.

[59] We are continuing to consider ways to further enhance the presentation and usability of the exhibit index. For example, HTML tags identifying the exhibit index would make it possible to include a hyperlink to the index on a registrant's search results EDGAR landing page, which could allow investors and other users to more easily access the exhibits.

[60] HTML documents, however, can hyperlink to an ASCII document.

[61] During the 2015 calendar year, over 114,000 of the affected forms were filed on EDGAR. Approximately 845 (less than one percent) of those filings were submitted in the ASCII format.

[62] *See* letters from Davis Polk and Reed Smith.

[63] *See* letters from CGCIV, Chamber of Commerce and Reed Smith.

[64] *See* letters from CGCIV and Chamber of Commerce.

[65] *See* letters from CGCIV and Chamber of Commerce. In previous guidance, the Commission noted: ''Some word processing programs automatically transform inactive textual references to electronic addresses (URLs) to hyperlinks. In addition, some browsers transform URLs to hyperlinks. We do not wish to discourage filers from including URLs to their own Web sites or to our Web site at *www.sec.gov* in their filings. Filers who include these URLs in HTML filings, accordingly, should take reasonable steps when they create the document in order to prevent URLs from being converted into hyperlinks. If this is

Continued

contended that inaccurate or inactive hyperlinks should not give rise to any liability or other penalties.[66] Two commenters stated registrants should not be required to amend a previously filed report to correct an inaccurate or failed hyperlink.[67] One commenter suggested that we should allow a registrant to make a correction to an inaccurate hyperlink in the registrant's next report that includes an exhibit index.[68] The other commenter suggested that we consider providing a mechanism to alert investors to inactive or obsolete hyperlinked exhibits and provide an efficient and simple process to correct such hyperlinks.[69]

3. Final Rule

After considering the comments, we are adopting the amendments to Rule 105 of Regulation S–T substantially as proposed but with minor modifications. Under the final rules, registrants will be required to file in HTML format a registration statement or report subject to the exhibit filing requirements under Item 601 of Regulation S–K, and Forms 20–F and F–10. While the affected registration statements and reports will be required to be filed in HTML pursuant to the amendments to Rule 105, registrants may continue to file in ASCII any schedules or forms that are not subject to the exhibit filing requirements under Item 601, such as proxy statements, or other documents included with a filing, such as an exhibit.

In response to comments, we are adopting a phase-in period for non-accelerated filers [70] and smaller reporting companies.[71] Non-accelerated filers and smaller reporting companies that submit filings in ASCII will have an additional one year after the effective date of the final rules to begin to comply with the rules. During the phase-in period, these filers may continue to file registration statements or reports in ASCII and will not need to include hyperlinks to the exhibits listed in the exhibit indexes of their filings. We are persuaded that a delay in the compliance date for these registrants may help mitigate some of the cost burdens for smaller reporting companies related to switching over to the HTML format.

We are also adopting a phase-in period for certain filings on Form 10–D. Currently, the staff is working on programming changes to EDGAR that will allow issuers to include the Form 10–D and Form ABS–EE in a single submission so that the required hyperlinks can be created at the time the Form 10–D is filed. The implementation of these programming changes will not be completed by the effective date of the final rules. Accordingly, we are delaying the compliance date with respect to any Form 10–D that will require hyperlinks to any exhibit filed with Form ABS–EE. We will publish a document on our Web site and in the **Federal Register** announcing the compliance date for Form 10–D when it is determined.

A few commenters noted that it would not be possible to hyperlink to an exhibit that is filed for the first time with a registration statement or report because no web address would be available for that exhibit before the filing is made. Although these commenters make a valid point, as explained below, we do not believe this will prevent registrants from complying with the final rules. Rule 11 of Regulation S–T defines the term ''hyperlinks'' to mean the representation of an Internet address in a form that an Internet browser application can recognize as an Internet address.[72] We used the term ''hyperlinks'' more generically in the Proposing Release to include, in addition to links to a previously filed exhibit that is being incorporated by reference into the registration statement or report, links from a registration statement or report to an exhibit that is being filed at the same time. As we noted in the Proposing Release, HTML has features that allow electronic documents prepared in this format to include links to another place within the same document or to a separate document. Thus, under the EDGAR system, registrants can include a link to an exhibit that is filed with a registration statement or report. In connection with the adoption of these amendments, we will be issuing an updated EDGAR Filer Manual that will describe the procedures needed to create a hyperlink to an exhibit that the registrant previously filed with a registration statement or report and the procedures needed to create a link to an exhibit that is being filed at the same time as the registration statement or report.

In response to the concerns of several commenters regarding the means to correct inaccurate exhibit hyperlinks, we are adding an instruction to Rule 105 stating that a registrant must correct a nonfunctioning hyperlink or hyperlink to the wrong exhibit by filing, in the case of a registration statement that is not yet effective, a pre-effective amendment to such registration statement, or in the case of a registration statement that is effective or an Exchange Act report, in the next Exchange Act periodic report that requires, or includes, an exhibit pursuant to Item 601 of Regulation S–K (or in the case of a foreign private issuer, pursuant to Form 20–F or Form F–10).[73] Furthermore, we note that where a filing contains an inaccurate exhibit hyperlink, the inaccurate hyperlink alone would not render the filing materially deficient, nor affect a registrant's eligibility to use short-form registration statements.

In addition, we remind registrants that EDGAR does not accept documents containing web addresses that hyperlink to external Web sites.[74] In light of the fact that many of the liability issues identified by commenters appear most relevant for hyperlinks to external Web sites, we do not believe that a reexamination of the liability treatment of hyperlinks is warranted at this time. However, as we continue to consider the expanded use of hyperlinks in Commission filings, we will bear these considerations in mind.

III. Other Matters

If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

done, Rule 105 should not be read as imposing liability on any such hyperlinks that may be created after the filing is made.'' Release No. 33–7855 (Apr. 24, 2000) [81 FR 62689].

[66] *See* letters from Reed Smith, SFIG and SIFMA.

[67] *See* letters from E&Y and Reed Smith.

[68] *See* letter from Reed Smith.

[69] *See* letter from E&Y.

[70] Although the term ''non-accelerated filer'' is not defined in Commission rules, we use this term to refer to a reporting company that does not meet the definition of either an ''accelerated filer'' or a ''large accelerated filer'' under Exchange Act Rule 12b–2.

[71] ''Smaller reporting company'' is defined in Securities Act Rule 405 [17 CFR 230.405], Exchange Act Rule 12b–2 [17 CFR 240.12b–2], and Item 10(f)(1) of Regulation S–K [17 CFR 229.10(f)(1)].

[72] In the Proposing Release, we proposed a minor change to the definition of the term ''hypertext links or hyperlinks'' in Rule 11 of Regulation S–T to delete the term ''hypertext links.'' We are adopting this change.

[73] Once the registration statement is effective, the registrant must correct an inaccurate hyperlink in its next Exchange Act periodic report that contains an exhibit index, or alternatively, the registrant could correct the inaccurate hyperlink by filing a post-effective amendment to the registration statement.

[74] *See* Rule 105(b) of Regulation S–T. If a document is filed containing a hyperlink to an external Web site, EDGAR will reject the document and the electronic filer must resubmit the document without the hyperlink to the external Web site.

IV. Economic Analysis

We are adopting amendments that will require registrants that file registration statements and reports that are subject to the exhibit requirements under Item 601 of Regulation S–K, or that file on Forms F–10 or 20–F, to include a hyperlink to each exhibit identified in the exhibit index of these filings and to submit all such filings in HTML format.[75]

We are sensitive to the costs and benefits of the final rules. In this economic analysis, we examine the current regulatory framework and market practices, which together constitute a baseline for analysis, and discuss the anticipated economic effects of the amendments, relative to this baseline, and their potential effects on efficiency, competition, and capital formation.[76] We also consider the potential costs and benefits of reasonable alternatives to the amendments.

Where practicable, we attempt to quantify the economic effects of the amendments; however, in certain cases, we are unable to do so because we lack necessary information. We do, however, provide a qualitative assessment of the likely economic effects. The proposing release requested comment on all aspects of the economic effects, including the costs and benefits of the proposals and possible alternatives to the proposed amendments. The Commission also solicited comment in the proposing release on whether the proposals, if adopted, would promote efficiency, competition, or capital formation, or have an impact or burden on competition.

A. Baseline

The amendments will affect all registrants that file registration statements and reports that are required to include exhibits under Item 601 of Regulation S–K, specifically Forms S–1, S–3, S–4, S–8, S–11, SF–1, SF–3, F–1, F–3, and F–4 under the Securities Act and Forms 10, 10–K, 10–Q, 8–K, and 10–D under the Exchange Act. In addition, the amendments will affect registrants that file on Forms F–10 and 20–F. Although registrants that currently file registration statements and reports in HTML format will not be affected by the requirement to file in HTML format, they will be required to include hyperlinks from the exhibits identified in the exhibit index to the exhibits that are filed with the document or that were previously filed with another document. Because the ASCII format does not support hyperlink capabilities, registrants that currently file these forms and reports in ASCII format will be required to file in HTML in addition to complying with the exhibit hyperlinking requirement.

We estimate that, from October 1, 2015 to September 30, 2016, 9,221 registrants filed either a registration statement or a report in HTML, while 152 registrants made filings in ASCII. Table 1 below shows the number of registration statements and reports that registrants filed with the Commission from October 1, 2015 to September 30, 2016. Table 1 also presents the number of filings submitted in HTML format and ASCII format, respectively, including amendments. Because hyperlinking is not available in ASCII format, we present the baseline analysis of filings separately for HTML and ASCII formats.

TABLE 1—NUMBER OF REGISTRATION STATEMENTS AND REPORTS FILED FROM OCTOBER 1, 2015 TO SEPTEMBER 30, 2016

Number of filings (including Amendments)	Securities Act registration statements and Exchange Act forms	
	HTML	ASCII
Form S–1	2,295	12
Form S–3	940	6
Form S–4	716	0
Form S–8	1,988	1
Form S–11	128	0
Form SF–1	6	0
Form SF–3	154	0
Form F–1	237	0
Form F–3	113	0
Form F–4	90	0
Form F–10	117	0
Form 10[77]	340	54
Form 20–F	751	0
Form 10–K	8,349	65
Form 10–Q	21,278	142
Form 8–K[78]	73,337	282
Form 10–D	5,947	236

As shown in Table 1, among the types of forms affected by the amendments, Forms S–1, S–8, 10–K, 10–Q, 10–D, and 8–K were the most frequently filed in HTML format from October 1, 2015 to September 30, 2016. As a proxy for registrants' size, we used the filer status that registrants reported in their Form 10–K from October 1, 2015 to September 30, 2016. We found that 32.5% of the registration statements and reports (including amendments) filed in HTML format were filed by large accelerated filers, 21.3% by accelerated filers and 35.2% by smaller reporting companies or non-accelerated filers.[79]

From October 1, 2015 to September 30, 2016, a limited set of form types were filed in ASCII format. In particular, Forms 8–K, 10–D, 10–Q and 10–K were most frequently filed in ASCII format. We found that, of the registration statements and reports (including amendments) filed in ASCII, 4.5% were filed by large accelerated filers, 0.8% by accelerated filers, and 56% by smaller reporting companies or non-accelerated filers.[80]

To draw a baseline indicative of the current disclosure practices by HTML filers, we selected a random sample of 600 filings of registration statements and reports (including amended filings) from October 1, 2015 to September 30, 2016. This sample included 146 randomly selected Form 10–K filings and 454 randomly selected other filings in HTML format.

The amendments will require registrants to include hyperlinks for all exhibits listed in the exhibit index, whether included with the filing or incorporated by reference from a previously filed document. Table 2 below shows the average and median number of exhibits[81] listed in the random sample of 600 filings by the type of forms affected by the amendments.

[75] The amendments exclude exhibits filed with Form ABS–EE and XBRL exhibits.

[76] Exchange Act Section 23(a)(2) [15 U.S.C. 78w(a)] requires us, when adopting rules, to consider the impact that any new rule would have on competition. In addition, Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] and Section 3(f) of the Exchange Act [15 U.S.C. 78c(f)] direct us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

[77] The number of Form 10s includes Forms 10–12B and 10–12G.

[78] The number of Form 8–Ks includes Form 8–K12B.

[79] The remaining 11% of filings in HTML format from October 1, 2015 to September 30, 2016 were filed by registrants whose filer status was not indicated.

[80] The remaining 38.7% of sampled filings in ASCII format were filed by registrants whose filer status was not indicated.

[81] We did not include XBRL exhibits because these exhibits are not covered by the final rules.

TABLE 2—NUMBER OF EXHIBITS

	Number of exhibits listed in the index		Number of exhibits filed with the form		Number of exhibits incorporated by reference		Number of sampled filings
	Average [82]	Median [83]	Average	Median	Average	Median	
Form S–1	29.1	20.0	10.8	5.0	18.3	0.0	16
Form S–3	10.4	10.0	4.5	4.0	5.9	4.0	17
Form S–4	50.6	18.0	11.9	9.0	37.2	14.0	9
Form S–8	5.6	5.0	3.1	3.0	2.5	2.5	24
Form S–11	24.7	30.0	14.3	10.0	10.3	0.0	3
Form SF–1	.....	.....	.....	.....	.....	.....	0
Form SF–3	8.4	6.0	6.1	4.0	2.3	2.0	11
Form F–1	21.8	22.5	20.6	22.5	1.1	0.0	8
Form F–3	8.0	7.5	4.8	4.0	3.25	1.5	8
Form F–4	20.2	23.0	15.2	17.0	1.0	0.5	5
Form F–10	17.0	17.0	15.0	15.0	2.0	2.0	1
Form 10	6.6	2.0	6.6	2.0	0.0	0.0	7
Form 20–F	32.6	34.0	11.2	8.0	21.4	27.0	5
Form 10–K	34.8	31.0	7.5	6.0	26.6	24.5	146
Form 10–Q	7.1	5.5	4.0	4.0	3.1	0.5	50
Form 8–K	1.3	1.0	1.2	1.0	0.1	0.0	265
Form 10–D	1.0	1.0	0.8	1.0	0.0	0.0	25
All Forms	19.5	10.0	5.7	4.0	13.8	3.0	600
Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K	33.4	28.0	8.8	11.0	23.8	18.0	193
Other Forms & Reports	3.0	1.0	2.1	1.0	1.9	0.0	407

Table 2 shows a significant variation in the number of exhibits listed in the exhibit index across different types of forms. Among the Securities Act registration statements, Forms S–1, S–4, S–11, F–1, F–4 and F–10 typically contain a large number of exhibits, while among the Exchange Act reports, Forms 20–F and 10–K contain significantly more exhibits than other form types. Overall, Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K had a median number of 33 exhibits, compared to a median of three exhibits in the other nine types of registration statements and reports. Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K also had significantly more exhibits incorporated by reference than the other nine types of registration statements and reports affected by the amendments.

In general, the number of exhibits slightly decreases with a registrant's size for the sampled filings submitted from October 1, 2015 to September 30, 2016. Of the 600 sampled filings, the filings by non-accelerated filers and smaller reporting companies had a median of five exhibits; filings by accelerated filers had a median of three exhibits; and large accelerated filers had a median of two exhibits.

Of the 600 sampled filings, we found that the exhibit indexes of only 48 (8%) of the filings included hyperlinks. We found 14 out of 48 filings included hyperlinks for all exhibits. In the 34 instances when registrants did not include hyperlinks for all exhibits, they were more likely to include hyperlinks to exhibits incorporated by reference. Of the sampled filings on Form S–1, S–4, S–11, F–1, F–4, F–10, 20–F and 10–K, approximately 4% had exhibit indexes that contained hyperlinks for one or more exhibits in the index (''partially hyperlinked''). In particular, while we found four fully hyperlinked Form 10–Ks, 18 of the 146 sampled Form 10–Ks were partially hyperlinked.

TABLE 3—TYPE OF FORMS FROM WHICH EXHIBITS WERE INCORPORATED BY REFERENCE

Exhibit incorporated by reference from:	Form S–1 (%)	Form F–1 (%)	Form 10–K (%)	Form 20–F (%)	Form 8–K (%)	Form 10–Q (%)	Other forms with exhibit index requirement (%)	Other forms without exhibit index requirement [84] (%)
Into:								
Form S–1	20	0	14	0	31	11	22	1
Form S–3	14	0	2	0	57	10	9	8
Form S–4	42	0	10	0	24	6	10	8
Form S–8	30	0	5	2	30	13	12	8
Form S–11	0	0	0	0	45	3	0	52
Form SF–1	0	0	0	0	0	0	0	0
Form SF–3	0	0	0	0	44	0	56	0
Form F–1	0	0	0	67	0	0	0	33

[82] Average represents the sum of number of exhibits divided by the number of sampled forms for each form type.

[83] Median represents the middle number of exhibits for each form type when the numbers of exhibits are listed from the smallest to the largest. For instance, for Forms S–1, the number of exhibits listed in the index ranged from 1 to 125, with 20 as the middle number.

[84] Pursuant to Securities Act Rule 411 [17 CFR 230.411] and Exchange Act Rule 12b–23 [17 CFR 240.12b–23], registrants can, under certain conditions, incorporate information by reference in answer, or partial answer, to an item of a registration statement or report. Generally, the incorporated information must be filed as an exhibit to the registration statement or report. In our analysis of the 600 sampled filings, we found several exhibits that were filed for this purpose.

TABLE 3—TYPE OF FORMS FROM WHICH EXHIBITS WERE INCORPORATED BY REFERENCE—Continued

Exhibit incorporated by reference from:	Form S–1 (%)	Form F–1 (%)	Form 10–K (%)	Form 20–F (%)	Form 8–K (%)	Form 10–Q (%)	Other forms with exhibit index requirement (%)	Other forms without exhibit index requirement [84] (%)
Form F–3	0	77	0	4	0	0	0	19
Form F–4	0	0	0	0	0	0	0	100
Form F–10	0	0	0	0	0	0	97	3
Form 10	0	0	0	0	0	0	0	0
Form 20–F	1	7	0	73	0	0	1	18
Form 10–K	8	0	19	0	43	18	7	4
Form 10–Q	6	0	13	1	55	13	6	5
Form 8–K	10	0	10	0	45	10	0	25
Form 10–D	0	0	0	0	0	0	0	0

Under the amendments, the hyperlink requirement will make exhibits incorporated by reference in the affected registration statements and reports more easily accessible. For the exhibits incorporated by reference that were listed in the 600 sampled filings, Table 3 shows the form types from which the exhibits were incorporated. The majority of exhibits were incorporated from the same registration statements and reports affected by the amendments. For example, exhibits in Forms S–1 were largely incorporated from previously filed Forms 8–K, 10–K, S–1, and 10–Q. Only a small percentage of exhibits were incorporated from form types without an exhibit index requirement, such as proxy statements.

ASCII Filers

We reviewed 200 registration statements and reports filed in ASCII format from October 1, 2015 to September 30, 2016. In particular, we reviewed 60 Form 10–Ks and a randomly selected sample of 140 other forms filed in ASCII format, including amendments. The exhibit indexes in the ASCII filings listed significantly lower average and median numbers of exhibits than in HTML filings. For example, the sampled Form 10–Qs and 10–Q/As reported a median of one exhibit. The 60 Form 10–Ks and 10–K/As filed in ASCII format from October 1, 2015 to September 30, 2016 included a median of two exhibits, mostly filed with the form. Given that the ASCII format does not support hyperlinks, no exhibit index included hyperlinks.

B. Potential Economic Effects

Relative to unlinked cross-references, hyperlinks will not only supply users with the location of a specific exhibit, but also allow users to reach that location more easily and quickly. Requiring exhibit hyperlinks will help investors and other users to access a particular exhibit more efficiently as they will not need to search within the filing or through different filings made over time to locate the exhibit. Many commenters agreed that hyperlinking would make it easier for investors and other users to retrieve exhibit information from SEC filings.[85] Several commenters agreed that hyperlinking would reduce the amount of time required for investors to access exhibit information.[86]

We expect that hyperlinks will be more beneficial in reducing search costs in the case of exhibits incorporated by reference than in the case of exhibits filed with the filing, and in particular, we expect these benefits to be most pronounced in the case of incorporation by reference from a filing that was not recently filed because more recent filings are displayed first on the EDGAR search results page. Further, we expect hyperlinks will have greater benefits in the case of registrants that submit more filings. Overall, we believe the amendments will reduce search costs for investors. For example, depending on the nature of the business or size of the registrant, a registrant may file multiple registration statements or reports in a given quarter or fiscal year. Requiring exhibit hyperlinks will make it easier for investors and other users to find and access a particular exhibit that was originally filed with a previous filing.

The final rule will also require registrants to include hyperlinks to all exhibits required by Item 601 of Regulation S–K, Form F–10 and Form 20–F in each amendment. We believe hyperlinking to exhibits filed with each pre-effective amendment will be particularly beneficial to investors who begin to make an investment decision before the registration statement becomes effective, such as investors considering the preliminary prospectus.[87]

To the extent that hyperlinks ease the navigation process for investors and other users, hyperlinks may also facilitate a more thorough review of a registrant's registration statements and reports and encourage more effective monitoring over time. The potential reduction of search costs and the enhanced ability of investors to review a registrant's disclosure may result in more informed investment and voting decisions, potentially enhancing allocative efficiency and capital formation by registrants.

As a result of the amendments, both HTML and ASCII registrants will incur compliance costs to include hyperlinks in their exhibit indexes. The cost of inserting a hyperlink to an exhibit incorporated by reference would likely be greater than the cost of inserting a link to an exhibit filed with the document. While the average cost itself of inserting a hyperlink is minimal,[88] the total hyperlinking costs for registrants would be a function of two main factors: (1) How many registration statements and reports a registrant files that require an exhibit index; and (2) how many exhibits in the exhibit index of these registration statements and reports are either filed with the filing or incorporated by reference and would be subject to the hyperlinking requirement.

For filers reporting in HTML, our baseline analysis indicates that few filers currently include fully hyperlinked exhibit indexes in registration statements and reports. Our analysis of a random sample of registration statements and reports filed between October 1, 2015 and September

[85] *See, e.g.,* letters from CII, E&Y, IAC and MDSBA.

[86] *See* letters from CII, CRT and IAC.

[87] Several commenters supported requiring exhibit hyperlinks in pre-effective amendments. *See* letters from Davis Polk, Reed Smith and SIFMA.

[88] For purposes of the Paperwork Reduction Act, we estimate that registrants will incur, on average, between one and four burden hours to hyperlink to required exhibits, depending on the specific form type. See Section IV.D below.

30, 2016 indicates that approximately 8% of HTML filers included at least a partially hyperlinked exhibit index in their filings. For these HTML filers, the cost of fully hyperlinking their exhibit indexes could be less than for those HTML filers that have not previously hyperlinked their exhibit indexes.

In addition to these costs, filers reporting in ASCII will incur costs to switch to HTML. While the registrants that file in ASCII and therefore will be affected by the amendment to require HTML are primarily small entities, we expect that the costs of switching to HTML will not be significant given the cost of software with built-in HTML and hyperlink features is minimal. In addition, the final rule will allow an extended phase-in period for non-accelerated filers and smaller reporting companies. The delay in compliance should mitigate some of the burdens for those entities that are more likely to be adversely affected by the cost of switching from making filings in ASCII to HTML.

Overall, given the modest costs involved, we do not expect that the amendments will have significant competitive effects for registrants.

C. Alternatives

We considered five alternatives to the final rules. First, instead of requiring hyperlinks in the exhibit index within registration statements and reports requiring an exhibit index under Item 601 of Regulation S–K and Forms F–10 and 20–F, we considered requiring registrants to include hyperlinks in a subset of these registration statements and reports. For example, we could have limited the hyperlinks requirement to exhibit indexes in those registration statements and reports that typically include lengthy exhibit indexes. Our analysis of a random sample of registration statements and reports filed from October 1, 2015 to September 30, 2016 indicates that exhibit indexes are more frequently included in filings on Forms S–1, S–8, 10–K, 10–Q, 8–K, and 10–D, but are lengthier in Forms S–1, S–4, S–11, F–1, F–4, F–10, 20–F, and 10–K based on the average and median number of exhibits included in the exhibit index. For example, Forms 8–K and 10–Q are the forms most frequently filed but typically list a limited number of exhibits, most of which are included in the filing itself rather than incorporated by reference. Relative to the final rules, the alternative of limiting the scope of the exhibit hyperlinking requirement to fewer form types would lead to cost savings for registrants but also a smaller reduction in search costs for investors and other users.

Second, instead of requiring registrants to hyperlink each exhibit included in the exhibit index, we considered requiring registrants to hyperlink only exhibits incorporated by reference. Our analysis of the random sample of filings submitted from October 1, 2015 to September 30, 2016 indicates that, among the registration statements and reports, Forms 20–F and 10–K typically include a higher number of exhibits incorporated by reference. This alternative would lead to nominal cost savings for registrants but also a smaller reduction in search costs for investors, although search costs related to exhibits filed with the document would be relatively limited.

Third, we considered requiring registrants to file and update a compilation of exhibits separately from the Form 10–K and other forms. A separate compilation of exhibits could have more prominence and make it easier for investors and other users to access relevant information on EDGAR, as there would be only one compilation for all exhibits regardless of what forms a registrant may file. Requiring a separate compilation, however, would impose an additional burden on registrants to prepare, file and update this disclosure and could make our disclosure regime more complex to the extent that relevant information is spread over multiple filings. Relatedly, several commenters suggested that a centralized exhibit page or a company profile landing page on EDGAR could provide more direct access to the exhibits.[89] We are continuing to consider ways to further enhance the presentation and usability of the exhibit index on the EDGAR system.[90]

Fourth, we considered excluding ASCII filers from the requirement to hyperlink to each exhibit identified in the exhibit index and permitting them to continue filing in ASCII. Relative to the amendments, this alternative could be beneficial to ASCII filers as they would not incur the additional, although minimal, compliance costs of switching to HTML and hyperlinking their exhibit indexes. However, under this alternative, investors and other users of the information disclosed in ASCII filings would not benefit from reduced search costs. As noted above, the number of registrants affected by this amendment will be minimal, and the phase-in period for non-accelerated filers and smaller reporting companies should mitigate some of these costs.

Fifth, given the relevance of organizational documents, such as articles of incorporation and by-laws, to understanding a registrant's corporate structure and operations, we considered requiring registrants to refile electronically on EDGAR their organizational documents previously filed in paper.[91] We anticipate that the economic effects of this alternative would be minimal since only a limited number of registrants have not filed their articles of incorporation or by-laws in electronic format.[92]

V. Paperwork Reduction Act

A. Background

Certain provisions of the final rules contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[93] We published a notice requesting comment on the collection of information requirements in the Proposing Release for the amendments, and we submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[94] The titles for the collections of information are:

''Form S–1'' (OMB Control No. 3235–0065);
''Form S–3'' (OMB Control No. 3235–0073);
''Form S–4'' (OMB Control No. 3235–0324);
''Form S–8'' (OMB Control No. 3235–0066);
''Form S–11'' (OMB Control No. 3235–0067);
''Form F–1'' (OMB Control No. 3235–0258);
''Form F–3'' (OMB Control No. 3235–0256);
''Form F–4'' (OMB Control No. 3235–0325);
''Form F–10'' (OMB Control No. 3235–0380);
''Form SF–1'' (OMB Control No. 3235–0707);
''Form SF–3'' (OMB Control No. 3235–0690);
''Form 10'' (OMB Control No. 3235–0064);
''Form 20–F'' (OMB Control No. 3235–0288);
''Form 10–K'' (OMB Control No. 3235–0063);
''Form 10–Q'' (OMB Control No. 3235–0070);
''Form 8–K'' (OMB Control No. 3235–0060);

[89] *See* letters from CRT, Davis Polk and E&Y.

[90] *See* note 59 above.

[91] Several commenters suggested that it would be particularly beneficial to investors if organizational documents previously filed in paper were available on EDGAR. *See, e.g.,* letters from CII and Reed Smith.

[92] *See* note 57 above.

[93] 44 U.S.C. 3501 *et seq.*

[94] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

''Form 10–D'' (OMB Control No. 3235–0604);
''Regulation S–K'' (OMB Control No. 3235–0071); and
''Regulation S–T'' (OMB Control No. 3235–0424).[95]

The forms, reports and Regulation S–K were adopted under the Securities Act and the Exchange Act and set forth the disclosure requirements for registration statements and reports filed by registrants to help investors make informed investment and voting decisions. Regulation S–T was adopted under the Securities Act and the Exchange Act and sets forth the requirements for the electronic submission of documents filed or otherwise submitted to the Commission. The hours and costs associated with preparing and filing the forms and reports constitute reporting and cost burdens imposed by each collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collections are not kept confidential and there is no mandatory retention period for the information disclosed.

B. Summary of the Final Amendments

As described in more detail above, we are adopting amendments to Regulations S–K and S–T and Forms F–10 and 20–F to require registrants that file registration statements and reports subject to the exhibit requirements under Item 601 of Regulation S–K, or that file on Forms F–10 and 20–F, to submit these registration statements and reports in HTML format and to include a hyperlink from each exhibit identified in the exhibit index of such forms to the exhibit as filed on EDGAR (other than an exhibit filed in XBRL or exhibits filed with Form ABS–EE). The final rules will require registrants to include hyperlinks to all exhibits required by Item 601, Form F–10 or Form 20–F in each amendment to a registration statement or report on these forms.

C. Summary of Comment Letters and Revisions to Proposals

In the Proposing Release, we requested comment on our PRA burden hour and cost estimates and the analysis used to derive such estimates. We did not receive any comments that addressed our PRA analysis and burden estimates of the proposed amendments.

In response to comments on the proposed amendments, we have made one change to the rule proposals that will affect the compliance burdens for issuers. Under the final rules, registrants will be required to include hyperlinks to all exhibits required by Item 601, Form F–10 or Form 20–F in each amendment to a registration statement or report.

D. Revisions to the Burden and Cost Estimates Burden

We anticipate that the final amendments will increase the burdens and costs for registrants to prepare and file the affected forms. We believe the burdens associated with hyperlinking exhibits will remain minimal as the registrant, in preparing a filing, will already be preparing the exhibits and exhibit index for such filing and will have readily available all of the information necessary to create the hyperlinks. In addition, we assume that the average burden hours of requiring exhibit hyperlinks will vary based on the number of exhibits that are filed with an affected form. For purposes of the PRA, based on the average and median number of exhibits shown in Table 2 above, we estimate the average burden for a registrant to hyperlink to exhibits would be four hours for Forms 10–K and 20–F; three hours for Forms S–1, S–4, S–11, SF–1, F–1, F–4 and F–10; two hours for Forms S–3, S–8, SF–3, F–3, 10 and 10–Q; and one hour for Forms 10–D and 8–K.

As a result of the change to the final rules described above, we have increased our burden estimates by one hour for all of the affected forms to reflect the burden for including hyperlinks to all required exhibits in each amendment to a registration statement or report.

These estimates represent the average burden for all registrants, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual registrants based on a number of factors, including the size and complexity of their operations.

The tables below show the total annual compliance burden, in hours and in costs, of the collection of information resulting from the proposed amendments.[96] The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take an issuer to prepare and review the exhibit hyperlinks. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the issuer internally is reflected in hours. For purposes of the PRA, we estimate that 75% of the burden of preparation for Exchange Act reports is carried by the registrant internally and that 25% of the burden of preparation is carried by outside professionals retained by the registrant at an average cost of $400 per hour.[97] For the registration statements on Forms 10, S–1, S–3, S–4, S–11, F–1, F–3, F–4, SF–1 and SF–3, and Exchange Act report Form 20–F, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $400 per hour. For the registration statement on Form S–8, we estimate that 50% of the burden of preparation is carried by the company internally and that 50% of the burden of preparation is carried by outside professionals.

[95] The paperwork burdens from Regulations S–K and S–T are imposed through the forms that are subject to the requirements in these regulations and are reflected in the analysis of those forms. To avoid a PRA inventory reflecting duplicative burdens and for administrative convenience, we assign a one-hour burden to each of Regulation S–K and Regulation S–T.

[96] For convenience, the estimated hour and cost burdens in the table have been rounded to the nearest whole number.

[97] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of $400 per hour. This estimate is based on consultations with several registrants, law firms and other persons who regularly assist registrants in preparing and filing reports with the Commission.

TABLE 4—INCREMENTAL PAPERWORK BURDEN UNDER THE FINAL AMENDMENTS FOR EXCHANGE ACT FORMS

Exchange act forms	Proposed number of affected responses (A)	Incremental burden hours/form (B)	Total Incremental burden hours (C) = (A) * (B)	75% company (D) = (C) * 0.75	25% professional (E) = (C) * 0.25	Professional costs (F) = (E) * $400
Form 10	238	3	714	178	536	$214,200
Form 20–F [98]	725	4	3,625	906	2719	1,087,500
Form 10–K	8,137	4	40,685	30,514	10,171	4,068,400
Form 10–Q	22,907	3	68,721	51,541	17,180	6,872,100
Form 8–K	118,387	2	236,774	177,580	59,194	23,677,400
Form 10–D	13,014	2	26,028	19,521	6,507	2,602,800
Total			376,547			38,522,400

TABLE 5—INCREMENTAL PAPERWORK BURDEN UNDER THE FINAL AMENDMENTS FOR SECURITIES ACT REGISTRATION STATEMENTS

Securities act registration statements	Proposed number of affected responses (A)	Incremental burden hours/form (B)	Total incremental burden hours (C) = (A) * (B)	25% company (D) = (C) * 0.25	75% professional (E) = (C) * 0.75	Professional costs (F) = (E) * $400
Form S–1	901	4	3,604	901	2,703	$1,081,200
Form S–3	1,082	3	3,246	811	2,435	973,800
Form S–4	619	4	2,476	619	1,857	742,800
Form S–8 [99]	2,200	3	6,600	3,300	3,300	1,320,000
Form S–11	100	4	400	100	300	120,000
Form SF–1	6	4	24	6	18	7,200
Form SF–3	71	3	213	53	160	63,900
Form F–1	63	4	252	63	189	75,600
Form F–3	107	3	321	80	241	96,300
Form F–4	68	4	272	68	204	81,600
Form F–10	40	4	160	40	120	48,000
Total			17,568			4,610,400

VI. Final Regulatory Flexibility Act Analysis

This Final Regulatory Flexibility Analysis (FRFA) has been prepared in accordance with the Regulatory Flexibility Act.[100] This FRFA relates to final amendments that will require registrants to submit registration statements and reports subject to the exhibit requirements under Item 601 of Regulation S–K, or Forms 20–F and F–10 in HTML format, to include a hyperlink to each exhibit listed in the exhibit index of such registration statement or report.

A. Need for the Amendments

The main purpose of the amendments is to improve investors' access to information—in particular, the ability of investors and other users to retrieve and access exhibits that are filed on EDGAR.

B. Significant Issues Raised by Public Comments

In the Proposing Release, we requested comment on any aspect of the Initial Regulatory Flexibility Analysis (''IRFA''), including the number of small entities that would be affected by the proposed rules, the nature of the impact, how to quantify the number of small entities that would be affected, and how to quantify the impact of the proposed amendments. We did not receive comments specifically addressing the IRFA. Several commenters, however, addressed aspects of the proposed amendments that could potentially affect small entities. In particular, two commenters expressed concerned that the proposed HTML formatting requirement would place a disproportionate burden on smaller reporting companies and non-accelerated filers.[101] These commenters advocated providing smaller reporting companies and non-accelerated filers with one additional year beyond the compliance date for accelerated filers to comply with the amendments.

C. Small Entities Subject to the Final Rules

The final rules will affect some companies that are small entities. The Regulatory Flexibility Act defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [102] For purposes of the Regulatory Flexibility Act, under our rules, an issuer, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed $5 million.[103] An investment company, including a business

[98] The calculations for Form 20–F reflect an allocation of a 25% internal burden carried by the company and a 75% external burden carried by outside professionals.

[99] The calculation for Form S–8 reflects an allocation of a 50% internal burden carried by the company and a 50% external burden carried by outside professionals.

[100] 5 U.S.C. 601 *et seq.*

[101] *See* letters from CGCIV and Chamber of Commerce.

[102] 5 U.S.C. 601(6).

[103] *See* Securities Act Rule 157 [17 CFR 230.157] and Exchange Act Rule 0–10(a) [17 CFR 240.0–10(a)].

development company,[104] is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[105] We estimate that there are 837 issuers, other than investment companies, that will be subject to the final rules that may be considered small entities.[106] In addition, we estimate that there are 34 investment companies that will be subject to the final rules that may be considered small entities.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The final rules will impose new compliance requirements for small entities. The final rules will require all registrants (including small entities) that file registration statements and reports that are subject to the exhibit requirements under Item 601 of Regulation S–K, or that file on Forms F–10 or 20–F, to file these forms in HTML format and to hyperlink to each exhibit (other than an exhibit filed in XBRL or exhibits filed with Form ABS–EE) identified in the exhibit index contained in the form. The final rules will also require registrants to include hyperlinks to all of the exhibits required by Item 601, Form 10–F or Form 20–F in each amendment to a registration statement or report.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the final rules, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

We believe the amendments to require the inclusion of hyperlinks in the exhibit index will impose only minimal burdens on registrants. Similarly, we believe the requirement to submit registration statements and reports in HTML format should not impose significant costs. During calendar year 2015, approximately 0.74% of the forms that would be affected by the proposed amendments were filed in ASCII, and we believe that the HTML format has largely replaced the ASCII format for these form types. The limited use of ASCII indicates that the final amendments will affect only a limited number of registrants on a one-time basis. While the registrants that file forms in ASCII that would be affected by the proposal to require HTML are primarily small entities, we expect that the burden to switch from ASCII to HTML will not be significant because the software tools to file in HTML format are now widely used and available at a minimal cost. Accordingly, we do not believe that it is necessary to exempt small entities from the proposed amendments. For similar reasons, we have not sought to clarify, consolidate or simplify the proposed amendments' requirements for small entities.

Nevertheless, to minimize the initial compliance burden on small entities and give them additional time to prepare for compliance with the final rules, we are adopting a phase-in period for non-accelerated filers and smaller reporting companies that submit filings in ASCII. These registrants will have one year after the effective date of the final rules to begin to comply with the rules. During the phase-in period, a non-accelerated filer or a smaller reporting company that submits filings in ASCII may continue to file registration statements or reports in ASCII and will not need to include hyperlinks to the exhibits listed in the exhibit indexes of its filings.

The final rules use design rather than performance standards in order to promote uniform filing requirements for all registrants.

VII. Statutory Authority

The amendments contained in this release are being adopted under the authority set forth in Sections 6, 7, 8, 10 and 19(a) of the Securities Act, and Sections 3, 12, 13, 15(d), 23(a) and 35A of the Exchange Act.

List of Subjects in 17 CFR Parts 229, 232, 239 and 249

Reporting and recordkeeping requirements, Securities.

Text of the Final Amendments

For the reasons set out in the preamble, the Commission is amending title 17, chapter II of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78l, 78m, 78n, 78n–1, 78o, 78u–5, 78w, 78*ll,* 78 mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309; and Sec. 84001, Pub. L. 114–94, 129 Stat. 1312.

■ 2. Amend § 229.601 by revising paragraph (a)(2) to read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

(2) Each registration statement or report shall contain an exhibit index, which must appear before the required signatures in the registration statement or report. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it in the exhibit table. If an exhibit is incorporated by reference, this must be noted in the exhibit index. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language or an exhibit that is filed with Form ABS–EE) must include an active link to an exhibit that is filed with the registration statement or report or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. If a registration statement or report is amended, each amendment must include hyperlinks to the exhibits required with the amendment. For a description of each of the exhibits included in the exhibit table, see paragraph (b) of this section.

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 3. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29,

[104] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

[105] *See* Exchange Act Rule 0–10(a).

[106] This estimate is based on a review of XBRL data, where available, submitted with Form 10–K and Form 20–F filings with fiscal periods ending between January 31, 2015 and January 31, 2016.

80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 4. Amend § 232.11 by removing the definition ''Hypertext links or hyperlinks'' and adding the definition ''Hyperlinks'' in alphabetical order to read as follows:

§ 232.11 Definition of terms used in part 232.

* * * * *

Hyperlinks. The term *hyperlinks* means the representation of an Internet address in a form that an Internet browser application can recognize as an Internet address.

* * * * *

■ 5. Amend § 232.102 by revising paragraphs (a) and (d) to read as follows:

§ 232.102 Exhibits.

(a) Exhibits to an electronic filing that have not previously been filed with the Commission shall be filed in electronic format, absent a hardship exemption. Previously filed exhibits, whether in paper or electronic format, may be incorporated by reference into an electronic filing to the extent permitted by § 229.10(d) of this chapter, Rule 411 under the Securities Act (§ 230.411 of this chapter), Rule 12b–23 or 12b–32 under the Exchange Act (§ 240.12b–23 or § 240.12b–32 of this chapter), Rules 0–4, 8b–23, and 8b–32 under the Investment Company Act (§§ 270.0–4, 270.8b–23 and 270.8b–32 of this chapter) and Rule 303 of Regulation S–T (§ 232.303). An electronic filer may, at its option, restate in electronic format any exhibit incorporated by reference that originally was filed in paper format.

Note to paragraph (a): Exhibits to a Commission schedule filed pursuant to Section 13 or 14(d) of the Exchange Act may be filed in paper under cover of Form SE where such exhibits previously were filed in paper (prior to a registrant's becoming subject to mandated electronic filing or pursuant to a hardship exemption) and are required to be refiled pursuant to the schedule's general instructions. See Rule 311(b) of Regulation S–T (17 CFR 232.311(b)).

* * * * *

(d) Each electronic filing requiring exhibits must include an exhibit index which must appear before the required signatures in the document. The index must list each exhibit filed, whether filed electronically or in paper. For electronic filings on Form F–10 (§ 239.40 of this chapter), Form 20–F (§ 249.220f of this chapter), or filings subject to Item 601 of Regulation S–K (§ 229.601 of this chapter), each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language or an exhibit that is filed with Form ABS–EE (§ 249.1401 of this chapter)) must include an active link to an exhibit that is filed with the document or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR. Whenever a filer files an exhibit in paper pursuant to a temporary or continuing hardship exemption (§ 232.201 or § 232.202) or pursuant to § 232.311, the filer must place the letter ''P'' next to the listed exhibit in the exhibit index of the electronic filing to reflect the fact that the filer filed the exhibit in paper. In addition, if the exhibit is filed in paper pursuant to § 232.311, the filer must place the designation ''Rule 311'' next to the letter ''P'' in the exhibit index. If the exhibit is filed in paper pursuant to a temporary or continuing hardship exemption, the filer must place the letters ''TH'' or ''CH,'' respectively, next to the letter ''P'' in the exhibit index. Whenever an electronic confirming copy of an exhibit is filed pursuant to a hardship exemption (§ 232.201 or § 232.202(d)), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation ''CE'' (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

* * * * *

■ 6. Amend § 232.105 by revising the section heading and paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 232.105 Use of HTML and hyperlinks.

* * * * *

(b) Electronic filers may not include in any HTML document hyperlinks to sites, locations, or documents outside the HTML document, except links to officially filed documents within the current submission and to documents previously filed electronically and located in the EDGAR database on the Commission's public Web site (*www.sec.gov*). Electronic filers also may include within an HTML document links to different sections within that single HTML document.

(c) If a filer includes an external hyperlink within a filed document, the information contained in the linked material will not be considered part of the document for determining compliance with reporting obligations, but the inclusion of the link will cause the filer to be subject to the civil liability and antifraud provisions of the federal securities laws with reference to the information contained in the linked material.

(d) Electronic filers submitting Form F–10 (§ 239.40 of this chapter), Form 20–F (§ 249.220f of this chapter), or a registration statement or report subject to Item 601 of Regulation S–K (§ 229.601 of this chapter), must submit such registration statement or report in HTML and each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language or an exhibit filed with Form ABS–EE (§ 249.1401 of this chapter)) must include an active link to an exhibit that is filed with the registration statement or report or, if the exhibit is incorporated by reference, an active hyperlink to the exhibit separately filed on EDGAR, unless such exhibit is filed in paper pursuant to a temporary or continuing hardship exemption under Rules 201 or 202 of Regulation S–T (§ 232.201 or § 232.202) or pursuant to Rule 311 of Regulation S–T (§ 232.311).

Instructions to paragraph (d): (1) No hyperlink is required for any exhibit incorporated by reference that has not been filed with the Commission in electronic format.

(2) An electronic filer must correct an inaccurate or nonfunctioning link or hyperlink to an exhibit, in the case of a registration statement that is not yet effective, by filing an amendment to the registration statement containing the inaccurate or nonfunctioning link or hyperlink; or, in the case of a registration statement that has become effective or an Exchange Act report, an electronic filer must correct the inaccurate or nonfunctioning link or hyperlink in the next Exchange Act periodic report that requires, or includes, an exhibit pursuant to Item 601 of Regulation S–K (§ 229.601 of this chapter) or, in the case of a foreign private issuer (as defined in § 229.405 of this chapter), Form 20–F (§ 249.220f of this chapter) or Form F–10 (§ 239.40 of this chapter). Alternatively, an electronic filer may correct an inaccurate or nonfunctioning link or hyperlink in a registration statement that has become effective by filing a post-effective amendment to the registration statement.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 7. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78*ll,* 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, 80a–37, and Sec. 71003 and Sec. 84001, Pub. L. 114–94, 129 Stat. 1312, unless otherwise noted.

* * * * *

■ 8. Amend Form F–10 (referenced in § 239.40) by revising paragraph D of General Instruction II to read as follows:

Note: The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

United States Securities and Exchange Commission

Washington, DC 20549

Form F–10

Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

* * * * *

II. Application of General Rules and Regulations

* * * * *

D. A registrant must file the registration statement in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with technical questions about EDGAR or to request an access code, call the EDGAR Filer Support Office at (202) 551–8900. For assistance with the EDGAR rules, call the Office of Information Technology in the Division of Corporation Finance at (202) 551–3600.

Include an exhibit index in the registration statement, which must appear before the required signatures in the document. The exhibit index must list each exhibit according to the letter or number assigned to it. If an exhibit is incorporated by reference, this must be noted in the exhibit index. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or, if the exhibit is incorporated by reference an active hyperlink to the exhibit separately filed on EDGAR. If the registration statement is amended, each amendment must include active hyperlinks to the exhibits required with the amendment. For paper filings, the pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

If filing the registration statement in paper under a hardship exemption in Rule 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202), or as otherwise permitted, a registrant must file with the Commission at its principal office five copies of the complete registration statement and any amendments, including exhibits and all other documents filed as a part of the registration statement or amendment. The registrant must bind, staple or otherwise compile each copy in one or more parts without stiff covers. The registrant must further bind the registration statement or amendment on the side or stitching margin in a manner that leaves the reading matter legible. The registrant must provide three additional copies of the registration statement or amendment without exhibits to the Commission.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 9. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

■ 10. Amend Form 20–F (referenced in § 249.220f) by revising the fourth paragraph of the introductory text under ''Instructions as to Exhibits'' to read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Part III

* * * * *

Item 19. Exhibits

* * * * *

Instructions as to Exhibits

* * * * *

Include an exhibit index in each registration statement or report you file, which must appear before the required signatures in the document. The exhibit index must list each exhibit according to the number assigned to it below. If an exhibit is incorporated by reference, this must be noted in the exhibit index. Each exhibit identified in the exhibit index (other than an exhibit filed in eXtensible Business Reporting Language) must include an active link to an exhibit that is filed with the registration statement or report or, if the exhibit is incorporated by reference an active hyperlink to the exhibit separately filed on EDGAR. If a registration statement or report is amended, each amendment must include active hyperlinks to the exhibits required with the amendment. For paper filings, the pages of the manually signed original registration statement should be numbered in sequence, and the exhibit index should give the page number in the sequential numbering system where each exhibit can be found.

* * * * *

By the Commission.

Dated: March 1, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–04365 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 101, 112, 115, 117, 118, 507, and 800

[Docket No. FDA–2017–N–0011]

Presiding Officer for an Appeal and Informal Hearing; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is making revisions to Chapter I of its regulations. These revisions are necessary to reflect changes to the Agency's organizational structure, including the dissolution of the Regional Food and Drug Director position. The revisions replace references to the Regional Food and Drug Director, who is designated to preside over administrative appeals and at informal hearings on appeal, with references to Office of Regulatory Affairs Program Directors. The rule does not impose any new regulatory requirements on affected parties. This action is editorial in nature and is intended to improve the accuracy of the Agency's regulations.

DATES: This rule is effective March 17, 2017.

FOR FURTHER INFORMATION CONTACT: Peter Fox, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20852, 240–402–1857.

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Office of Regulatory Affairs has dissolved the Regional Food and Drug Director position. Certain duties related to administrative appeals and informal hearings formerly held by Regional Food and Drug Directors will transfer to Office of Regulatory Affairs Program Directors. The revisions made by this rule pertain solely to the designation of FDA officials and do not alter any substantive standards.

II. Description of the Technical Amendments

The regulations specified in this rule have been revised to replace all references to the ''Regional Food and Drug Director'' with ''Office of Regulatory Affairs Program Director,'' to reflect the change in designation. In addition, the regulations have been revised to authorize other FDA officials senior to an FDA District Director to perform duties related to administrative appeals and informal hearings. Finally, we have made minor conforming amendments and grammatical changes as necessary to accommodate the new language.

We are making these technical amendments to revise descriptions of the FDA officials designated to preside over administrative appeals and at informal hearings on appeal. The rule does not impose any new regulatory requirements on affected parties. The amendments are editorial in nature and should not be construed as modifying any substantive standards or requirements.

III. Notice and Public Comment

Publication of this document constitutes final action of these changes under the Administrative Procedure Act (5 U.S.C. 553). Section 553 of the Administrative Procedure Act (APA) exempts ''rules of agency organization, procedure, or practice'' from proposed rulemaking (*i.e.,* notice and comment rulemaking). 5 U.S.C. 553(b)(3)(A). Rules are also exempt when an agency finds ''good cause'' that notice and comment rulemaking procedures would be ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B).

FDA has determined that this rulemaking meets the notice and comment exemption requirements in 5 U.S.C. 553(b)(3)(A) and (b)(3)(B). FDA's revisions make technical or non-substantive changes that pertain solely to the designation of FDA officials, and do not alter any substantive standard. FDA does not believe public comment is necessary for these minor revisions.

The APA allows an effective date less than 30 days after publication as ''provided by the agency for good cause found and published with the rule'' (5 U.S.C. 553(d)(3)). A delayed effective date is unnecessary in this case because the amendments do not impose any new regulatory requirements on affected parties. As a result, affected parties do not need time to prepare before the rule takes effect. Therefore, FDA finds good cause for the amendments to become effective on the date of publication of this action.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 112

Dietary foods, Food grades and standards, Foods, Fruits, Packaging and containers, Reporting and recordkeeping requirements, Safety, Vegetables.

21 CFR Part 115

Eggs and egg products, Foods.

21 CFR Part 117

Food packaging, Foods.

21 CFR Part 118

Eggs and egg products, Food grades and standards, Reporting and recordkeeping requirements.

21 CFR Part 507

Animal foods, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

21 CFR Part 800

Administrative practice and procedure, Medical devices, Ophthalmic goods and services, Packaging and containers, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 1, 101, 112, 115, 117, 118, 507, and 800 are amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

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

Authority: 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 342, 343, 350c, 350d, 350e, 350j, 350k, 352, 355, 360b, 360ccc, 360ccc–1, 360ccc–2, 362, 371, 373, 374, 379j–31, 381, 382, 384a, 384b, 384d, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264, 271; Pub. L. 107–188, 116 Stat. 594, 668–69; Pub. L. 111–353, 124 Stat. 3885, 3889.

■ 2. Amend § 1.403 by revising paragraph (f) to read as follows:

§ 1.403 What requirements apply to an informal hearing?

* * * * *

(f) Section 1.404, rather than § 16.42(a) of this chapter, describes the FDA employees, *i.e.,* Office of Regulatory Affairs Program Directors or other officials senior to a District Director, who preside at hearings under this subpart;

* * * * *

■ 3. Revise § 1.404 to read as follows:

§ 1.404 Who serves as the presiding officer for an appeal and for an informal hearing?

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director.

■ 4. Amend § 1.980 by revising paragraphs (g)(3)(iv) and (g)(4) to read as follows:

§ 1.980 Administrative detention of drugs.

* * * * *

(g) * * *

(3) * * *

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees, *i.e.,* Office of Regulatory Affairs Program Directors or other FDA officials senior to an FDA District Director, who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also must decide the appeal, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director who is permitted by § 16.42(a) of this chapter to preside over the hearing.

* * * * *

PART 101—FOOD LABELING

■ 5. The authority citation for part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 6. Amend § 101.17 by revising paragraphs (h)(7)(ii) introductory text, (h)(7)(ii)(B), (h)(7)(ii)(C) introductory text, (h)(7)(ii)(C)(*1*), (h)(7)(ii)(C)(*4*), (h)(7)(ii)(C)(*5*), (h)(7)(ii)(C)(*6*), (h)(7)(ii)(D), (h)(7)(ii)(E), and (h)(7)(ii)(F) to read as follows:

§ 101.17 Food labeling warning, notice, and safe handling statements.

* * * * *

(h) * * *

(7) * * *

(ii) The person on whom the order for relabeling, diversion, or destruction is served may either comply with the order or appeal the order to an Office of Regulatory Affairs Program Director.

* * * * *

(B) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director determines that no genuine and substantial issue of fact has been raised by the material submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(C) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing shall be conducted by an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director, and a written summary of the proceedings shall be prepared by the presiding FDA official.

(1) The presiding FDA official may direct that the hearing be conducted in any suitable manner permitted by law and this section. The presiding FDA official has the power to take such actions and make such rulings as are necessary or appropriate to maintain order and to conduct an informal, fair, expeditious, and impartial hearing, and to enforce the requirements concerning the conduct of hearings.

* * * * *

(4) The party requesting the hearing may have the hearing transcribed, at the party's expense, in which case a copy of the transcript is to be furnished to FDA. Any transcript of the hearing will be included with the presiding FDA official's report of the hearing.

(5) The presiding FDA official shall prepare a written report of the hearing. All written material presented at the hearing will be attached to the report. Whenever time permits, the presiding FDA official may give the parties the opportunity to review and comment on the report of the hearing.

(6) The presiding FDA official shall include as part of the report of the hearing a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue, and shall include a recommended decision, with a statement of reasons.

(D) *Written appeal.* If the appellant appeals the detention order but does not request a hearing, the presiding FDA official shall render a decision on the appeal affirming or revoking the detention within 5-working days after the receipt of the appeal.

(E) *Presiding FDA official's decision.* If, based on the evidence presented at the hearing or by the appellant in a written appeal, the presiding FDA official finds that the shell eggs were held in violation of this section, he shall affirm the order that they be relabeled, diverted under the supervision of an officer or employee of FDA for processing under the EPIA, or destroyed by or under the supervision of an officer or employee of FDA; otherwise, the presiding FDA official shall issue a written notice that the prior order is withdrawn. If the presiding FDA official affirms the order, he shall order that the relabeling, diversion, or destruction be accomplished within 10-working days from the date of the issuance of his decision. The presiding FDA official's decision shall be accompanied by a statement of the reasons for the decision. The decision of the presiding FDA official shall constitute final agency action, reviewable in the courts.

(F) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to relabel, divert, or destroy them within 10-working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to relabel, divert, or destroy them within 10-working days, the FDA district office, or, if applicable, the State or local agency may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 112—STANDARDS FOR THE GROWING, HARVESTING, PACKING, AND HOLDING OF PRODUCE FOR HUMAN CONSUMPTION

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

Authority: 21 U.S.C. 321, 331, 342, 350h, 371; 42 U.S.C. 243, 264, 271.

■ 8. Revise § 112.209 to read as follows:

§ 112.209 Who is the presiding officer for an appeal and for an informal hearing?

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director.

PART 115—SHELL EGGS

■ 9. The authority citation for part 115 continues to read as follows:

Authority: 21 U.S.C. 342, 371; 42 U.S.C. 243, 264, 271.

■ 10. Amend § 115.50 by revising paragraphs (e)(2) introductory text, (e)(2)(ii), (e)(2)(iii) introductory text, (e)(2)(iii)(A), (e)(2)(iii)(D), (e)(2)(iii)(E), (e)(2)(iii)(F), (e)(2)(iv), (e)(2)(v), and (e)(2)(vi) to read as follows:

§ 115.50 Refrigeration of shell eggs held for retail distribution.

* * * * *

(e) * * *

(2) The person on whom the order for diversion or destruction is served may either comply with the order or appeal the order to an Office of Regulatory Affairs Program Director in accordance with the following procedures:

* * * * *

(ii) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director determines that no genuine and substantial issue of fact has been raised by the material submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(iii) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing shall be conducted by the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director, and a written summary of the proceedings shall be prepared by the presiding FDA official.

(A) The presiding FDA official may direct that the hearing be conducted in any suitable manner permitted by law and this section. The presiding FDA official has the power to take such actions and make such rulings as are necessary or appropriate to maintain order and to conduct an informal, fair, expeditious, and impartial hearing, and to enforce the requirements concerning the conduct of hearings.

* * * * *

(D) The party requesting the hearing may have the hearing transcribed, at the party's expense, in which case a copy of

the transcript is to be furnished to FDA. Any transcript of the hearing will be included with the presiding FDA official's report of the hearing.

(E) The presiding FDA official shall prepare a written report of the hearing. All written material presented at the hearing will be attached to the report. Whenever time permits, the presiding FDA official may give the parties the opportunity to review and comment on the report of the hearing.

(F) The presiding FDA official shall include as part of the report of the hearing a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue, and shall include a recommended decision, with a statement of reasons.

(iv) *Written appeal.* If the appellant appeals the detention order but does not request a hearing, the presiding FDA official shall render a decision on the appeal affirming or revoking the detention within 5-working days after the receipt of the appeal.

(v) *Presiding FDA official's decision.* If, based on the evidence presented at the hearing or by the appellant in a written appeal, the presiding FDA official finds that the shell eggs were held in violation of this section, he shall affirm the order that they be diverted, under the supervision of an officer or employee of FDA for processing under the EPIA or destroyed by or under the supervision of an officer or employee of FDA; otherwise, the presiding FDA official shall issue a written notice that the prior order is withdrawn. If the presiding FDA official affirms the order, he shall order that the diversion or destruction be accomplished within 10-working days from the date of the issuance of his decision. The presiding FDA official's decision shall be accompanied by a statement of the reasons for the decision. The decision of the presiding FDA official shall constitute final agency action, reviewable in the courts.

(vi) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to divert or destroy them within 10-working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to divert or destroy them within 10-working days, FDA's district office or appropriate State or local agency may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 117—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR HUMAN FOOD

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

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 12. Revise § 117.274 to read as follows:

§ 117.274 Presiding officer for an appeal and for an informal hearing.

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director.

PART 118—PRODUCTION, STORAGE, AND TRANSPORTATION OF SHELL EGGS

13. The authority citation for part 118 continues to read as follows:

Authority: 21 U.S.C. 321, 331– 334, 342, 371, 381, 393, 42 U.S.C. 243, 264, 271.

■ 14. Amend § 118.12 by revising paragraphs (a)(1)(i) introductory text, (a)(2) introductory text, (a)(2)(ii), (a)(2)(iii) introductory text, (a)(2)(iii)(A), (a)(2)(iii)(D), (a)(2)(iii)(E), (a)(2)(iii)(F), (a)(2)(v), and (a)(2)(vi) to read as follows:

§ 118.12 Enforcement and compliance.

* * * * *

(a) * * *

(1) * * *

(i) *Order for diversion or destruction under the PHS Act.* Any district office of FDA or any State or locality acting under paragraph (c) of this section, upon finding shell eggs that have been produced or held in violation of this regulation, may serve a written order upon the person in whose possession the eggs are found requiring that the eggs be diverted, under the supervision of an officer or employee of the issuing entity, for processing in accordance with the EPIA (21 U.S.C. 1031 *et seq.*) or by a treatment that achieves at least a 5-long destruction of SE or destroyed by or under the supervision of the issuing entity, within 10-working days from the date of receipt of the order, unless under paragraph (a)(2)(iii) of this section, a hearing is held, in which case the eggs must be diverted or destroyed consistent with the decision of the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director under paragraph (a)(2)(v) of this section. The order must include the following information:

* * * * *

(2) The person on whom the order for diversion or destruction is served may either comply with the order or appeal the order to an Office of Regulatory Affairs Program Director in accordance with the following procedures:

* * * * *

(ii) *Summary decision.* A request for a hearing may be denied, in whole or in part and at any time after a request for a hearing has been submitted, if the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director determines that no genuine and substantial issue of fact has been raised by the material submitted in connection with the hearing or from matters officially noticed. If the presiding FDA official determines that a hearing is not justified, written notice of the determination will be given to the parties explaining the reason for denial.

(iii) *Informal hearing.* Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The informal hearing must be conducted by the Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director, and a written summary of the proceedings must be prepared by the presiding FDA official.

(A) The presiding FDA official may direct that the hearing be conducted in any suitable manner permitted by law and by this section. The presiding FDA official has the power to take such actions and make such rulings as are necessary or appropriate to maintain order and to conduct an informal, fair, expeditious, and impartial hearing, and to enforce the requirements concerning the conduct of hearings.

* * * * *

(D) The party requesting the hearing may have the hearing transcribed, at the party's expense, in which case a copy of the transcript is to be furnished to FDA. Any transcript of the hearing will be included with the presiding FDA official's report of the hearing.

(E) The presiding FDA official must prepare a written report of the hearing. All written material presented at the hearing will be attached to the report. Whenever time permits, the presiding FDA official may give the parties the opportunity to review and comment on the report of the hearing.

(F) The presiding FDA official must include as part of the report of the hearing a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue,

and must include a recommended decision, with a statement of reasons.

(iv) *Written appeal.* If the appellant appeals the detention order but does not request a hearing, the presiding FDA official must render a decision on the appeal affirming or revoking the detention order within 5-working days after the receipt of the appeal.

(v) *Presiding FDA official's decision.* If, based on the evidence presented at the hearing or by the appellant in a written appeal, the presiding FDA official finds that the shell eggs were produced or held in violation of this section, he must affirm the order that they be diverted, under the supervision of an officer or employee of FDA for processing under the EPIA or by a treatment that achieves at least a 5-log destruction of SE or destroyed by or under the supervision of an officer or employee of FDA; otherwise, the presiding FDA official must issue a written notice that the prior order is withdrawn. If the presiding FDA official affirms the order, he must order that the diversion or destruction be accomplished within 10-working days from the date of the issuance of his decision. The presiding FDA official's decision must be accompanied by a statement of the reasons for the decision. The decision of the presiding FDA official constitutes final agency action, subject to judicial review.

(vi) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to divert or destroy them within 10-working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to divert or destroy them within 10-working days, FDA's district office or, if applicable, the State or local representative may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

* * * * *

PART 507—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK–BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS

■ 15. The authority citation for part 507 continues to read as follows:

Authority: 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 16. Revise § 507.75 to read as follows:

§ 507.75 Residing officer for an appeal and for an informal hearing.

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director.

PART 800—GENERAL

■ 17. The authority citation for part 800 continues to read as follows:

Authority: 21 U.S.C. 321, 334, 351, 352, 355, 360e, 360i, 360k, 361, 362, 371.

■ 18. Amend § 800.55 by revising paragraphs (g)(3)(iv) and (g)(4) to read as follows:

§ 800.55 Administrative detention.

* * * * *

(g) * * *

(3) * * *

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees, *i.e.,* Office of Regulatory Affairs Program Directors or other FDA officials senior to an FDA District Director, who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also shall decide the appeal, shall be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director who is permitted by § 16.42(a) of this chapter to preside over the hearing.

* * * * *

Dated: March 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–05350 Filed 3–16–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

[CIS No. 2585–16]

RIN 1615–AC10

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 503

RIN 1235–AA16

Department of Homeland Security and Department of Labor Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for the H–2B Temporary Non-agricultural Worker Program

AGENCY: Department of Homeland Security; Wage and Hour Division, Department of Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Homeland Security (DHS) and the U.S. Department of Labor (DOL) (collectively, ''the Departments'') are jointly issuing this final rule to adjust for inflation the civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H–2B program, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Inflation Adjustment Act provides that agencies shall adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a cost-of-living formula for adjustment of the civil penalties. Accordingly, this final rule sets forth the Departments' 2017 annual adjustments for inflation to the H–2B civil monetary penalties, effective March 17, 2017.

DATES: This final rule is effective March 17, 2017. As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after March 17, 2017.

FOR FURTHER INFORMATION CONTACT: Pamela Peters, Program Analyst, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5959 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Regulatory Information

The Inflation Adjustment Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation. Agencies are required to publish an annual inflation adjustment no later than January 15, 2017, and by January 15 of each subsequent year.

On July 1, 2016, the Departments established the initial catch-up adjustment for civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H–2B

program. *See* 81 FR 42983 (IFR).[1] This final rule reflects that the Departments did not receive any public comments on the jointly-issued IFR and so did not make any changes to the civil monetary penalty amounts established in the IFR based on comments received. For that reason, this rule is being issued jointly by DOL and DHS. As explained in the IFR, DOL will make future adjustments to the H–2B civil monetary penalties consistent with DOL's delegated authority under 8 U.S.C. 1184(c)(14), Immigration and Nationality Act section 214(c)(14), and the Inflation Adjustment Act. *See* 81 FR 42985 n.2. DOL will make the first such adjustment in 2018.

Agencies are required to calculate the annual adjustment based on the Consumer Price Index for all Urban Consumers (CPI–U). Annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U; in this case, the percent change between the October 2016 CPI–U and the October 2015 CPI–U. The cost-of-living adjustment multiplier for 2017, based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted, is 1.01636.[2] In order to complete the 2017 annual adjustment, the Departments multiplied the most recent H–2B maximum civil monetary penalty amounts by the multiplier, 1.01636, and rounded to the nearest dollar.

As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after the effective date of this rule. Accordingly, for penalties assessed after March 17, 2017, whose associated violations occurred after November 2, 2015, the higher penalty amounts outlined in this rule will apply. The chart below demonstrates the penalty amounts that apply:

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015	On or before August 1, 2016	Pre-August 1, 2016 levels.
On or before November 2, 2015	After August 1, 2016	Pre-August 1, 2016 levels.
After November 2, 2015	After August 1, 2016, but on or before March 17, 2017	August 1, 2016 levels.
After November 2, 2015	After March 17, 2017	March 17, 2017 levels.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Departments consider the impact of paperwork and other information collection burdens imposed on the public. The Departments have determined that this final rule does not require any collection of information.

III. Administrative Procedure Act

The Inflation Adjustment Act provides that agencies shall annually adjust civil monetary penalties for inflation notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a nondiscretionary clear formula for annual adjustment of the civil monetary penalties. For these reasons, the requirements in sections 553(b), (c), and (d) of the APA, relating to notice and comment and requiring that a rule be effective at least 30 days after publication in the **Federal Register**, are inapplicable.

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

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a ''significant regulatory action'' is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues.

The Departments have determined that this final rule is not a ''significant'' regulatory action and a cost-benefit and economic analysis is not required. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the Inflation Adjustment Act, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the incentive for the regulated community to comply with the laws enforced by the Departments, and not allowing the incentive to be diminished by inflation. To the extent this Final Rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

Executive Order 13563 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility to minimize burden.

By mandating inflation adjustments consistent with a non-discretionary, clear formula, Congress has already determined that any possible increase in costs is justified by the overall benefits of such adjustments. This final rule makes only the statutory changes outlined herein; thus there are no alternatives or further analysis required by E.O. 13563.

V. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b). This final rule is exempt from the requirements of the APA because the Inflation Adjustment Act directed the Departments to issue the annual adjustments without regard to Section 553 of the APA. Therefore, the requirements of the RFA applicable to final rules, 5 U.S.C. 604, do not apply to this final rule. Accordingly, the Departments are not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

[1] The Departments incorporate by reference the preamble to the July 2016 IFR. *See* 81 FR 42983–42986.

[2] OMB provided the year-over-year multiplier, rounded to 5 decimal points. *See* M–17–11, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec 16, 2016).

VI. Environmental Impact Assessment

This action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This action is therefore categorically excluded from further review under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375.

List of Subjects in 29 CFR Part 503

Administrative practice and procedure, Aliens, Employment, Housing, Immigration, Labor, Penalties, Transportation, Wages.

Accordingly, for the reasons set out in the preamble, 29 CFR part 503 is amended as follows:

Title 29—Labor

PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT

■ 1. The authority citation for part 503 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

§ 503.23 [Amended]

■ 2. In the table below for § 503.23, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph, and add in its place the dollar amount indicated in the right column:

Paragraph	Remove	Add
(b)	$11,940	$12,135
(c)	11,940	12,135
(d)	11,940	12,135

John F. Kelly,

Secretary of Homeland Security.

Edward C. Hugler,

Acting Secretary of Labor.

[FR Doc. 2017–05178 Filed 3–16–17; 8:45 am]

BILLING CODE 4510–27–P; 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0132]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—St. Patrick's Day Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on the Manitowoc River in Manitowoc, WI for the St. Patrick's Day Fireworks on March 17, 2017. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and after the fireworks display. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (a)(1), Table 165.929, from 6:15 p.m. until 7:15 p.m. on March 17, 2017.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email marine event coordinator, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *D09-SMB-SECLakeMichigan-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the St. Patrick's Day Fireworks safety zone listed as item (a)(1) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of the Manitowoc River within the arc of a circle with a 250-foot radius from a center point launch position at 44°05.492′ N., 087°39.332′ W. (NAD 83). As specified in 33 CFR 165.929, all vessels must obtain permission from the Captain of the Port Lake Michigan or a designated representative to enter, move within, or exit the safety zone when it is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF–FM.

Dated: March 10, 2017.

A.B. Cocanour,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2017–05418 Filed 3–16–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9958–96–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Perdido Ground Water Contamination Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency Region 4 is publishing this direct final Notice of Deletion for the Perdido Ground Water Contamination Superfund Site (Site), located in Perdido, Baldwin County, Alabama, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by the EPA with the concurrence of the State of Alabama, through the Alabama Department of Environmental Management (ADEM), because the EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective May 16, 2017 unless the EPA receives adverse comments by April 17, 2017. If adverse comments are received,

the EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No., EPA–HQ–SFUND–1983–0002, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: cox.deborah@epa.gov.*
- *Fax:* (404) 562–8896, Attention: Deborah P. Cox, PE.
- *Mail:* Deborah P. Cox, PE, Remedial Project Manager, Superfund Restoration and Sustainability Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery:* U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1983–0002. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

U.S. EPA Record Center, attn: Ms. Tina Terrell, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8835, Hours 8 a.m.–4 p.m., Monday through Friday by appointment only; or, Atmore Public Library, 700 East Church Street, Atmore, AL 36502, Phone: 251–368–5234, Hours 8 a.m.–5 p.m., Monday thru Friday, Saturday 9 a.m.–1 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah P. Cox, PE, Remedial Project Manager, Superfund Restoration and Sustainability Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, phone 404–562–8317, email: *cox.deborah@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

The EPA Region 4 is publishing this direct final Notice of Deletion of the Perdido Ground Water Contamination Superfund Site (Site) from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in the Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria to delete sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Perdido Ground Water Contamination Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses the EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), the EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment, and, therefore, the taking of remedial measures is not appropriate.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State of Alabama prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) The EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through ADEM, has concurred on the deletion of the site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *The Atmore Advance.* The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site

information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, the EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter the EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist the EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides the EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Perdido Ground Water Contamination Site is located in Perdido, Baldwin County, Alabama, and is the site of a train derailment, which occurred on May 17, 1965. The Site originated as a borrow area which provided sand and fill material to the County for local use. In 1965, a train derailment by the Louisville and Nashville Railroad (a predecessor of CSX Transportation, Inc., CSXT) occurred approximately 200 yards east of the intersection of State Highways 47 and 61. Chemicals from the derailed tank cars spilled into the drainage ditches along State Highway 61 and caught fire. Later, as a result of the accident, an unknown quantity of benzene that had not been destroyed by the fire eventually penetrated the soil and entered the ground water aquifer.

In 1982, benzene was identified in several residential domestic water supply wells within the community of Perdido. An alternate supply of drinking water was provided by CSXT by constructing a waterline six miles from the nearby town of Atmore. Approximately 150 Perdido homes within a one mile radius of the derailment were connected to the alternate water supply.

Due to the benzene in the ground water, the EPA proposed listing the Site on the National Priorities List (EPA ID: ALD980728703) on December 30, 1982 (47 FR 58476), and finalized the listing on September 8, 1983 (48 FR 40658) under the CERCLA Act of 1980.

Remedial Investigation/Feasibility Study (RI/FS)

On October 11, 1985, CSXT executed an Administrative Order of Consent with the EPA to conduct a Remedial Investigation/Feasibility Study (RI/FS) at the Site. The RI was then initiated and submitted in August 1986. In March 1987, the EPA's Ground Water Technology Unit constructed a solute transport ground water model and predicted the extent of the ground water plume in the Perdido area. In April 1987 the Environmental Response Team (ERT) performed a soil vapor study. The revised RI was submitted in November 1987. Based on review of the data, the EPA requested the installation of additional monitoring wells further down gradient of the derailment area. CSXT's contractor completed a supplement to the revised RI report in May 1988. The supplement to the revised RI confirmed the presence of benzene in the ground water and led to the conclusion that by approximately 1985, all of the benzene in the soils had leached to the ground water, volatilized to the atmosphere, or biodegraded. As a result of these actions, the ''source'' of contamination at the Site had been ''remediated'' by natural processes.

A risk assessment of current and potential routes of exposure at the Site identified several exposure pathways. The potential exposure pathway for humans was determined to be ingestion of contaminated ground water. Additional pathways investigated included ingestion of and dermal contact with surface water for humans and ingestion of surface water by cattle. These additional pathways were removed from further consideration because the benzene spill occurred over 20 years ago, benzene is a highly volatile substance and benzene had been detected only in ground water. The EPA ultimately determined that continued migration of contaminated ground water was a threat to public health and the environment in the area surrounding and down gradient of the contaminant plume.

In May, 1988, CXST submitted the FS report, which evaluated three remedial alternatives to address contaminated ground water. These three alternatives were as follows:

- Ground water withdrawal with off-site benzene removal.
- Ground water withdrawal with on-site benzene removal.
- No action, with natural attenuation/degradation of benzene in ground water.

Selected Remedy

The EPA's Record of Decision (ROD) was signed on September 30, 1988, and ADEM concurred with the selected remedy of ground water extraction with on-site treatment. The selected remedy for the ground water contamination included the following:

- Recovery of the contaminated ground water by means of a recovery well field;
- Treatment of the recovered contaminated ground water by air stripping to achieve the 5 parts per billion (ppb) maximum concentration limit (MCL) cleanup level established for benzene;
- Re-injection of the treated ground water back into the aquifer and into the surface water.

Operation and maintenance activities required to ensure the continued effectiveness of the remedy included:

- Periodic monitoring of the pump and treat system to ensure continued effectiveness in attaining cleanup standards;
- Periodic ground water monitoring to ensure that long term performance goals have been achieved.

The ROD also specified that once the ground water cleanup level was attained, ground water monitoring would be required for an additional five years to ensure cleanup levels were maintained.

The remedial action objectives for the Site were to eliminate potential health hazards due to the impact of benzene in ground water that resulted from the May 1965, train derailment in Perdido, Alabama, and restoration of the contaminated ground water to levels protective of human health and the environment. The EPA's MCL of 5 μg/L benzene in ground water was to be used as the criteria for measuring whether the remedial action objective had been met. During start-up of the treatment system in December 1992, the reinjection system was unable to accept the design flows. In May 1993, the EPA approved an Explanation of Significant Differences (ESD) for a surface water discharge system to discharge excess treated water to the Perdido Creek.

Response Actions

The remedial design (RD) Report for the Site was submitted in December 1991, and construction of the ground water treatment system was completed between May and November 1992, with a Pre-Final Remedial Action (RA) Inspection completed on July 7, 1993. On September 3, 1993 the Revised RA

Report, documenting that all construction requirements were met and installation of the treatment system was complete, was submitted to the EPA, and subsequently approved on September 13, 1993. The initial treatment system included twelve ground water withdrawal wells, which delivered contaminated ground water to the treatment plant. The treatment plant consisted of nine air strippers that transferred benzene from the contaminated water into the air stream, which in turn passed through the carbon adsorption unit prior to release to the atmosphere. The treated water passed through bag filters for removal of solids prior to being pumped to the reinjection system. The ten reinjection wells were each equipped with controllers to regulate the flow of injection water back into the aquifer. Twenty-four observation wells were also installed between 1986 and 1991, primarily for water level or benzene concentration monitoring. An additional observation well was installed in 1999.

During start-up of the treatment system in December 1992, the reinjection system was unable to accept the design flows. The excess water flooded the injection system and activated a high-level cut-off switch that shut down the entire system. To alleviate this problem and allow the ground water remediation to start, a surface water discharge system was proposed to handle the excess water. The EPA subsequently approved the proposal for a surface water discharge system to the Perdido Creek in the Site's May 1993 ESD. In June 1993, the surface water discharge line and the originally designed Hazleton Maxi-Strippers™ were installed. Modifications were made to divert treated water to the surface water discharge system once capacity of the reinjection system was reached. Ground water recovery withdrawal and treatment began in 1992 after start-up of the treatment system.

CSXT conducted more frequent inspections during January through March 1997 that revealed significant improvements could be made to optimize treatment system performance. Originally, the extraction wells were installed with pneumatic pumps, which tended to vibrate the wells and to cause an influx of sand into the system. In fall 1997, these pumps were replaced with electric submersible pumps, increasing system reliability and performance. Additionally, because of the high levels of iron and sand content in the influent ground water, the small orifices in the original Hazleton Maxi-Stripper™ system would become plugged. Considerable maintenance efforts were required to clean each of the orifices of the stripper by hand using a small drill. In April 1998, the Hazleton Maxi-Strippers™ system was replaced with a New England Environmental Products low profile, four tray air stripper. Maintenance efforts and costs were significantly reduced after these changes were implemented.

In 1999 CSXT further optimized treatment by installing three biosparge wells (BS–1, –2, and –3). These wells were intended to provide dissolved oxygen to areas of the benzene plume that were exhibiting decreased levels of dissolved oxygen, subsequently increasing the natural degradation of the benzene plume. In February and April 2000, nine additional biosparge wells were added on Site north of Highway 47 (BS–4 through BS–12). Twelve new biosparge wells (BS–13 thru BS–24) were installed in September 2003 on Site south of Highway 47.

Clean-Up Levels

Based on the success of remedial activities in reducing the benzene plume, the EPA, ADEM, CSXT and CSXT consultant, AMEC Earth & Environmental, Inc. (AMEC), met on August 2, 2005 to discuss an Interim Evaluation Work Plan (IEWP) that would involve shutting down the ground water treatment system and monitoring ground water conditions for a period of one year in order to determine future remedial actions. A primary goal of the plan was to determine whether ground water benzene concentrations would remain below the 5 μg/L MCL cleanup goal or ''rebound'' after the pump-and-treat and biosparge systems were turned off. The EPA and ADEM approved the plan on July 25, 2006. On September 24, 2006, the ground water treatment system was turned off.

Results of the first-quarter and second-quarter ground water sampling under the IEWP were submitted in January 2007 and April 2007, respectively. The results indicated that benzene concentrations in ground water remained consistent with historical data and did not rebound. Based on the data, implementation of the IEWP continued. On May 21, 2007, all parties agreed that the fourth-quarter sampling event would be replaced with a closure strategy if the third-quarter monitoring results continued to follow the positive trend. ADEM also requested the use of a low-flow micro-purging method to collect samples at different depths in two wells (Observation Well 41 (OW–41) and Withdrawal Well 14 (WW–14)). After approval from ADEM, this sampling approach was followed during the third-quarter sampling under the IEWP in June 2007. Based on the sampling results, a Closure Monitoring Plan (CMP) was drafted to make changes to the current ground water monitoring program, remedial actions and site closure procedures in a series of phases to bring the Site to closure in accordance with the 1990 Consent Decree (CD) with CSXT.

Addendum I to the CMP dated January 16, 2008 was submitted after a team conference call. ADEM and the EPA approved the CMP with Addendum I in January and February 2008, respectively. Recommendations in the approved CMP included: Continued monitoring the 10 out of 42 total site observation and withdrawal wells that had not yet achieved sample results below the benzene clean-up goal of 5 μg/L for five consecutive years; Monitoring of these 10 wells on a semi-annual basis and reporting the data on a semi-annual basis; Discontinuation of the monitoring of observation and withdrawal wells located south of Highway 47 once a well has remained below the benzene cleanup goal of 5 μg/L for five consecutive years and properly plugging and abandoning all the wells (including observation, withdrawal, biosparge and injection wells) located south of Highway 47 once ground water benzene concentrations have remained below the benzene cleanup goal of 5 μg/L for five consecutive years; Discontinuation of the monitoring of observation and withdrawal wells located north of Highway 47 once a well has remained below the benzene cleanup goal of 5 μg/L for five consecutive years and properly plugging and abandoning all wells located north of Highway 47 once ground water benzene concentrations within all observation and withdrawal wells have remained below the benzene cleanup goal of 5 μg/L for five consecutive years.

Addendum II to the CMP dated October 9, 2008 presented the minor revisions discussed during the September 3, 2008 team conference call. Clarification was provided to identify the type of public notification to be implemented prior to conducting closure type of events. ADEM approved the actions proposed in Addendum II on December 2008.

Community Involvement

Throughout the removal and remedial process, the EPA has kept the public informed of the activities being conducted at the Site by way of public meetings, progress fact sheets, and the announcement through local newspaper advertisement on the availability of

documents such as the RI/FS, Risk Assessment, ROD, Proposed Plan, ESD and Five-Year Reviews.

On July 25, 2006 representatives from the EPA, ADEM CSXT, and AMEC held a public availability session, regarding the upcoming IEWP for the Site. The purpose of the availability session was to inform the general public and local residents living near the Site, of the success of the long term cleanup activities at the Site. At the time of the meeting, benzene was detected in only three of the monitoring wells, with two of those exceeding the 5 µg/L cleanup level.

On September 16, 2009 representatives from the EPA, ADEM, CSXT, and AMEC held a public availability session to discuss the closure of a portion of the monitoring network, located south of Highway 47. These wells had completed five years of sampling with laboratory results below the 5 µg/L cleanup goal. In accordance with the approved CMP, this milestone achievement allowed the southern portion of the former plume to be eligible for closure.

On March 19, 2014 representatives held a public availability session to discuss the attainment of cleanup goals for five consecutive years in each of the remaining monitoring wells. With the attainment of all cleanup goals set forth for the Site, this public availability session served to inform the local community that all monitoring and site related activities would cease.

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket, which the EPA relied on for recommendation of the deletion from the NPL, are available to the public in the information repositories identified above.

Determination That the Site Meets the Criteria for Deletion From the NCP

Region 4 has followed the procedures required by 40 CFR 300.425(e) as mentioned above and the implemented remedy achieves the degree of cleanup specified in the ROD for all pathways of exposure. Specifically, ground water sampling results have been below the benzene clean-up goal of 5 µg/L for five consecutive years. These results verify that the Site has achieved the ROD cleanup standards, and that all cleanup actions specified in the ROD and ESD have been implemented. All selected remedial and removal action objectives and associated cleanup levels are consistent with agency policy and guidance. This Site meets all the site completion requirements as specified in Office of Solid Waste and Emergency Response (OSWER) Directive 9320.22, *Close-Out Procedures for National Priorities List Sites.* No further Superfund response is needed to protect human health and the environment.

V. Deletion Action

The EPA, with concurrence of the State of Alabama through ADEM, has determined that all appropriate response actions under CERCLA have been completed. Therefore, the EPA is deleting the Site from the NPL.

Because the EPA considers this action to be noncontroversial and routine, the EPA is taking it without prior publication. This action will be effective May 16, 2017 unless the EPA receives adverse comments by April 17, 2017. If adverse comments are received within the 30-day public comment period, the EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. The EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 6, 2016.

V. Anne Heard,

Acting Regional Administrator, Region 4.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''AL'', ''Perdido Ground Water Contamination'', ''Perdido''.

[FR Doc. 2017–05290 Filed 3–16–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2016–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Effective March 17, 2017. The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate

Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. FEMA has reviewed this final rule for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have a significant effect on the human environment. This action is covered by categorical exclusions A4 and A 7 in Department of Homeland Security (DHS) Instruction 023–01–001–01, Appendix A.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: December 21, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Washington County, Oregon and Incorporated Areas Docket Nos.: FEMA–B–7749 and B–7775			
Beal Creek	Approximately 750 feet upstream of State Highway 47	+170	City of Forest Grove, Unincorporated Areas of Washington County.
	Approximately 765 feet upstream of Main Street	+172	
Beaverton Creek	At upstream side of Southwest 197th Avenue	+160	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 870 feet upstream of Southwest Laurelwood Avenue.	+267	
Bethany Creek	Approximately 0.21 mile downstream of Northwest 185th Avenue.	+174	Unincorporated Areas of Washington County.
	Approximately 0.58 mile upstream of Northwest West Union Road.	+188	
Bronson Creek	Approximately 65 feet downstream of Northwest Anzalone Drive.	+158	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 1.0 mile upstream of Northwest West Union Road.	+238	
Butternut Creek	Approximately 940 feet downstream of Southwest 209th Avenue.	+165	Unincorporated Areas of Washington County.
	Approximately 80 feet upstream of Southwest Farmington Road.	+200	
Cedar Creek	Approximately 0.4 mile downstream of Southwest Edy Road.	+145	City of Sherwood, Unincorporated Areas of Washington County.
	Approximately 560 feet upstream of Southwest Sunset Boulevard.	+176	
Cedar Mill Creek	Approximately 0.6 mile downstream of Portland & Western Railroad.	+171	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest 113th Avenue.	+300	
Cedar Mill Creek—North Overflow.	At the Cedar Mill Creek confluence	+207	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 250 feet upstream of Southwest 131st Avenue.	+213	
Cedar Mill Creek—South Overflow.	At the Cedar Mill Creek confluence	+195	City of Beaverton, Unincorporated Areas of Washington County.
	At the upstream side of Southwest Evergreen Street	+205	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Cedar Mill Creek—Upper North Overflow.	At the Cedar Mill Creek–North Overflow confluence	+212	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 550 feet upstream of the Cedar Mill Creek–North Overflow confluence.	+214	
Celebrity Creek	At the Butternut Creek confluence	+176	Unincorporated Areas of Washington County.
	Approximately 65 feet downstream of Southwest Farmington Road.	+212	
Chicken Creek	Approximately 0.8 mile downstream of Southwest Roy Rogers Road.	+135	City of Sherwood, Unincorporated Areas of Washington County.
	At the upstream side of Southwest Edy Road	+157	
Chicken Creek—West Tributary	At the upstream side of Southwest Elwert Road	+151	Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Southwest Elwert Road.	+156	
Council Creek	Approximately 0.25 mile downstream of Northwest Hobbs Road.	+156	Unincorporated Areas of Washington County.
	Approximately 0.39 mile downstream of Beal Road	+166	
Dairy Creek	At the Tualatin River confluence	+152	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 125 feet upstream of Northwest Susbauer Road.	+159	
Dawson Creek	Approximately 317 feet upstream of Northwest Brookwood Avenue.	+151	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Northwest Shute Road.	+184	
Deer Creek	Approximately 475 feet downstream of Northwest Kahneeta Drive.	+176	Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest 174th Avenue.	+202	
Erikson Creek	Approximately 211 feet upstream of Southwest 144th Avenue.	+175	City of Beaverton.
	Approximately 322 feet upstream of Southwest 10th Street.	+203	
Fanno Creek	At the Tualatin River confluence	+131	City of Durham, City of Tigard.
	Approximately 0.3 mile downstream of Southwest Durham Road.	+131	
Glencoe Swale	Approximately 980 feet upstream of McKay Creek confluence.	+156	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.5 mile upstream of Northwest Sewell Road.	+201	
Golf Creek	Approximately 390 feet upstream of Hall Creek confluence.	+198	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 625 feet upstream of 97th Avenue	+223	
Gordon Creek	Approximately 275 feet upstream of Southwest River Road.	+146	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.25 mile upstream of Southwest 229th Avenue.	+196	
Hall Creek	Approximately 175 feet downstream of the North Fork Hall Creek confluence.	+181	City of Beaverton, Unincorporated Areas of Washington County.
	At the downstream side of Southwest 87th Avenue	+256	
Hall Creek—106th Tributary	At the Hall Creek confluence	+191	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 600 feet upstream of Southwest 106th Avenue.	+245	
Hall Creek South Fork	Approximately 750 feet downstream of Southwest 96th Avenue.	+213	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 150 feet upstream of Southwest 86th Avenue.	+260	
Hedges Creek	At the downstream side of Southwest Boones Ferry Road	+129	City of Tualatin, Unincorporated Areas of Washington County.
	Approximately 0.75 mile upstream of Southwest Teton Avenue.	+142	
Holcomb Creek	Approximately 500 feet upstream of Rock Creek North confluence.	+178	Unincorporated Areas of Washington County.
	Approximately 0.15 mile upstream of Northwest Plastics Drive.	+211	
McKay Creek	At the Dairy Creek confluence	+156	City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest Union Road	+174	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
North Fork Hall Creek	At the Hall Creek confluence	+181	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of Center Street	+183	
North Johnson Creek	At the Cedar Mill Creek confluence	+187	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of North Johnson Creek–East Tributary confluence.	+307	
North Johnson Creek—East Tributary.	At the North Johnson Creek confluence	+249	Unincorporated Areas of Washington County.
	Approximately 0.4 mile upstream of North Johnson Creek confluence.	+327	
North Johnson Creek—North Tributary.	Approximately 0.24 mile downstream of Northwest 114th Avenue.	+212	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 0.22 mile upstream of Northwest 112th Avenue.	+343	
Rock Creek North	Approximately 0.47 mile downstream of Northwest Union Road.	+174	Unincorporated Areas of Washington County.
	Approximately 0.75 mile upstream of Old Cornelius Pass Road.	+247	
Rock Creek South	Approximately 750 feet downstream of Southwest Pacific Highway.	+134	City of Sherwood, Unincorporated Areas of Washington County.
	Approximately 0.32 mile upstream of Portland & Western Railroad.	+139	
South Johnson Creek	Approximately 800 feet downstream of Southwest Hart Road.	+205	City of Beaverton, Unincorporated Areas of Washington County.
	Approximately 160 feet upstream of Southwest Hart Road	+219	
Storey Creek	Approximately 200 feet upstream of the Waible Creek confluence.	+164	Unincorporated Areas of Washington County
	Approximately 0.80 mile upstream of Storey Creek–Middle Tributary confluence.	+197	
Storey Creek—East Tributary	At the Storey Creek confluence	+173	Unincorporated Areas of Washington County.
	Approximately 0.35 mile upstream of Northwest Sunset Highway.	+188	
Storey Creek—Middle Tributary	Approximately 870 feet upstream of the Storey Creek confluence.	+180	Unincorporated Areas of Washington County.
	At the upstream side of Northwest West Union Road	+196	
Tualatin River	Approximately 490 feet downstream of the Tualatin River Overflow to Nyberg Slough confluence.	+126	City of Durham, City of King City, City of Tigard, City of Tualatin, Unincorporated Areas of Washington County.
	Approximately 0.3 mile upstream of Southwest Roy Rogers Road.	+135	
Tualatin River	Approximately 1.6 miles downstream of Southwest Golf Course Road.	+153	City of Cornelius, City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 0.3 mile downstream of the Gales Creek confluence.	+168	
Tualatin River—Golf Overflow	Approximately 150 feet downstream of Southwest Golf Course Road.	+156	City of Forest Grove, Unincorporated Areas of Washington County.
	Approximately 1.0 mile upstream of Southwest Golf Course Road.	+162	
Tualatin River—LaFollett Overflow.	Approximately 0.3 mile upstream of Southwest Golf Course Road.	+157	Unincorporated Areas of Washington County.
	At the downstream side of Southwest LaFollett Road	+160	
Tualatin River Overflow to Nyberg Slough.	At the Tualatin River confluence	+126	City of Tualatin.
	Approximately 300 feet downstream of the divergence from the Tualatin River.	+129	
Turner Creek	Approximately 450 feet downstream of Southeast 32nd Avenue.	+147	City of Hillsboro.
	Approximately 0.5 mile upstream of East Main Street	+168	
Waible Creek	Approximately 0.25 mile upstream of McKay Creek confluence.	+160	Unincorporated Areas of Washington County.
	Approximately 0.25 mile upstream of the Waible Creek–North Tributary confluence.	+196	
Waible Creek—North Tributary	At the Waible Creek confluence	+192	City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest West Union Road	+207	
Waible Creek—South Tributary	At the Waible Creek confluence	+179	City of Hillsboro, Unincorporated Areas of Washington County.
	Approximately 90 feet upstream of Northwest Jacobson Road.	+211	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
West Fork Dairy Creek	Approximately 0.8 mile upstream of Northwest Wilson River Highway.	+195	City of Banks.
	Approximately 0.72 mile downstream of Northwest Banks Road.	+196	
Willow Creek	Approximately 400 feet upstream of Beaverton Creek confluence.	+162	City of Beaverton, City of Hillsboro, Unincorporated Areas of Washington County.
	At the upstream side of Northwest 141st Place	+239	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

City of Banks
Maps are available for inspection at City Administrative Offices, 13680 Northwest Main Street, Banks, OR 97106.
City of Beaverton
Maps are available for inspection at Community Development Department, 4755 Southwest Griffith Drive, Beaverton, OR 97005.
City of Cornelius
Maps are available for inspection at the Planning Department, 1300 South Kodiak Circle, Cornelius, OR 97113.
City of Durham
Maps are available for inspection at City Hall, 17160 Southwest Upper Boones Ferry Road, Durham, OR 97224.
City of Forest Grove
Maps are available for inspection at City Hall, 1924 Council Street, Forest Grove, OR 97116.
City of Hillsboro
Maps are available for inspection at City Hall, 150 East Main Street, Hillsboro, OR 97123.
City of King City
Maps are available for inspection at City Hall, 15300 Southwest 116th Avenue, King City, OR 97224.
City of Sherwood
Maps are available for inspection at City Hall, 22560 Southwest Pine Street, Sherwood, OR 97140.
City of Tigard
Maps are available for inspection at City Hall, 13125 Southwest Hall Boulevard, Tigard, OR 97223.
City of Tualatin
Maps are available for inspection at City Hall, 18880 Southwest Martinazzi Avenue, Tualatin, OR 97062.
Unincorporated Areas of Washington County
Maps are available for inspection at the Washington County Public Services Building, 155 North 1st Avenue, Suite 350, Hillsboro, OR 97124.

[FR Doc. 2017–05154 Filed 3–16–17; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–2016–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Final rule; correction.

SUMMARY: On October 26, 2015, FEMA published in the **Federal Register** a final rule that contained an erroneous table. This rule provides corrections to that table, to be used in lieu of the information published. The table provided here represents the final Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs and communities affected for St. Charles County, Missouri and Incorporated Areas.

DATES: Effective March 17, 2017. The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: On October 26, 2015, FEMA published in the **Federal Register** a final rule that contained an erroneous table. This rule provides corrections to that table, to be used in lieu of the information published at 80 FR 65162–65164.

The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in flood prone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. FEMA has reviewed this final rule for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have a significant effect on the human environment. This action is covered by categorical exclusions A4 and A 7 in Department of Homeland Security (DHS) Instruction 023–01–001–01, Appendix A.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

Correction

In the final rule published at 80 FR 65162–65164 in the October 26, 2015 issue of the **Federal Register**, FEMA published a table titled ''St. Charles County, Missouri, and Incorporated Areas''. This table contained inaccurate information as to the community name for the City of Dardenne Prairie featured in the table. In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: December 21, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
St. Charles County, Missouri and Incorporated Areas Docket Nos.: FEMA–B–1062 and B–1167			
Baltic Creek	At the confluence with Dardenne Creek Approximately 0.7 mile upstream of the confluence with Tributary 7.	+470 +492	City of Cottleville, City of St. Peters, City of Weldon Spring, Unincorporated Areas of St. Charles County.
Blanchette Creek (Backwater from Missouri River).	Just downstream of Katy Trail/Abandoned Railroad At the confluence with the Missouri River	+455 +455	City of St. Charles, Unincorporated Areas of St. Charles County.
Boschert Creek	At the confluence with Cole Creek Approximately 0.6 mile upstream of Sibley Street	+441 +532	City of St. Charles, Unincorporated Areas of St. Charles County.
Cole Creek	Approximately 0.4 mile upstream of the confluence with Boschert Creek. Approximately 800 feet upstream of Graystone Drive	+443 +529	City of St. Charles.
Crooked Creek	At the confluence with Dardenne Creek Approximately 0.7 mile upstream of I–64	+475 +574	City of Cottleville, City of O'Fallon, City of Weldon Spring, Unincorporated Areas of St. Charles County.
Crystal Springs Creek (Backwater from Missouri River).	At the confluence with the Missouri River Approximately 871 feet upstream of South River Road	+457 +457	City of St. Charles, Unincorporated Areas of St. Charles County.
Cunningham Branch	At the confluence with Dardenne Creek Approximately 1,250 feet upstream of State Highway D	+535 +644	City of O'Fallon, Unincorporated Areas of St. Charles County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Dardenne Creek	Approximately 400 feet downstream of Norfold Southern Railroad.	+444	City of Cottleville, City of Dardenne Prairie, City of O'Fallon, City of St. Peters, Unincorporated Areas of St. Charles County.
	Approximately 2.3 miles upstream of Oberhelman Road	+748	
Duckett Creek (Overflow from Missouri River).	At the confluence with the Missouri River	+462	Unincorporated Areas of St. Charles County.
	Approximately 0.5 miles upstream of Jungs Station Road	+463	
East Branch Spencer Creek	At the confluence with Spencer Creek	+458	City of St. Peters.
	Just downstream of Boone Hills Drive.	+503	
East Branch Tributary B	At the confluence with Dardenne Creek	+480	City of Cottleville, City of O'Fallon, Unincorporated Areas of St. Charles County.
	Approximately 150 feet upstream of State Highway K	+525	
East Cole Creek	At the confluence with Cole Creek	+457	City of St. Charles.
	Approximately 600 feet upstream of Canary Lane	+478	
Femme Osage Creek (Backwater from Missouri River).	Approximately 0.4 miles downstream of State Highway 94	+476	Unincorporated Areas of St. Charles County.
	Approximately 1.4 miles downstream of Defiance Road	+476	
Kraut Run	At the confluence with Dardenne Creek	+506	Unincorporated Areas of St. Charles County.
	Approximately 1,000 feet upstream of Wilson Road	+607	
Lake Sainte Louise	Entire shoreline within community	+546	City of Lake St. Louis.
Little Dardenne Creek	At the confluence with Dardenne Creek	+554	Unincorporated Areas of St. Charles County.
	Approximately 0.9 mile upstream of Morrison Lane	+719	
Mississippi River	At the St. Charles County, Missouri/St. Louis County, Missouri/Madison County, Illinois county boundary, approximately 6.2 miles downstream of Melvin Price Lock and Dam.	+434 +444	City of O'Fallon, City of Portage Des Sioux, City of St. Charles, City of St. Paul, City of St. Peters, Town of West Alton, Unincorporated Areas of St. Charles County.
	At the St. Charles County/Lincoln County boundary, approximately 3.0 miles upstream of confluence with Peruue Creek.		
Missouri River	At the St. Charles County, Missouri/St. Louis County, Missouri/Madison County, Illinois county boundary, approximately 7.4 miles downstream of the Lewis Bridge.	+434 +492	City of St. Charles, City of Weldon Spring, Town of West Alton, Town of Augusta, Unincorporated Areas of St. Charles County.
	Near the St. Charles County/Warren County boundary, approximately 22.3 miles upstream of the Daniel Boone Bridge.		
Oday Creek	At the confluence with Dardenne Creek	+505	City of Lake St. Louis, City of O'Fallon, City of St. Charles, Unincorporated Areas of St. Charles County.
	Approximately 425 feet upstream of State Highway N	+587	
Old Dardenne Creek	At the confluence with Dardenne Creek	+486	City of Dardenne Prairie.
	Approximately 350 feet upstream of U.S. Route 40/61	+502	City of O'Fallon, City of St. Charles, Unincorporated Areas of St. Charles County.
Peruque Creek	Approximately 0.3 mile downstream of State Highway Z	+530	City of Foristell, City of Wentzville, Unincorporated Areas of St. Charles County.
	Approximately 1.3 miles upstream of State Highway T	+630	
Peruque Creek Tributary 12	At the confluence with Peruque Creek	+471	City of St. Paul, Unincorporated Areas of St. Charles County.
	Approximately 0.4 mile upstream of Meadow Farm Lane	+527	
Peruque Creek Tributary 14	Approximately 0.2 mile upstream of the confluence with Peruque Creek.	+464	City of O'Fallon, Unincorporated Areas of St. Charles County.
	Approximately 1,000 feet upstream of Civic Park Drive	+512	
Peruque Creek Tributary 15	Approximately 900 feet upstream of the confluence with Peruque Creek.	+464	City of O'Fallon.
	Approximately 1,300 feet upstream of Main Street	+507	
Peruque Creek Tributary 2	At the confluence with Peruque Creek	+613	City of Foristell, Unincorporated Areas of St. Charles County.
	Approximately 600 feet upstream of State Highway T	+734	
Peruque Creek Tributary 8	Approximately 1.0 mile upstream of the confluence with Peruque Creek.	+505	City of Lake St. Louis, City of Wentzville.
	Approximately 0.6 mile upstream of I–70	+546	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Peruque Creek Tributary 9	Approximately 1.0 mile upstream of the confluence with Peruque Creek.	+505	City of Lake St. Louis, Unincorporated Areas of St. Charles County.
	Approximately 0.4 mile upstream of Henke Road	+539	
Sandfort Creek	Just downstream of Norfolk Southern Railroad	+442	City of St. Charles, Unincorporated Areas of St. Charles County.
	Approximately 350 feet downstream of Muegge Road	+497	
Schote Creek	At the confluence with Dardenne Creek	+481	City of Dardenne Prairie, City of O'Fallon, Unincorporated Areas of St. Charles County.
	Approximately 1.6 miles upstream of U.S. Route 40/61.	+583	
Spencer Creek	Approximately 365 feet upstream of the railroad	+444	City of St. Peters, Unincorporated Areas of St. Charles County.
	Approximately 1,200 feet upstream of Millwood Drive	+526	
Taylor Branch (Backwater from Missouri River).	At the confluence with the Missouri River	+460	City of St. Charles, Unincorporated Areas of St. Charles County.
	Approximately 0.6 miles upstream of South River Road	+460	
Tributary A	At the confluence with Dardenne Creek	+469	City of St. Peters, Unincorporated Areas of St. Charles County.
	Approximately 500 feet upstream of Starlight Drive	+536	
Tributary No. 1	At the confluence with Dardenne Creek	+464	City of St. Peters, Unincorporated Areas of St. Charles County.
	Approximately 400 feet upstream of Harris Drive	+473	
Tributary No. 13	At the confluence with Dardenne Creek	+486	City of Dardenne Prairie, City of O'Fallon.
	Approximately 700 feet upstream of McClure Road	+508	
Tributary No. 15	At the confluence with Dardenne Creek	+495	City of Dardenne Prairie, City of O'Fallon, Unincorporated Areas of St. Charles County.
	Approximately 300 feet upstream of Keystone Crossing Drive.	+567	
Tributary No. 17	Approximately 0.8 mile upstream of the confluence with Dardenne Creek.	+522	City of O'Fallon, Unincorporated Areas of St. Charles County.
	Approximately 900 feet upstream of Hopewell Road	+895	
Tributary No. 19	Approximately 1,300 feet upstream of the confluence with Dardenne Creek.	+505	Unincorporated Areas of St. Charles County.
	Approximately 2.1 miles upstream of the confluence with Dardenne Creek.	+573	
Tributary No. 2	Just upstream of Ohmes Road	+465	City of St. Peters.
	Approximately 0.5 mile upstream of Ohmes Road	+478	
Tributary No. 3	At the confluence with Tributary A	+469	Unincorporated Areas of St. Charles County.
	Approximately 0.8 mile upstream of St. Peters-Howell Road.	+503	
Tributary No. 4	At the confluence with Tributary A	+469	City of St. Peters, Unincorporated Areas of St. Charles County.
	Approximately 1,150 upstream of Woodstream Drive	+509	
Tributary No. 7	At the confluence with Baltic Creek	+482	City of St. Peters, City of Weldon Spring.
	Approximately 0.8 mile upstream of Pitmann Hill Road	+504	
Tributary No. 9	At the confluence with Crooked Creek	+480	City of Weldon Spring, Unincorporated Areas of St. Charles County.
	Approximately 0.5 mile upstream of Guthermuth Road	+497	
West Branch Spencer Creek	At the confluence with Spencer Creek	+450	Unincorporated Areas of St. Charles County.
	Approximately 400 feet upstream of Willott Road	+510	
West Branch Tributary B	At the confluence with East Branch Tributary B	+489	City of Dardenne Prairie.
	Approximately 150 feet upstream of Bryan Road	+622	
West Sandfort Creek	At the confluence with Sandfort Creek	+450	City of St. Charles, Unincorporated Areas of St. Charles County.
	Approximately 1,400 feet upstream of Harry S. Truman Boulevard.	+459	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Cottleville:
Maps are available for inspection at City Hall, 5490 5th Street, Cottleville, MO 63338.
City of Dardenne Prairie:
Maps are available for inspection at City Hall, 2032 Hanley Road, Dardenne Prairie, MO 63368.
City of Foristell:
Maps are available for inspection at City Hall, 121 Mulberry Street, Foristell, MO 63348.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected

City of Lake St. Louis:
Maps are available for inspection at City Hall, 200 Civic Center Drive, Lake St. Louis, MO 63367.
City of O'Fallon:
Maps are available for inspection at City Hall, 100 North Main Street, O'Fallon, MO 63366.
City of Portage Des Sioux:
Maps are available for inspection at the County Administration Building, 201 North 2nd Street, Room 420, St. Charles, MO 63301.
City of St. Charles:
Maps are available for inspection at City Hall, 200 North 2nd Street, St. Charles, MO 63301.
City of St. Paul:
Maps are available for inspection at City Hall, 2300 St. Paul Road, St. Paul, MO 63366.
City of St. Peters:
Maps are available for inspection at City Hall, 1 St. Peters Centre Boulevard, St. Peters, MO 63376.
City of Weldon Spring:
Maps are available for inspection at City Hall, 5401 Independence Road, Weldon Spring, MO 63304.
City of Wentzville:
Maps are available for inspection at City Hall, 310 West Pearce Boulevard, Wentzville, MO 63385.
Town of Augusta:
Maps are available for inspection at Town Hall, 239 Green Street, Augusta, MO 63332.
Town of West Alton:
Maps are available for inspection at 201 North 2nd Street, Room 420, St. Charles, MO 63301.
Unincorporated Areas of St. Charles County:
Maps are available for inspection at the County Adminstration Building, 201 North 2nd Street, Room 420, St. Charles, MO 63301.

[FR Doc. 2017–05157 Filed 3–16–17; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2016–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Effective March 17, 2017. The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. FEMA has reviewed this final rule for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have a significant effect on the human environment. This action is covered by categorical exclusions A4 and A7 identified in FEMA Instruction 108–1–1 and Department of Homeland Security (DHS) Instruction 023–01–001–01, Appendix A.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: December 21, 2016.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Carroll County, Mississippi and Incorporated Areas Docket Nos.: FEMA–B–1223			
Big Sand Creek	Approximately 0.6 mile downstream of State Route 35 ..... Approximately 800 feet upstream of State Route 35	+214 +222	Town of Carrollton.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

Town of Carrollton

Maps are available for inspection at the Town Hall, 701 Lexington Street, Carrollton, MS 38917.

[FR Doc. 2017–05151 Filed 3–16–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XF274

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure of Angling category southern area trophy fishery.

SUMMARY: NMFS closes the southern area Angling category fishery for large medium and giant (''trophy'' (*i.e.,* measuring 73 inches curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent overharvest of the Angling category southern area trophy BFT subquota.

DATES: Effective 11:30 p.m., local time, March 20, 2017, through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

Angling Category Large Medium and Giant Southern ''Trophy'' Fishery Closure

The 2017 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2017. The Angling category season opened January 1, 2017, and continues through December 31, 2017. The currently codified Angling category quota is 195.2 mt, of which 4.5 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.5 mt allocated for each of the following areas: North of 39°18′ N. lat. (off Great Egg Inlet, NJ); south of 39°18′ N. lat. and outside the Gulf of Mexico (the ''southern area''); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting

System and the North Carolina Tagging Program, NMFS projects that the codified Angling category southern area trophy BFT subquota will be reached by March 20, 2017, and has determined that a closure of the southern area trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT south of 39°18′ N. lat. and outside the Gulf of Mexico by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on March 20, 2017. This closure will remain effective through December 31, 2017. This action is intended to prevent overharvest of the Angling category southern area trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1).

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at *hmspermits.noaa.gov* or by calling (978) 281–9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *www.nmfs.noaa.gov/sfa/hms/.*

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the Android or iPhone app.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the southern area Angling category trophy fishery is necessary to prevent any further overharvest of the southern area trophy fishery subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.*

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the southern area trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: March 14, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–05387 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 51
Friday, March 17, 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 25

[Docket No. FAA–2016–7852; Notice No. 25–17–01–SC]

Special Conditions: AmSafe; Non-Rechargeable Lithium Battery Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for a supplemental type certificate for installing an inflatable restraint system with non-rechargeable lithium batteries on seats in certain transport category airplanes. These airplanes, as modified by AmSafe, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a non-rechargeable lithium battery. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before April 17, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–7852 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nazih Khaouly, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2432; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Future Requests for Installation of Non-Rechargeable Lithium Batteries

The FAA anticipates that non-rechargeable lithium batteries will be installed in most makes and models of transport category airplanes. We intend to require special conditions for certification projects involving non-rechargeable lithium battery installations to address certain safety issues until we can revise the airworthiness requirements. Applying special conditions to these installations across the range of transport category airplanes will ensure regulatory consistency.

Typically, the FAA issues special conditions after receiving an application for type certificate approval of a novel or unusual design feature. However, the FAA has found that the presence of non-rechargeable lithium batteries in certification projects is not always immediately identifiable, since the battery itself may not be the focus of the project. Meanwhile, the inclusion of these batteries has become virtually ubiquitous on in-production transport category airplanes, which shows that there will be a need for these special conditions. Also, delaying the issuance of special conditions until after each design application is received could lead to costly certification delays. Therefore the FAA finds it necessary to issue special conditions applicable to these battery installations on particular makes and models of aircraft.

On April 22, 2016, the FAA published special conditions no. 25–612–SC in the **Federal Register** (81 FR 23573) applicable to Gulfstream Aerospace Corporation for the GVI airplane. Those were the first special conditions the FAA issued for non-rechargeable lithium battery installations. We explained in that document our decision to make those special conditions effective one year after publication in the **Federal Register**, and our intention for other special conditions for other makes and models to be effective on that same date or 30 days after publication, whichever is later. The effective date of special conditions no. 25–612–SC is April 22, 2017.

Section 1205 of the FAA Reauthorization Act of 1996 requires the FAA to consider the extent to which Alaska is not served by transportation modes other than aviation and to establish appropriate regulatory distinctions when modifying airworthiness regulations that affect intrastate aviation in Alaska. In consideration of this requirement and the overall impact on safety, the FAA does not intend to require non-rechargeable lithium battery special conditions for design changes that only replace a 121.5 megahertz (MHz) emergency locator transmitter (ELT) with a 406 MHz ELT that meets Technical Standard Order C126b, or later revision, on transport airplanes operating only in Alaska. This will support our efforts of encouraging

operators in Alaska to upgrade to a 406 MHz ELT. These ELTs provide significantly improved accuracy for lifesaving services to locate an accident site in Alaskan terrain. The FAA considers that the safety benefits from upgrading to a 406 MHz ELT for Alaskan operations will outweigh the battery fire risk.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

AmSafe is the holder of supplemental type certificate (STC) no. ST02152LA. This STC is for the installation of an inflatable restraint system with non-rechargeable lithium batteries on seats in several transport category airplanes. AmSafe periodically applies to amend this STC to expand its applicability to include additional transport category airplane makes and models. The current battery requirements in Title 14, Code of Federal Regulations (14 CFR) part 25 are inadequate for addressing an airplane with non-rechargeable lithium batteries.

Type Certification Basis

Under the provisions of 14 CFR 21.101, AmSafe must show that airplanes for which they make application to modify by STC no. ST02152LA, as changed, continue to meet the applicable provisions of the regulations listed in each airplane's respective type certificate or the applicable regulations in effect on the date of application for the change except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the airplane model for which they are issued. Should the applicant apply for an STC to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the airplanes modified by STC no. ST02152LA must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

STC no. ST02152LA is for the installation of an inflatable restraint system that incorporates non-rechargeable lithium batteries, which are a novel or unusual design feature.

For the purpose of these special conditions, we refer to a battery and battery system as a battery. A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging.

Discussion

The FAA derived the current regulations governing installation of batteries in transport category airplanes from Civil Air Regulations (CAR) 4b.625(d) as part of the recodification of CAR 4b that established 14 CFR part 25 in February 1965. This recodification basically reworded the CAR 4b battery requirements, which are currently in § 25.1353(b)(1) through (4). Non-rechargeable lithium batteries are novel and unusual with respect to the state of technology considered when these requirements were codified. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

Recent events involving rechargeable and non-rechargeable lithium batteries prompted the FAA to initiate a broad evaluation of these energy storage technologies. In January 2013, two independent events involving rechargeable lithium-ion batteries revealed unanticipated failure modes. A National Transportation Safety Board (NTSB) letter to the FAA, dated May 22, 2014, which is available at *http://www.ntsb.gov,* filename A–14–032–036.pdf, describes these events.

On July 12, 2013, an event involving a non-rechargeable lithium battery, in an emergency locator transmitter installation, demonstrated unanticipated failure modes. The United Kingdom's Air Accidents Investigation Branch Bulletin S5/2013 describes this event.

Some known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flight deck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater locator beacons, navigation computers, integrated avionics computers, satellite network and communication systems, communication management units, and remote-monitor electronic line-replaceable units;
- Cabin safety, entertainment, and communications equipment, including emergency locator transmitters, life rafts, escape slides, seatbelt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet and in-flight entertainment systems, satellite televisions, remotes, and handsets;
- Systems in cargo areas including door controls, sensors, video surveillance equipment, and security systems.

Some known potential hazards and failure modes associated with non-rechargeable lithium batteries are:

- *Internal failures:* In general, these batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.,* thermal runaway) than their nickel-cadmium or lead-acid counterparts. The metallic lithium can ignite, resulting in a self-sustaining fire or explosion.
- *Fast or imbalanced discharging:* Fast discharging or an imbalanced discharge of one cell of a multi-cell battery may create an overheating condition that results in an uncontrollable venting condition, which in turn leads to a thermal event or an explosion.
- *Flammability:* Unlike nickel-cadmium and lead-acid batteries, lithium batteries use higher energy and current in an electrochemical system that can be configured to maximize energy storage of lithium. They also use liquid electrolytes that can be extremely flammable. The electrolyte, as well as the electrodes, can serve as a source of fuel for an external fire if the battery casing is breached.

Proposed special condition no. 1 of these special conditions requires that each individual cell within a non-rechargeable lithium battery be designed

to maintain safe temperatures and pressures. Proposed special condition no. 2 addresses these same issues but for the entire battery. Proposed special condition no. 2 requires the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrollable increases in temperature or pressure from one cell to adjacent cells.

Proposed special condition nos. 1 and 2 are intended to ensure that the non-rechargeable lithium battery and its cells are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the battery designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Proposed special condition nos. 3, 7, and 8 are self-explanatory.

The FAA proposes special condition no. 4 to make it clear that the flammable fluid fire protection requirements of § 25.863 apply to non-rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Non-rechargeable lithium batteries contain an electrolyte that is a flammable fluid.

Proposed special condition no. 5 requires that each non-rechargeable lithium battery installation not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

While proposed special condition no. 5 addresses corrosive fluids and gases, special condition no. 6 addresses heat. Proposed special condition no. 6 requires that each non-rechargeable lithium battery installation have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat the battery installation can generate due to any failure of it or its individual cells. The means of meeting special conditions nos. 5 and 6 may be the same, but the requirements are independent and address different hazards.

These proposed special conditions apply in lieu of § 25.1353(b)(1) through (4) at Amendment 25–123 for the installation of inflatable restraint systems with non-rechargeable lithium batteries on the seats of the subject airplanes. Sections 25.1353(b)(1) through (4) at Amendment 25–123 remain in effect for other battery installations on these airplanes.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

These special conditions are applicable to the airplane models listed on the approved model list (AML) of STC no. ST02152LA, which is available at *rgl.faa.gov.* Should AmSafe apply at a later date for a change to STC no. ST02152LA to include any other model on the AML to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well. Should AmSafe apply at a later date for another STC to modify any other model included on the type certificates of the models on the STC no. ST02152LA AML to incorporate the same novel or unusual design feature, these special conditions would also apply to that model as well.

These special conditions are only applicable to design changes applied for after its effective date.

These special conditions are not applicable to changes to previously certified non-rechargeable lithium battery installations where the only change is either cosmetic or to relocate the installation to improve the safety of the airplane and occupants. A cosmetic change is a change in appearance only, and does not change any function or safety characteristic of the battery installation. These special conditions are also not applicable to unchanged, previously certified non-rechargeable lithium battery installations that are affected by a change in a manner that improves the safety of its installation. The FAA determined that these exclusions are in the public interest because the need to meet all of the special conditions might otherwise deter these design changes that improve safety.

Conclusion

This action only affects the installation of inflatable restraint systems with non-rechargeable lithium batteries on seats on the airplane models listed on the AML of STC no. ST02152LA. It is not a rule of general applicability and affects only the applicant who will apply to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and record keeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the FAA proposes the following special conditions as part of the type certification basis for airplane models listed on the approved model list of supplemental type certificate no. ST02152LA, modified by AmSafe.

Non-Rechargeable Lithium Battery Installations

In lieu of § 25.1353(b)(1) through (4) at Amendment 25–123, each non-rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure, that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a means for the flightcrew or maintenance personnel to determine the battery charge state if the battery's function is required for safe operation of the airplane.

Note: A battery system consists of the battery and any protective, monitoring, and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of these special conditions, a ''battery'' and ''battery system'' are referred to as a battery.

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

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–05198 Filed 3–16–17; 8:45 am]

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Copyright Royalty Board

37 CFR Parts 350 and 360

[Docket No. 17–CRB–0012–RM]

Copyright Royalty Board Regulations Regarding Filing of Claims to Royalty Fees Collected Under Compulsory License

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Royalty Judges propose to amend regulations governing the filing of claims to royalty fees collected under compulsory license to reflect implementation of a new electronic filing system and to consolidate cable and satellite rules. The Judges solicit comments on the proposed rule.

DATES: Comments are due no later than April 17, 2017.

ADDRESSES: Submit electronic comments via email to *crb@loc.gov*. Those who choose not to submit comments electronically should see ''How to Submit Comments'' in the **SUPPLEMENTARY INFORMATION** section below for physical addresses and further instructions. The proposed rule is also posted on the agency's Web site (*www.loc.gov/crb*).

FOR FURTHER INFORMATION CONTACT: Program Specialist by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On September 23, 2016, the Library of Congress awarded a contract for the design and implementation of an electronic filing and case management system for the Copyright Royalty Board (''Board''). The Copyright Royalty Judges (''Judges'') anticipate that the new system will be available for use by claims filers, participants in proceedings before the Judges, and other members of the public having business with the Board (*e.g.,* persons wishing to comment on proposed regulations) by summer 2017. The Judges intend to make use of the system mandatory for attorneys representing participants in proceedings after a transition period.[1]

As part of the Judges' continuing oversight of the Board's procedural regulations, the Judges propose to amend the claims filing regulations to accommodate electronic filing of claims. In addition, the Judges propose to consolidate nearly identical regulations for cable and satellite claims and make other amendments to the claims regulation to remove outdated references and enhance readability.

I. Part 350—General Administrative Provisions

The Judges propose adding a new rule 350.5(c)(3) which would provide that any claimant desiring to file with the Copyright Royalty Board a claim for distribution of copyright royalties may obtain an eCRB password. While filing of claims through eCRB will not be mandatory, any claimant wishing to file claims through eCRB will be required to obtain an eCRB password. Obtaining a password for claims filing will entail filling in a webform and responding to a confirmation email to activate the account. The eCRB system will also have an automated password recovery feature so that users who have forgotten their password can reset their password without human intervention.

The Judges proposed this regulation in the notice soliciting comments on the proposed eFiling regulations[2] but decided to re-propose it in response to a comment received on the earlier proposal.

II. Part 360—Filing of Claims to Royalty Fees Collected Under Compulsory Licenses

The Judges propose revisions to Part 360 to accommodate filing of claims through the new electronic filing system. Proposed new rules 360.1 through 360.5 (proposed Subpart A) would replace current rules 360.1 through 360.15 (current Subparts A and B), which separately set out the filing requirements for cable and satellite claims. The current rules contain redundant information, which the Judges propose to remove. In addition, the proposal makes reference, where applicable, to the new electronic filing system (eCRB). The proposal also adds a new definition section (rule 360.2), which would define the terms *cable compulsory license royalty fees* and *satellite compulsory license royalty fees.*

Regulations for Digital Audio Recording Devices and Media Royalty Claims (DART), currently in rules 360.20 through 360.25 (Subpart C), would be redesignated as 360.20 through 360.24 (Subpart B). For the most part, the substance of the current DART rules would be retained, although the proposal makes applicable references to eCRB. In addition, proposed new rule 360.24 sets out the notice requirements of independent administrators appointed to manage and distribute royalty payments to nonfeatured musicians and vocalists and updates the timing of those administrators' notices. These provisions currently appear in rule 360.23.

Finally, the proposal would add a new Subpart C: Rules of General Application, which would address amendment of claims (proposed new rule 360.30), withdrawal of claims (proposed new rule 360.31), and reinstatement of previously withdrawn claims (proposed new rule 360.23). The Judges believe that these proposals will provide important guidance on the process for amending, withdrawing, and reinstating claims.

The Judges solicit comments on the rule proposal as a whole and on each of the proposed rules. In particular, the Judges seek comment on whether the proposed new rules that consolidate the cable and satellite claims filing rules enhances the clarity of those rules and appropriately reduces unnecessary redundancies. The Judges also seek comment on whether there are other opportunities within these proposed rules to further enhance clarity or whether separate rules for cable and satellite filings would be more appropriate. The Judges also seek comments on whether the proposed rules appropriately integrate references to eCRB. Finally, the Judges seek comment on the proposed new rules addressing the claim amendment, withdrawal, and reinstatement process. Are the proposed procedures reasonable and appropriate or would other procedures work better? If so, please specify those procedures and why they might be more appropriate than the ones the Judges propose. Are there procedures or other considerations not in the proposed claim amendment, withdrawal, and reinstatement process that the Judges should consider?

How To Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

Email: crb@loc.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial

[1] The Judges proposed regulations relating specifically to implementation of eCRB at 81 FR 84526 (Nov. 23, 2016).

[2] *See* 81 FR 84526.

Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE. and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

List of Subjects

37 CFR Part 350

Copyright Royalty Judges Rules and Procedures, General administrative provisions.

37 CFR Part 360

Filing of claims to royalty fees collected under compulsory license.

Proposed Regulations

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges propose to amend parts 350 and 360 of Title 37 of the Code of Federal Regulations as follows:

Subchapter B—Copyright Royalty Judges Rules and Procedures

PART 350—GENERAL ADMINISTRATIVE PROVISIONS

■ 1. The authority citation for part 350 continues to read:

Authority: 17 U.S.C. 803.

■ 2. In § 350.5 revise paragraph (c)(3) to read as follows:

§ 350.5 Electronic Filing System.

* * * * *

(c) * * *

* * * * *

(3) *Claimants.* Any person desiring to file a claim with the Copyright Royalty Board for copyright royalties may obtain an eCRB password for the limited purpose of filing claims by completing the application form available on the CRB Web site.

* * * * *

Subchapter C—Submission of Royalty Claims

PART 360—FILING OF CLAIMS TO ROYALTY FEES COLLECTED UNDER COMPULSORY LICENSE

■ 3. Revise part 360 to read as follows:

Subpart A—Cable and Satellite Claims

Sec.
360.1 General.
360.2 Definitions.
360.3 Time of filing.
360.4 Form and content of claims.
360.5 Copies of claims.

Subpart B—Digital Audio Recording Devices and Media Royalty Claims

360.20 General.
360.21 Time of filing.
360.22 Form and content of claims.
360.23 Copies of claims.
360.24 Content of notices regarding independent administrators.

Subpart C—Rules of General Application

360.30 Amendment of Claims.
360.31 Withdrawal of Claims.
360.32 Reinstatement of Previously Withdrawn Claims.

Authority: 17 U.S.C. 801, 803, 805.

Subpart A also issued under 17 U.S.C. 111(d)(4) and 119(b)(4).

Subpart B also issued under 17 U.S.C. 1007(a)(1).

Subpart C also issued under 17 U.S.C. 111(d)(4), 119(b)(4) and 1007(a)(1).

Subpart A—Cable and Satellite Claims

§ 360.1 General.

This subpart prescribes procedures under 17 U.S.C. 111(d)(4)(A) and 17 U.S.C. 119(b)(4) whereby parties claiming entitlement to cable compulsory license royalty fees or satellite compulsory license royalty fees must file claims with the Copyright Royalty Board.

§ 360.2 Definitions.

For purposes of this subpart, the following definitions will apply:

Cable compulsory license royalty fees means royalty fees deposited with the Copyright Office pursuant to 17 U.S.C. 111.

Satellite compulsory license royalty fees means royalty fees deposited with the Copyright Office pursuant to 17 U.S.C. 119.

§ 360.3 Time of filing.

(a) During the month of July each year, any party claiming to be entitled to *cable compulsory license royalty fees* or *satellite compulsory license royalty fees* for secondary transmissions during the preceding calendar year must file a claim or claims with the Copyright Royalty Board. No party will receive royalty fees for secondary transmissions during the specified period unless the party has filed a timely claim to the fees. Claimants may file claims jointly or as a single claim. Claimants must file separate claims for *cable compulsory license royalty fees* and *satellite compulsory license royalty fees.* The Copyright Royalty Board will reject any claim that purports to be for both cable and satellite royalty fees.

(b) Claims filed with the Copyright Royalty Board will be considered timely filed only if they are filed online through eCRB or by mail or hand delivery in accordance with section 301.2 during the month of July, as determined in accordance with section 350.7.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the due date for claims to cable or satellite compulsory license royalty fees will be the first business day in August.

(d) In the event the Copyright Royalty Board does not receive a claim that was properly addressed and mailed, the filer may prove proper filing of the claim if it was sent by certified mail return receipt requested, and the filer produces a receipt bearing a July date stamp of the United States Postal Service. The Copyright Royalty Board will accept no other offer of proof in lieu of the return receipt.

(e) For claims filed electronically through eCRB, the Copyright Royalty Board will accept the confirmation email generated by eCRB as proof of filing. The Copyright Royalty Board will accept no other offer of proof regarding claims filed electronically through eCRB.

§ 360.4 Form and content of claims.

(a) *Forms.* (1) Each filer must use the form prescribed by the Copyright Royalty Board to claim *cable compulsory license royalty fees* or *satellite compulsory license royalty fees,* and must provide all information required by that form and its accompanying instructions.

(2) Copies of claim forms are available:

(i) On the Copyright Royalty Board Web site at *http://www.crb.gov/claims/* during the month of July for claims filed with the Copyright Royalty Board by mail or by hand delivery;

(ii) On the Copyright Royalty Board Web site at *http://www.loc.gov/cable/* (for cable claims) or *http://www.crb.gov/satellite/* (for satellite claims) during the month of July for claims filed online through eCRB; and

(iii) Upon request to the Copyright Royalty Board by mail at the address set forth in section 301.2(a), by email at the address set forth in section 301.2(d), or by telephone at (202) 707–7658.

(b) *Content*—(1) *Single claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system or satellite carrier must include the following information:

(i) The full legal name, address, and email address of the copyright owner entitled to claim the royalty fees.

(ii) A general statement of the nature of the copyright owner's work(s), and identification of at least one secondary transmission by a cable system or satellite carrier, as the case may be, of one of the copyright owner's works establishing a basis for the claim.

(iii) The name, telephone number, full mailing address, and email address of the person or entity filing the single claim. The information contained in a filer's eCRB profile shall fulfill this requirement for claims submitted through eCRB.

(iv) The name, telephone number, and email address of the person whom the Copyright Royalty Board can contact regarding the claim.

(v) An original signature of the copyright owner or of a duly authorized representative of the copyright owner, except for claims filed online through eCRB.

(vi) A declaration of authority to file the claim and a certification of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system or satellite carrier must include the following information:

(i) With the exception of joint claims filed by a performing rights organization on behalf of its members, a list including the full legal name, address, and email address of each copyright owner whose claim(s) are included in the joint claim. Claims filed online through eCRB must include an Excel spreadsheet containing the information if the number of joint claimants is in excess of ten. A performing rights organization is not required to list the name of each of its members or affiliates in the joint claim.

(ii) A concise statement of the authorization by each named claimant for the person or entity to file the joint claim. For this purpose, a performing rights organization shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliation agreements.

(iii) A general statement of the nature of the copyright owners' works, identification of at least one secondary transmission of one work by each identified copyright owner that has been secondarily transmitted by a cable system or satellite carrier establishing a basis for the joint claim.

(iv) The name, telephone number, full mailing address, and email address of the person or entity filing the joint claim. The information contained in a filer's eCRB profile shall fulfill this requirement for claims submitted through eCRB.

(v) The name, telephone number, and email address of a person whom the Copyright Royalty Board can contact regarding the claim.

(vi) Original signatures of the copyright owners identified on the joint claim or of a duly authorized representative or representatives of the copyright owners, except for claims filed online through eCRB.

(vii) Notwithstanding paragraph (b)(2)(ii) of this section, a declaration of authority to file the claim and a certification of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) In the event the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the filer or the copyright owner shall notify the Copyright Royalty Board of the change. Any other proposed changes or amendments must be submitted in accordance with 37 CFR 360.30. If the good faith efforts of the Copyright Royalty Board to contact the copyright owner or filer are frustrated because of outdated or otherwise inaccurate contact information, the claim may be subject to dismissal. A person or entity that filed a claim online through eCRB must notify the Copyright Royalty Board of any change of name or address by updating the eCRB profile for that person or entity through eCRB as required by 37 CFR 350.5(g).

§ 360.5 Copies of claims.

Following the instructions outlined in 37 CFR 301.2, a claimant must file an original and one copy of the claim to cable or satellite compulsory license royalty fees at the address(es) listed for each claim submitted to the Copyright Royalty Board by hand delivery or by U.S. mail.

Subpart B—Digital Audio Recording Devices and Media Royalty Claims

§ 360.20 General.

This subpart prescribes procedures whereby an *interested copyright party,* as defined in 17 U.S.C. 1001(7), claiming to be entitled to royalty payments made for the importation and distribution in the United States, or the manufacture and distribution in the United States, of digital audio recording devices and media (DART) pursuant to 17 U.S.C. 1006, shall file claims with the Copyright Royalty Board.

§ 360.21 Time of filing.

(a) *General.* During January and February of each year, every *interested copyright party* claiming to be entitled to DART royalty payments made for quarterly periods ending during the previous calendar year must file a claim with the Copyright Royalty Board. Claimants may file claims jointly or as a single claim.

(b) *Consequences of an untimely filing.* No royalty payments for the previous calendar year will be distributed to any *interested copyright party* who has not filed a claim to those royalty payments during January or February of the following calendar year.

(c) *Authorization.* Any organization or association acting as a common agent for collection and distribution of DART royalty fees must obtain from its members or affiliates separate, specific, and written authorization, signed by members, affiliates, or their representatives, apart from their standard affiliation agreements, for purposes of royalties claim filing and fee distribution relating to the DART Musical Works Fund or Sound Recordings Fund. The written authorization, however, will not be required for claimants to the Musical Works Fund when either:

(1) The agreement between the organization or association and its members or affiliates specifically authorizes the entity to represent its members or affiliates as a common agent before the Copyright Royalty Board in royalty claims filing and fee distribution proceedings; or

(2) The agreement between the organization or association and its members or affiliates, as specified in a court order issued by a court with authority to interpret the terms of the contract, authorizes the entity to represent its members or affiliates as a common agent before the Copyright Royalty Board in royalty claims filing and fee distribution proceedings.

§ 360.22 Form and content of claims.

(a) *Forms.* (1) Each claim to DART royalty payments must be furnished on a form prescribed by the Copyright Royalty Board and must contain the information required by that form and its accompanying instructions.

(2) Copies of DART claim forms are available:

(i) On the Copyright Royalty Board's Web site at *http://www.crb.gov/claims*

for claims filed with the Copyright Royalty Board by mail or by hand delivery;

(ii) On the Copyright Royalty Board's Web site at *http://www.crb.gov/dart/* during the months of January and February for claims filed online through eCRB; and

(iii) Upon request to the Copyright Royalty Board, by mail at the address set forth in section 301.2(a), by email at the address set forth in section 301.2(d), or by telephone at (202) 707–7658.

(b) *Content.* Claims filed by interested copyright parties for DART royalty payments must include the following information:

(1) The full legal name and address of the person or entity claiming royalty payments.

(2) The name, telephone number, full mailing address, and email address of the person or entity filing the claim. The information contained in a filer's eCRB profile will fulfill this requirement for claims submitted through eCRB.

(3) The name, telephone number, and email address of a person whom the Copyright Royalty Board can contact regarding the claim.

(4) A statement as to how the claimant fits within the definition of *interested copyright party.*

(5) A statement as to whether the claim is being made against the Sound Recordings Fund or the Musical Works Fund, as set forth in 17 U.S.C. 1006(b), and as to which Subfund the claim is made. The Subfunds for the Sound Recordings Fund are the copyright owners subfund and the featured recording artists subfund, The Subfunds for the Musical Works Fund are the music publishers subfund and the writers subfund, as described in 17 U.S.C. 1006(b)(1) through (2).

(6) Identification, establishing a basis for the claim, of at least one musical work or sound recording embodied in a digital musical recording or an analog musical recording lawfully made under title 17 of the United States Code that has been distributed (as that term is defined in 17 U.S.C. 1001(6)), and that, during the period to which the royalty payments claimed pertain, has been (i) Distributed (as that term is defined in 17 U.S.C. 1001(6)) in the form of digital musical recordings or analog musical recordings, or (ii) Disseminated to the public in transmissions.

(7) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) Claims must bear the original signature of the claimant or of a duly authorized representative of the claimant, except for claims filed online through eCRB.

(d) In the event that the legal name and/or address of the claimant changes after the filing of the claim, the claimant must notify the Copyright Royalty Board of the change. Any other proposed changes or amendments must be submitted in accordance with 37 CFR 360.30. If the good faith efforts of the Copyright Royalty Board to contact the claimant are frustrated because of failure to notify the Copyright Royalty Board of a name and/or address change, the claim may be subject to dismissal. A person or entity that filed a claim online through eCRB must notify the Copyright Royalty Board of any change of name or address by updating that person or entity's eCRB profile as required by section 350.5(g).

(e) If the claim is a joint claim, it must include a concise statement of the authorization for the filing of the joint claim in addition to the declaration required under paragraph (b)(7) of this section and the name of each claimant to the joint claim.

(f) If an interested copyright party intends to file claims against more than one Subfund, each Subfund claim must be filed separately with the Copyright Royalty Board. The Copyright Royalty Board will reject any claim that purports to claim funds from more than one Subfund.

§ 360.23 Copies of claims.

Following the instructions outlined in 37 CFR 301.2, a claimant must file an original and one copy of the claim to cable or satellite compulsory license royalty fees at the address(es) listed for each claim submitted to the Copyright Royalty Board by hand delivery or by U.S. mail.

§ 360.24 Content of notices regarding independent administrators.

(a) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A), and the American Federation of Musicians (or any successor entity) for the purpose of managing and ultimately distributing royalty payments to nonfeatured musicians as defined in 17 U.S.C. 1006(b)(1), must file a notice informing the Copyright Royalty Board of his/her name and address.

(b) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) for the purpose of managing and ultimately distributing royalty payments to nonfeatured vocalists as defined in 17 U.S.C. 1006(b)(1), must file a notice informing the Copyright Royalty Board of his/her full name and address.

(c) A notice filed under paragraph (a) or (b) of this section must include the full name, telephone number, mailing address, and email address of the place of business of the independent administrator.

(d) The independent administrator must file the notices identified in paragraphs (a) and (b) of this section through eCRB no later than March 31 of each year, commencing with March 31, 2018.

Subpart C—Rules of General Application

§ 360.30 Amendment of Claims.

Any claimant may amend a filed claim as of right by filing a Notice of Amendment during the statutory period for filing annual claims. After the expiration of the time for filing claims, a claimant may amend a claim only by order of the Copyright Royalty Judges, on motion showing good cause and lack of prejudice to other claimants to the applicable year's royalty funds. No filer may amend a filed claim to add additional claimants after the expiration of the time for filing claims.

§ 360.31 Withdrawal of Claims.

Any claimant may withdraw its claim for any royalty year as of right by filing a Notice of Withdrawal of Claim(s). If a single claimant filed a Petition to Participate in a proceeding, withdrawal of the claim shall serve to dismiss the Petition to Participate. If the claimant withdrawing a claim was included on the Petition to Participate of another entity, withdrawal of the claim shall not affect the Petition to Participate as to other claims listed thereon.

§ 360.32 Reinstatement of Previously Withdrawn Claims.

Once a claimant has withdrawn a claim, that claim may be reinstated only by order of the Copyright Royalty Judges, on motion showing good cause and lack of prejudice to other claimants to the applicable year's royalty funds.

Dated: March 10, 2017.

Jesse M. Feder,

Copyright Royalty Judge.

[FR Doc. 2017–05239 Filed 3–16–17; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9959–04–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Perdido Ground Water Contamination Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency Region 4 is issuing a Notice of Intent to Delete the Perdido Ground Water Contamination Superfund Site (Site) located in Baldwin County, Alabama, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Alabama, through the Alabama Department of Environmental Management (ADEM), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by April 17, 2017.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1983–0002, by mail to Deborah P. Cox, PE, Remedial Project Manager, Superfund Restoration and Sustainability Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Deborah P. Cox, PE, Remedial Project Manager, Superfund Restoration and Sustainability Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, phone 404–562–8317, email: *cox.deborah@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: September 6, 2016.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–05289 Filed 3–16–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2016–0770; FRL–9960–09]

Tetrabromobisphenol A (TBBPA); TSCA Section 21 Petition; Reasons for Agency Response

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition; reasons for Agency response.

SUMMARY: This document provides the reasons for EPA's response to a petition it received under the Toxic Substances Control Act (TSCA). The TSCA section 21 petition was received from Earthjustice, Natural Resources Defense Council, Toxic-Free Future, Safer Chemicals, Healthy Families, BlueGreen Alliance, and Environmental Health Strategy Center on December 13, 2016. The petitioners requested that EPA issue an order under TSCA section 4, requiring that testing be conducted by manufacturers (which includes importers) and processors on tetrabromobisphenol A (''TBBPA'') (CAS No. 79–94–7). After careful consideration, EPA denied the TSCA section 21 petition for the reasons discussed in this document.

DATES: EPA's response to this TSCA section 21 petition was signed March 10, 2017.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Virginia Lee, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–4142; email address: *lee.virginia@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may manufacture (which includes import) or process the chemical tetrabromobisphenol A (''TBBPA'') (CAS No. 79–94–7). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I access information about this petition?

The docket for this TSCA section 21 petition, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0770, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone

number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. TSCA Section 21

A. What is a TSCA section 21 petition?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 4 or 5(e) or (f). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or the expiration of the 90-day period.

B. What criteria apply to a decision on a TSCA section 21 petition?

1. *Legal standard regarding TSCA section 21 petitions.* Section 21(b)(1) of TSCA requires that the petition ''set forth the facts which it is claimed establish that it is necessary'' to issue the rule or order requested. 15 U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. Accordingly, EPA has relied on the standards in TSCA section 21 and in the provisions under which actions have been requested to evaluate this TSCA section 21 petition. In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B).

2. *Legal standard regarding TSCA section 4 rules.* EPA must make several findings in order to issue a rule or order to require testing under TSCA section 4(a)(1)(A)(i). In all cases, EPA must find that information and experience are insufficient to reasonably determine or predict the effects of a chemical substance on health or the environment and that testing of the chemical substance is necessary to develop the missing information. 15 U.S.C. 2603(a)(1). In addition, EPA must find that the chemical substance may present an unreasonable risk of injury under section 4(a)(1)(A)(i). Id. If EPA denies a petition for a TSCA section 4 rule or order and the petitioners challenge that decision, TSCA section 21 allows a court to order EPA to initiate the action requested by the petitioner if the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence in a *de novo* proceeding that findings very similar to those described in this unit with respect to a chemical substance have been met.

III. Summary of the TSCA Section 21 Petition

A. What action was requested?

On December 13, 2016, Earthjustice, Natural Resources Defense Council, Toxic-Free Future, Safer Chemicals, Healthy Families, BlueGreen Alliance, and Environmental Health Strategy Center petitioned EPA to issue an order under TSCA section 4(a)(1), 90 days after the petition was filed, requiring that testing be conducted by manufacturers (which includes importers) and processors on tetrabromobisphenol A (''TBBPA'') (CAS No. 79–94–7) (Ref. 1).

B. What support do the petitioners offer?

The petitioners state section 4(a)(1) of TSCA requires EPA to direct testing on a chemical substance or mixture if it finds the following criteria are met:

1. The manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

2. There is insufficient information and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture, or of any combination of such activities on health or the environment can reasonably be determined or predicted.

3. Testing is necessary to develop such information.

The petitioners assert that TBBPA ''may present an unreasonable risk of injury to health or the environment'' because there is substantial evidence that TBBPA may be toxic, including conclusions from:

- EPA's TSCA Work Plan Chemical Problem Formulation and Initial Assessment (Ref. 2), which states TBBPA ''can be considered hazardous to the environment'' and that ''there is some concern'' for certain cancers and developmental effects.
- The International Agency for Research on Cancer (IARC) has identified TBBPA as probably carcinogenic to humans (Ref. 3).
- Multiple *in vitro* and animal tests, where TBBPA has been detected to cause endocrine effects, reproductive effects, neurological effects, and immunological effects (Refs. 4–9).

The petitioners also note that EPA, upon adding TBBPA in 1999 to the Toxics Release Inventory (TRI) established under the Emergency Planning and Community Right to Know Act, concluded that ''TBBPA is toxic'' because ''[i]t has the potential to kill fish, daphnid, and mysid shrimp, among other adverse effects, based on chemical and/or biological interactions.'' 64 FR 58666, 58708. The petitioners assert there is TBBPA exposure to humans and the environment based on the following conclusions.

- TBBPA has the highest production volume of any brominated flame retardant and is extensively used in consumer products, including children's products (Ref. 2). The potential for widespread exposure is extremely high.
- In 2012, TRI indicated that 127,845 pounds of TBBPA were released into the environment (Ref. 2). Such releases indicate the potential for widespread exposure in the population.
- The presence of TBBPA in people and the environment (biota and environmental media) is established and affirmed in EPA's TBBPA Problem Formulation and Initial Assessment (Ref. 2).

With the evidence of toxicity and exposure and EPA's addition of TBBPA to TRI (Ref. 10), the petitioners argue that TBBPA clearly meets the TSCA section 4 criteria for ''may present an unreasonable risk of injury to health or the environment.''

The petitioners also assert there is ''insufficient information'' on TBBPA based on EPA's TBBPA Problem Formulation (Ref. 2), which petitioners say cited lack of data for:

- Dermal and inhalation exposures, diet and drinking water exposures, exposures to communities near facilities that manufacture and process TBBPA, exposures to communities near facilities where ''e-waste'' is disposed of and recycled, exposures to the workers in manufacturing, processing, disposal and recycling facilities, and exposures to degradation and combustion products.
- developmental, reproductive and neurological toxicity, endocrine disruption, and genotoxic effects.

The petitioners argue that the testing recommended in the petition is critical to address this allegedly insufficient information and for performing any TSCA section 6 risk evaluation of TBBPA, and they request EPA to not

commence the risk evaluation for TBBPA until data generated to comply with the section 4 test order requested by the petitioners have been received by EPA.

IV. Disposition of TSCA Section 21 Petition

A. What was EPA's response?

After careful consideration, EPA has denied the petition. A copy of the Agency's response, which consists of two letters to the signatory petitioners from Earthjustice and Natural Resources Defense Council (Ref. 11), is available in the docket for this TSCA section 21 petition.

B. Background Considerations for the Petition

EPA published a Problem Formulation and Initial Assessment for TBBPA in August 2015 (Ref. 2). As stated on EPA's Web site titled ''Assessments for TSCA Work Plan Chemicals'' (Ref. 12), ''As a first step in evaluating TSCA Work Plan Chemicals, EPA performs problem formulation to determine if available data and current assessment approaches and tools will support the assessments.'' During development of the Problem Formulation and Initial Assessment document for TBBPA, EPA followed an approach developed for assessing chemicals under TSCA as it existed at that time.

Under TSCA prior to the June amendments, EPA performed risk assessments on individual uses, hazards, and exposure pathways. The approach taken during the TSCA Work Plan assessment effort was to focus risk assessments on those conditions of use that were most likely to pose concern, *and* for which EPA identified the most robust readily available, existing, empirical data, located using targeted literature searches, although modeling approaches and alternative types of data were also considered. EPA relied heavily on previously conducted assessments by other authoritative bodies and well-established conventional risk assessment methodologies in developing the Problem Formulation documents. Although EPA identified existing data and presented them in the problem formulations, EPA did not necessarily undertake a comprehensive search of available data or articulate a range of scientifically supportable approaches that might be used to perform risk assessment for various uses, hazards, and exposure pathways in the absence of directly applicable, empirical data prior to seeking public input. Rather, EPA generally elected to focus its attention on the uses, hazards, and exposure pathways that appeared to be of greatest concern and for which the most extensive relevant data had been identified. (Ref. 2).

As EPA explains on its Web site, ''Based on on-going experience in conducting TSCA Work Plan Chemical assessments and stakeholder feedback, starting in 2015 EPA will publish a problem formulation for each TSCA Work Plan assessment as a stand-alone document to facilitate public and stakeholder comment and input prior to conducting further risk analysis. Commensurate with release of a problem formulation document, EPA will open a public docket for receiving comments, data or information from interested stakeholders. EPA believes publishing problem formulations for TSCA Work Plan assessments will increase transparency of EPA's thinking and analysis process, provide opportunity for public/stakeholders to comment on EPA approach and provide additional information/data to supplement or refine assessment approach prior to EPA conducting detailed risk analysis and risk characterization.'' (Ref. 12).

EPA's 2015 Problem Formulation and Initial Assessment for TBBPA does not constitute a full risk assessment for TBBPA, nor does it purport to be a final analysis plan for performing a risk assessment or to present the results of a comprehensive search for available data or approaches for conducting risk assessments. Rather, it is a preliminary step in the risk assessment process, which EPA desired to publish to provide transparency and the opportunity for public input. EPA received comments from Earthjustice, Natural Resources Defense Council and others during the public comment period, which ended in November 2015 (Ref. 13). After the public comment period, EPA was in the process of considering this input in refining the analysis plan and further data collection for conducting a risk assessment for TBBPA.

On June 22, 2016, Congress passed the Frank R. Lautenberg Chemical Safety for the 21st Century Act. EPA has interpreted the amended TSCA as requiring that forthcoming risk evaluations encompass all manufacturing, processing, distribution in commerce, use, and disposal activities that the Administrator determines are intended, known, or reasonably foreseen (Ref. 14). This interpretation, encompassing ''conditions of use'' as defined by TSCA section 3(4), has prompted EPA to re-visit the scoping and problem formulation for risk assessments under TSCA. Other provisions included in the amended TSCA, including section 4(h) regarding alternative testing methods, have also prompted EPA to evolve its approach to scoping and conducting risk assessments. The requirement to consider all conditions of use in risk evaluations—and to do so during the three to three and a half years allotted in the statute—has led EPA to more fully evaluate the range of data sources and technically sound approaches for conducting risk evaluations. Thus, a policy decision articulated in a problem formulation under the pre-amendment TSCA not to proceed with risk assessment for a particular use, hazard, or exposure pathway does not necessarily indicate at this time that EPA will need to require testing in order to proceed to risk evaluation. Rather, such a decision indicates an area in which EPA will need to further evaluate the range of potential approaches—including generation of additional test data—for proceeding to risk evaluation. EPA is actively developing and evolving approaches for implementing the new provisions in amended TSCA. These approaches are expected to address many, if not all, of the data needs asserted in the petition. Whereas under the Work Plan assessment effort, EPA sometimes opted not to include conditions of use for which data were limited or lacking, under section 6 of amended TSCA, EPA will evaluate all conditions of use and will apply a broad range of scientifically defensible approaches—using data, predictive models, or other methods—that are appropriate and consistent with the provisions of TSCA section 26, to characterize risk and enable the Administrator to make a determination of whether the chemical substance presents an unreasonable risk.

C. What was EPA's reason for this response?

For the purpose of making its decision on the response to the petition, EPA evaluated the information presented or referenced in the petition and its authority and requirements under TSCA sections 4 and 21. EPA also evaluated relevant information that was available to EPA during the 90-day petition review period that may have not been available or identified during the development of EPA's TBBPA Problem Formulation and Initial Assessment (Ref. 2).

EPA agrees that the manufacture, distribution in commerce, processing, use, or disposal of TBBPA may present an unreasonable risk of injury to health

or the environment under TSCA section 4(a)(1)(A). EPA also agrees that the Problem Formulation and Initial Assessment was not comprehensive in scope with regard to the conditions of use of TBBPA, exposure pathways/routes, or potentially exposed populations. However, the Problem Formulation and Initial Assessment was not designed to be comprehensive. Rather, the Problem Formulation and Initial Assessment was developed under EPA's then-existing process, as explained previously. It was a fit-for-purpose document to meet a TSCA Work Plan (*i.e.,* pre-Lautenberg Act) need. Going forward under TSCA, as amended, EPA will conform its analyses to TSCA, as amended. EPA has explained elsewhere how the Agency proposes to conduct prioritization and risk evaluation going forward (Refs. 15 and 16). However, EPA does not find that the petitioners have demonstrated, for each exposure pathway and hazard endpoint presented in the petition, that the existing information and experience available to EPA are insufficient to reasonably determine or predict the effects on health or the environment from ''manufacture, distribution in commerce, processing, use, or disposal'' of TBBPA (or any combination of such activities) nor that the specific testing they have identified is necessary to develop such information.

The discussion that follows provides the reasons for EPA's decision to deny the petition based on the finding for each requested test that the information on the individual exposure pathways and hazard endpoints identified by the petitioners does not demonstrate that there is insufficient information upon which the effects of TBBPA can reasonably be determined or predicted or that the requested testing is necessary to develop additional information. The sequence of EPA's responses follows the sequence in which requested testing was presented in the petition (Ref. 1).

1. *Dermal and Inhalation Exposure Toxicity. a. Dermal toxicity.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects to health from dermal exposure to TBBPA. Therefore, the toxicokinetics test (Organisation for Economic Co-operation (OECD) Test Guideline 417) (Ref. 17) via the dermal route and the skin absorption: In vivo test (OECD Test Guideline 427) (Ref. 18), requested by the petitioners, are not needed. The information already available includes oral toxicity studies and oral toxicokinetic studies identified in EPA's Problem Formulation and Initial Assessment document (Ref. 2) and the dermal toxicokinetics study identified by the petitioners (Ref. 19). These available studies are sufficient to reasonably determine the internal doses of TBBPA for purposes of route-to-route (oral to dermal) extrapolation. The 2016 Yu et al. study, cited in the petition (Ref. 1), characterizes absorption and elimination, while distribution and metabolism characterization is available from studies using intravenous dosing (Ref. 20). Furthermore, the available studies do not indicate differential distribution, metabolism, and elimination specific to skin. Therefore, the dermal toxicokinetics study requested by the petitioners is not needed to inform or refine evaluation of dermal exposures.

b. Inhalation toxicity. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects to health from inhalation exposure to TBBPA. Therefore, the toxicokinetics test (OECD Test Guideline 417) (Ref. 17) via the inhalation route, requested by the petitioners, is not needed. As described in EPA's Problem Formulation and Initial Assessment (Ref. 2), EPA will use an alternative approach to evaluate risks from inhalation exposure to TBBPA. Because TBBPA is a solid, it may be reasonably predicted that particulates in the air are the primary form of TBBPA that would be inhaled. TBBPA particles in air that are inhaled are subsequently swallowed via the mucociliary escalator (Ref. 21). Once the particles are in the gastrointestinal tract, absorption can reasonably be assumed to be the same as in the oral toxicity studies and hence, oral toxicity studies can be used for risk assessment. Information is also available to estimate bioaccessibility of TBBPA from dust using an extraction test with an in vitro colon (Ref. 22). This additional information could also be considered when evaluating risks from TBBPA via the oral route. This approach would not require conducting the requested toxicokinetics test (Ref. 17).

Although a small percent of TBBPA particles may be in the respirable range and may be absorbed directly through the lungs, existing tests show that no systemic effects were observed in a 14-day inhalation toxicity study (Ref. 23). Therefore, EPA considers that assuming all inhaled particles are eventually swallowed and using existing oral toxicity data should not underestimate effects from inhaling TBBPA particles and therefore would reasonably predict such effects.

Furthermore, EPA's use of available existing toxicity information reduces the use of vertebrate animals in the testing of chemical substances in a manner consistent with provisions described in TSCA section 4(h).

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects to the environment, specifically, toxicity to plants exposed to TBBPA via the air. Therefore, the early seedling growth toxicity test (OCSPP Test Guideline 850.4230) (Ref. 24), requested by the petitioners, is not needed. As previously mentioned, because TBBPA is a solid, it may be reasonably predicted that particulates in the air are the primary form of TBBPA that would exist in air. Furthermore, as stated on page 88 of EPA's Problem Formulation and Initial Assessment document (Ref. 2), ''[u]ltimately air releases of TBBPA would be expected to undergo deposition to terrestrial and aquatic environments . . .'' and ''TBBPA tends to partition to soil and sediment . . .''. These fate pathways for TBBPA are also shown in Figure 2–1 of EPA's Problem Formulation and Initial Assessment document (Ref. 2). Hence, exposure of plants to TBBPA is expected to occur primarily via soil and sediments after deposition from air, which is why EPA excluded this pathway from further assessment (Ref. 2, page 42), although EPA in the Problem Formulation and Initial Assessment document mistakenly mentioned plants in another sentence addressing ''[e]xposure via *directly inhaling* [emphasis added] TBBPA,'' even though direct inhalation is not applicable to plants and thereby may have caused potential confusion to readers. If toxicity of TBBPA to plants were to be included in an assessment, toxicity data following exposure via soil and/or sediment exposures, not air, would be the scientifically relevant data needed. To this end, as described in EPA's Problem Formulation and Initial Assessment (Ref. 2), existing data and information on phytotoxicity of TBBPA to six plant species is available (Ref. 25). EPA's Problem Formulation and Initial Assessment document (Ref. 2) included references for and a brief description of the existing plant toxicity data (page 105). While assessment of soil-dwelling organisms is included in EPA's Problem Formulation and Initial Assessment document (Ref. 2), as depicted in Figure 2–1 and described on page 40, EPA indicated that the environmental risk assessment for the soil exposure pathway would be based on concentrations of concern derived from data for soil invertebrates (Ref. 2; Figure 2–1; Table 2–6; Page 40). Support for

EPA's selection of using species that are expected to be more sensitive to potential effects of TBBPA in soil is provided in EPA's summary of plant toxicity data, which states ''. . . TBBPA is two to three orders of magnitude less toxic to terrestrial plants than to soil-dwelling organisms'' (Ref. 2; Table_Apx F–2 and text on page 106).

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict toxicity of TBBPA to avian species. Hence, inhalation toxicokinetic studies (OECD Test Guideline 417) (Ref. 17) and the acute inhalation toxicity study (OCSPP Test Guideline 870.1300) (Ref. 26) modified for birds, requested by the petitioners, are not needed. Although the Problem Formulation and Initial Assessment document states, ''Exposure via directly inhaling TBBPA will not be assessed because no information is available on the toxicity of tetrabromobisphenol A to plants and other wildlife organisms (*e.g.,* birds) exposed via the air.'' (Ref. 2; page 42), EPA's primary rationale for not including further elaboration of inhalation risks to avian species, as discussed in the Problem Formulation and Initial Assessment document (Ref. 2; page 32 and Appendix F) is TBBPA's low avian toxicity demonstrated in existing studies.

Halldin et al., 2001 and Berg et al., 2001 (Refs. 27 and 28) indicate no effects to egg-laying female quail nor embryos (except at very high doses). The Halldin et al. (Ref. 27) study also included toxicokinetic data indicating that TBBPA is rapidly metabolized and excreted in birds (both embryos and egg-laying females). In these studies, TBBPA was delivered by intravenous injection into females and direct injection into eggs. This dosing regimen assures full (100%) delivery of the dose into the animal, which does not occur in nature, and thus provides the most sensitive means to detect the toxicity of the TBBPA. Other routes of exposure (*i.e.,* oral, inhalation, dermal) result in incomplete absorption limiting the systematic availability of TBBPA compared to the intravenous injection (*i.e.,* less than 100% delivered dose). Hence, intravenous toxicity test designs provide a good understanding of the potential toxicity (or lack thereof) of a chemical. In addition to the low avian toxicity of TBBPA, demonstrated via intravenous injection, inhalation is not expected to be a substantial exposure pathway to wildlife for TBBPA (Refs. 29 and 30). The predominant route of exposure to terrestrial wildlife for a chemical with physical-chemical properties (*i.e.,* Log K_{OW} = 5.90; water solubility = 4.16 mg/L) and partitioning parameters (*i.e.,* low mobility in soil) such as TBBPA is not expected to be via inhalation, but rather through ingestion because the TBBPA will predominantly partition to soils and sediments if/when released to the environment. The physical-chemical properties of TBBPA also indicate that the fate of TBBPA into water would result in preferential partitioning into sediments and biota (fish or other aquatic organism). Available monitoring data support this conclusion, with higher concentrations of TBBPA in soil and fish relative to concentrations in air.

Hence, additional toxicokinetic studies by the inhalation route is not needed to conduct a reasoned determination or prediction of TBBPA risk to birds.

Furthermore, EPA's use of available existing toxicity information reduces the use of vertebrate animals in the testing of chemical substances in a manner consistent with provisions described in TSCA section 4(h).

2. *Diet and Drinking Water Exposures. a. Diet.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects from exposure to TBBPA via diet. Testing of food products for TBBPA contamination, such as the plant uptake and translocation test (OCSPP Test Guideline 850.4800) (Ref. 31) and modified methods for TBBPA using the Food & Drug Administration's (FDA) Drug & Chemical Residues Methods (Ref. 32), requested by the petitioners, is not necessary because existing data are available to address this exposure pathway.

While a plant uptake study combined with soil concentrations could be used to estimate dietary exposures from plants, chemicals with low water solubility and higher log K_{OW} values similar to TBBPA are less likely to bioaccumulate in plants compared to other foods, such as meats, fish and dairy products (Ref. 33). Hence, other food items, such as meats, fish and dairy products would be expected to be primary contributors to dietary exposures. Available market basket surveys for TBBPA support this, with most samples comprised of lipid-rich food groups (Ref. 34). There were 465 food samples collected in Europe between 2003 and 2010. Most of these were comprised of lipid-rich food groups; however, some vegetable and grain based food groups were sampled. All samples from this study were below the level of quantification, which was approximately <1 ng/g wet weight, although this varied by food group (Ref. 35). To address dietary exposure from TBBPA, EPA could use a combination of approaches. First, there are existing plant uptake studies available that could be used to estimate TBBPA concentrations in plants from modeled or measured near-facility soil concentrations (Refs. 36 and 37). These studies are not cited in the petition. This approach is supported by a study, that EPA identified since the Problem Formulation and Initial Assessment document was published, that compared a wide variety of plant uptake studies with available models that estimate soil to plant uptake (Ref. 38). Any modeled estimate can be compared to available measured data and a range of values informed by both approaches could be derived. EPA could model soil concentrations from TRI data; these concentrations along with available physical-chemical properties can be used to reasonably estimate plant concentrations and associated dietary exposures. There is also an existing study that quantified soil and plant TBBPA concentrations near a facility (Ref. 39). This data can be used to supplement and/or evaluate the modeling approach. Because existing approaches exist for estimating plant concentrations of TBBPA (modeling and market basket data), the plant uptake and translocation test (Ref. 31) is not necessary.

EPA recognizes that dietary exposures come from a wide variety of sources, not just plants. Market basket surveys provide food concentrations, which can be used to estimate dietary exposure. There are market basket surveys from other countries that measured TBBPA in various food products (Refs. 40 to 42). Other studies are available that provide data on TBBPA concentrations in breast milk or edible fish (Refs. 43 to 48). Fish concentrations can also be estimated from combining modeled or measured surface water concentrations with bioaccumulation/bioconcentration factors (BAF/BCF). Ingestion from other dietary sources, in addition to fish, shellfish, and breast milk (dairy, meat, fruits and vegetables and grains), can be estimated individually and in total using existing data. It is expected that ingestion of foods with higher lipid content, such as fish and milk, will contribute more to dietary exposure (Ref. 49) than other foods, such as plants. Levels may vary based on proximity to point sources when compared to levels detected in market basket surveys, and this can be considered in developing exposure scenarios and/or background estimates.

b. Drinking Water. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects from exposure to TBBPA via drinking water. Sampling of waters in the vicinity of representative manufacturing and processing facilities known to discharge TBBPA, requested by the petitioners, is not necessary because an existing approach is available to address this exposure pathway.

EPA can use release data collected under EPA's TRI program to characterize TBBPA concentrations in surface water near TBBPA manufacturing and processing facilities.

In addition, while there are no data on TBBPA concentrations in finished drinking water, EPA can use surface water monitoring data as a surrogate for finished drinking water to assess potential risks posed by drinking TBBPA-contaminated water. EPA's Office of Water routinely derives Ambient Water Quality Criteria for the Protection of Human Health (Ref. 50) using the assumption that people may ingest surface water as a drinking water source over a lifetime. There are existing data on TBBPA concentrations in surface water to conduct a drinking water exposure assessment using surface water as a surrogate (Refs. 51 to 53).

EPA believes these approaches are adequate, and likely conservative, to assess potential exposures to drinking water. First, the physical-chemical and fate properties of TBBPA, such as high sorption, low water solubility, and high K_{OC} indicate that concentrations of TBBPA in drinking water would be expected to be low prior to treatment. When sediment monitoring data is used with assumptions about K_{OC}, organic content, and density of water and sediment, surface water concentrations can be estimated to be generally low, below the highest levels reported in surface water (Refs. 54 to 56). This is supported by existing surface water monitoring data indicating the highest concentration of TBBPA in surface water is 4.87 ug/L with most data below 1 ug/L (Refs. 57 and 58). These same chemical and fate properties would indicate that drinking water treatment processes would further reduce TBBPA concentrations in finished drinking water. Overall, the contribution to exposure to TBBPA via drinking water is expected to be minimal.

3. *Exposure from Manufacturing and Processing. a. Communities.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict exposure to TBBPA to communities near manufacturing and processing facilities. Air sampling, using methods, such as EPA Air Method Toxic Organics-9A (TO–9A, Determination Of Polychlorinated, Polybrominated And Brominated/Chlorinated Dibenzo-p-Dioxins And Dibenzofurans In Ambient Air) (Ref. 60), sampling of soils, and sampling of waters in the vicinity of representative manufacturing and processing facilities known to discharge TBBPA, as requested by the petitioners, is not necessary because EPA could use an alternative approach to evaluate exposure to TBBPA to communities near manufacturing and processing facilities. EPA could use release data collected under EPA's TRI program and a Gaussian dispersion model, such as AERMOD, to quantify air concentrations and air deposition to soil, to water bodies and to sediments near manufacturing and processing facilities. AERMOD is an EPA model that has been extensively reviewed and validated based on comparisons with monitoring data (Ref. 60). Variability and uncertainty associated with variable emission rates and degradation over time can also be characterized using modeling approaches whereas one-time or limited sampling cannot provide temporal characterizations. In addition, EPA can use monitoring data from other countries as surrogate ''near-facility'' monitoring data along with modeled estimates. However, the petition does not address this possibility, let alone explain why a testing order under section 4 would be necessary on this point. There are several references with sampling locations near facilities that can be considered, many of which were cited in the Problem Formulation and Initial Assessment document (Ref. 2). EPA considers this approach to be reasonable to determine exposure to communities near manufacturing or processing facilities, but may decide to pursue targeted sampling in the future near manufacturing and processing facilities to reduce uncertainty.

b. Workers. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict exposure to TBBPA to workers in manufacturing and processing facilities.

Since publication of the Problem Formulation and Initial Assessment document, EPA identified exposure monitoring data for Europe, China and the United States for several industries (the manufacture of epoxy resins and laminates; manufacture of printed circuit boards; and compounding of acrylonitrile butadiene styrene (ABS) resin) (Refs. 61 to 66).

As discussed previously, EPA is actively developing or evolving approaches for implementing the new provisions in amended TSCA. One such approach is to perform systematic literature reviews to identify and/or develop additional available data and modeling approaches for estimating worker inhalation exposure. EPA may also assess exposure concentration in the case of conversion of compounded ABS resin to finished products based on available monitoring data for other industries, such as manufacture of epoxy resins and laminates and manufacture of printed circuit boards. Furthermore, the National Institute of Occupational Safety and Health (NIOSH) has initiated a study titled: ''Assessment of Occupational Exposure to Flame Retardants'' that aims to quantify, characterize occupational exposure (inhalation, ingestion, or dermal) among workers, and to compare workers' exposures to those of the general population (Ref. 67). Data generated from the NIOSH study is expected to inform occupational exposures and will be considered in an occupational assessment of TBBPA. However, the petition fails to explain how it considered these points or why a testing order under section 4 would be necessary for additional information.

EPA considers the approach considered in the previous paragraph to be reasonable to determine exposure to workers in manufacturing and processing facilities, but may decide to pursue targeted sampling in the future near manufacturing and processing facilities to supplement or refine these approaches.

Dust. EPA believes the approaches described earlier in this unit are sufficient to characterize exposures to workers at manufacturing or processing facilities from external doses/concentrations. Sampling of settled dust (surface wipe and bulk sampling) using the OSHA Technical Manual (Ref. 68), as specifically requested by the petitioners, is not needed. Presence of TBBPA in settled dust may indicate additional dermal and ingestion exposures are possible. However, surface wipe sampling does not provide a direct estimate of dermal or ingestion exposure. Surface wipe sampling would need to be combined with information on transfer efficiency between the surface, hands, and objects, as well as the number of events to estimate exposures from ingestion (Ref. 69). EPA notes that in the NIOSH study that is in progress surface wipe sampling is not included, which provides support for

the conclusion that settled dust is not a customary measure for occupational exposure. EPA would, however, use any information generated from the NIOSH study considered relevant for this exposure pathway.

Biomonitoring. EPA believes the approaches described previously are sufficient to characterize exposures to workers at manufacturing or processing facilities from external doses/concentrations. Therefore, the biomonitoring data collected following the protocols of the current NIOSH study, as requested by the petitioners, is not needed. EPA would, however, consider any data or information generated from the NIOSH study deemed to be relevant and applicable for discerning exposures from any/all exposure routes.

4. *Exposure from recycling.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict communities specifically located at or near and workers in facilities that recycle TBBPA-containing products. In the Problem Formulation and Initial Assessment document (Ref. 2), EPA identified three monitoring studies that describe concentrations of TBBPA in soil, sediment, and sludge near manufacturing and recycling facilities (Refs. 71, 72, 76). Since publication of the Problem Formulation and Initial Assessment document (Ref. 2), EPA has identified four monitoring studies that describe concentrations of TBBPA in soil, sediment, indoor and outdoor dust from sampling locations in and near e-waste recycling facilities in other countries (Refs. 70, 73 to 75). These data may be useful for estimating exposures at or near U.S. recycling facilities.

However, EPA intends to further assess how comparable the nature and magnitude of these types of facilities and handling of TBBPA-containing products are to facilities within the U.S. EPA may collect available information related to estimating potential extent and magnitude of exposure. For example, the following could inform development of exposure scenarios for recycling facilities within the United States:

a. The number and location of recycling facilities in the United States,

b. the types and volumes of products that are accepted by these sites, and

c. the recycling and disposal methods employed at these facilities.

With such data or information, the recycling processes used in the U.S. could be compared with the processes used in the studies characterizing the foreign facilities. However, the petition does not address this possibility, let alone explain why a testing order under section 4 would be necessary on this point. If the processes are similar, EPA could extrapolate from foreign facilities to U.S. facilities. If EPA determines these previously indicated approaches are not reasonable to determine exposures, then sampling of soils, sediments and waters in the vicinity of facilities and air to which workers may be exposed at facilities known to recycle TBBPA-containing products, as requested by the petitioners, may become necessary. EPA also notes that the NIOSH study, ''Assessment of Occupational Exposure to Flame Retardants,'' (Ref. 67) may inform occupational exposures from recycling facilities and will be considered in an occupational assessment of TBBPA. EPA also notes that the settled dust sampling and biomonitoring data, as requested by the petitioners, may not be the most appropriate data to collect for the reasons provided previously in Unit IV.C.3.b., but that EPA would consider any data or information generated from the NIOSH study deemed to be relevant and applicable for discerning exposures from any/all exposure routes.

5. Exposure from disposal. a. Landfills, wastewater treatment plants, and sewage sludge. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict movement of TBBPA from landfills in soil columns. Leaching studies (OCSPP Testing Guideline 835.1240) (Ref. 77), requested by the petitioners, are not necessary because an existing approach is available to address this fate pathway. Studies measuring the sorption of TBBPA to soil, sand columns, and sediment are available as discussed in Appendix C of the Problem Formulation and Initial Assessment document (Ref. 2). Larsen et al. (2001) reported negligible leaching potential of TBBPA applied to soil and sand columns. (Ref. 78). The adsorption of TBBPA to sediment has been reported (Ref. 79) and suggest low mobility in soil and partitioning to sediments. Data from these existing studies can also serve as input to soil transport models to estimate mobility.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict transformation processes of TBBPA, which would be episodically and/or continuously released to wastewater. The simulation tests to assess the primary and ultimate biodegradability of chemicals discharged to wastewater (OPPTS Test Guideline 835.3280) (Ref. 80), requested by the petitioners, is not needed because primary degradation and major transformation products can be determined from existing studies on the ultimate biodegradability of TBBPA in aerobic and anaerobic sludge. One of the studies (Ref. 81) was discussed in Appendix C of EPA's Problem Formulation and Initial Assessment (Ref. 2). Two additional studies (Refs. 82 and 83) were identified after publication of EPA's document (Ref. 2). Li, et al. (2015) (Ref. 82) studied TBBPA transformation in nitrifying activated sludge (NAS). TBBPA transformation was accompanied by mineralization. Twelve metabolites, including those with single benzene ring, O-methyl TBBPA ether, and nitro compounds, were identified during the study. Potvin et al. (2012) (Ref. 83) measured the removal of TBBPA from influent to conventional activated sludge, submerged membrane and membrane aerated biofilm reactors. Removal of TBBPA from these wastewater treatment systems was found to be due to a combination of adsorption and biological degradation. Nyholm, et al. 2010 (Ref. 81) reported transformation as biodegradation half-lives for TBPPA in aerobic activated sludge, aerobic digested sludge, and anaerobic activated sludge amended soils.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict effects from dietary exposure to crops where TBBPA contaminated sewage sludge is applied. A plant uptake and translocation test (OCSPP Test Guideline 850.4800) (Ref. 31), requested by the petitioners, is not necessary because existing data are available to address this fate pathway. As explained in the dietary exposure section, there are existing plant uptake studies available (Refs. 36 and 37). These data are also available to be used to estimate plant concentrations of agricultural crops where TBBPA-containing sewage sludge is applied. While a plant uptake study combined with sewage sludge concentrations could be used to estimate dietary exposures from plants, chemicals with low water solubility and higher log K_{OW} values similar to TBBPA, are less likely to bioaccumulate in plants compared to other foods, such as meats, fish and dairy products (Ref. 33). Hence, other food items, such as meats, fish and dairy products, would be expected to be primary contributors to dietary exposures. Available market basket surveys for TBBPA support this, with most samples comprised of lipid-

rich food groups (Ref. 34). To address dietary exposure from TBBPA, EPA could use a combination of approaches as described in the dietary exposure section. EPA believes this approach can provide a reasonable estimate of plant concentrations of agricultural crops grown where TBBPA-containing sewage sludge was applied.

b. Incineration. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict communities specifically located near facilities that incinerate TBBPA or TBBPA-containing products.

Electronic waste can be sent to waste-to-energy incinerators (Ref. 84). EPA's Problem Formulation and Initial Assessment for TBBPA (Ref. 2) included a study that measured TBBPA emissions (0.008 ng/L to air) from a mixed household and commercial waste incinerator in Japan (Ref. 85). These data may be useful for estimating exposures at or near U.S. facilities that incinerate TBBPA or TBBPA-containing products.

EPA intends to further assess these facilities and could use an approach that combines existing data to estimate the amount of combustion products at incineration facilities that could have formed from incinerating products that contain TBBPA. Such an approach could combine information on:

i. The types of by-products using data from EU (2006) (Ref. 62) and U.S. EPA (Ref. 87);

ii. information regarding types of consumer waste that contains TBBPA and may be sent to incinerators;

iii. information on the concentrations of TBBPA in various types of consumer waste; some of these data are available (Refs. 86 to 91);

iv. Toxics Release Inventory data on emissions of the dioxin, furan and polycyclic aromatic hydrocarbons (PAH) by-products from incinerators.

The emissions of dioxins, furans and PAHs could then be modeled using EPA's AERMOD air dispersion model (Ref. 60) and the amount of these by-products that might be attributed to TBBPA could be determined.

Another approach that EPA could take is to estimate exposures near facilities by grouping all near-facility data for a variety of facilities (manufacturing, processing, e-waste, disposal) to estimate a generic ''near-facility'' exposure. By estimating exposure in this manner, EPA could take advantage of the larger number of monitoring studies or modeled estimates.

However, EPA intends to further assess how comparable locations around incineration sites would be to those around manufacturing, processing, e-waste, and other disposal facilities. There are factors that may either increase and decrease emissions and potential concentrations around these facilities. For example, elevated temperatures are likely to eliminate some amount of possible TBBPA and its combustion products which could reduce overall exposures. The waste stream and content of TBBPA in materials as part of this waste stream are likely to be highly variable and could result in emissions that are higher or lower than those in manufacturing and processing facilities. Comparison of facility specific information could inform which categories of incineration may be sufficiently different from manufacturing and processing facilities to potentially warrant environmental sampling.

Therefore, to complement the existing data, EPA could collect available information related to estimating potential extent and magnitude of exposure (for example, the number and location of incineration facilities in the U.S. and the types and volumes of products that are accepted by these sites). Waste disposal by incineration as used in the United States could be then compared with the processes used in the studies assessing the foreign facilities. However, the petition does not address this possibility, let alone explain why a testing order under section 4 would be necessary on this point. If the processes are similar, EPA could extrapolate from foreign facilities to U.S. facilities. If EPA determines these previously indicated approaches are not reasonable to determine exposures, then sampling of soils, sediments and waters in the vicinity of facilities and air to which workers may be exposed at facilities known to incinerate TBBPA or TBBPA-containing products, as requested by the petitioners, may be necessary, but could be more strategic and better targeted when based on deliberate evaluation of available existing data and information.

6. *Exposure to degradation by-products. a. Degradation in water or soil.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict degradation of TBBPA in water by direct photolysis. Studies identifying photodegradation products of TBBPA formed by direct photolysis in water under laboratory conditions (Ref. 92) were identified after the Problem Formulation and Initial Assessment document was published. Therefore, the photodegradation in water test (OCSPP Test Guideline 835.2240) (Ref. 93), requested by the petitioners, is not needed.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict reactions resulting from chemical or electronic excitation transfer from light-absorbing humic species rather than from direct sunlight for TBBPA. A study identifying indirect photodegradation products of TBBPA formed by indirect photolysis in water under laboratory conditions (Ref. 94) was identified after the Problem Formulation and Initial Assessment document was published. Therefore, the indirect photolysis in water test (OCSPP 835.5270) (Ref. 95), requested by the petitioners, is not needed.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict degradation of TBBPA in soil by photolysis. Photolysis of TBBPA deposited on soil or applied to soil with sludge is a possible fate pathway, which could involve different pathways and mechanisms other than photolysis in water. Existing aqueous photolysis studies and/or predictive models can be used to reasonably predict the degradation products of TBBPA. Environmental transport and exposure modeling could be conducted using available measured or estimated physical-chemical properties to estimate exposure of degradation products. This approach has been used by others (Ref. 96) to estimate PBT properties for degradation products. Therefore, the photodegradation in soil test (OCSPP Test Guideline 835.2410) (Ref. 97), requested by the petitioners, is not needed.

b. Microbial degradation. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict microbial degradation of TBBPA in soil in aerobic and anaerobic conditions. EPA has identified existing studies/data describing aerobic and anaerobic biodegradation pathways of TBBPA in both soil samples potentially pre-exposed and not pre-exposed to TBBPA. Some studies are discussed in Appendix C of EPA's Problem Formulation and Initial Assessment document (Refs. 81, 98 and 99). EPA identified two additional studies after publication of the Problem Formulation and Initial Assessment document that also address this endpoint (Refs. 82 and 100). These studies allow EPA to reasonably determine transformation products and

predict relative rates from aerobic and anaerobic microbial degradation in soil. Therefore, the aerobic and anaerobic transformation in soil test (OECD Test Guideline 307) (Ref. 101) and terrestrial soil-core microcosm test (OCSPP Test Guideline 850.4900) (Ref. 102), requested by the petitioner, are not needed.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict aerobic aquatic biodegradation of TBBPA. Studies are available (Refs. 103 and 104) to reasonably determine aerobic aquatic biodegradation pathways and products as discussed in Appendix C of EPA's Problem Formulation and Initial Assessment document (Ref. 2). Therefore, the aerobic mineralization in surface water-simulation biodegradation test (OCSPP Test Guideline 835.3190) (Ref. 105), requested by the petitioner, is not needed.

As noted in the exposure from disposal discussion, the petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict degradation processes of TBBPA, which would be episodically and/or continuously released to wastewater. The simulation tests to assess the primary and ultimate biodegradability of chemicals discharged to wastewater (OPPTS Test Guideline 835.3280) (Ref. 80), which the petitioner cited in the discussion about exposure to degradation by-products, is not needed.

c. Combustion products. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict potential combustion products of TBBPA. The reference to combustion testing cited by the petitioners and others is available (Refs. 62 and 106). However, knowledge of the types and volumes of TBBPA-containing products is needed to use this data to estimate potential exposures to combustion products. As stated in the Problem Formulation and Initial Assessment document (Ref. 2; page 91), ''. . . contribution of TBBPA to combustion byproducts is not possible to determine.'' However, EPA could acquire this information from recycling and incineration facilities using approaches described in Units IV.C.4. and IV.C.5.b. The petition does not address this possibility, let alone explain why a testing order under section 4 would be necessary on this point.

d. Toxicity of degradation products. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict characterization of TBBPA degradation products, and, as stated in Units IV.C.5.a, IV.C.6.a, and IV.C.6.b., EPA has an understanding of the products potentially formed from TBBPA degradation (*e.g.,* tri-, di-, and monobromobisphenol A, bisphenol A, TBBPA—bis(methyl ether), isopropyl dibromophenols). EPA can use predictive models (*e.g.,* EPA's EPISuite models (Ref. 107) to estimate the key physical-chemical properties of these degradants. EPISuite models have been validated and peer reviewed, and TBBPA degradates are chemicals for which EPISuite models are suitable for estimating (*i.e.,* are within applicability domains of EPISuite models). EPISuite has been used for estimating chemical properties in risk assessments conducted by the USEPA, the EU, and Canada. Therefore, the use of the EPA series 830 Group B testing guidelines (Ref. 108), requested by the petitioners, is not needed.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict toxicity effects of TBBPA degradation products to mammals and birds. The petition did not reflect a comprehensive search and review for existing toxicity data on potential degradation products, and EPA's Problem Formulation and Initial Assessment document (Ref. 2) did not purport to represent such a comprehensive search for degradation products. To address the need for mammal or avian toxicity under EPA's current approach, EPA would conduct a comprehensive literature review to identify existing data for these chemicals or for analogs. Following identification and review of existing data, if EPA deemed specific testing necessary to fill identified data gaps, EPA would consider testing according to EPA series 850 Ecological Effects Test Guidelines (Ref. 109), EPA series 870 Health Effects Test Guidelines (Ref. 110), or appropriate OECD Guidelines.

The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict the toxicity effects of TBBPA degradation products to aquatic organisms. The petition did not reflect a comprehensive search and review for existing toxicity data on potential degradation products, and EPA's Problem Formulation and Initial Assessment document (Ref. 2) did not purport to represent such a comprehensive search. To address the need for aquatic toxicity under EPA's current approach, EPA would conduct a comprehensive literature review to identify existing data for these chemicals or for analogs. EPA also believes there are alternative approaches available to EPA regarding ecological effects of TBBPA degradation products on aquatic organisms. EPA could use EPA's ECOSAR (Ref. 111) to estimate the aquatic toxicity of these degradants. ECOSAR is an expert system and collection of models (*i.e.,* Quantitative Structure Activity Relationships) that estimate toxicity from structure and physical-chemical properties of a chemical. The models incorporated into ECOSAR have been validated and peer reviewed. ECOSAR models are suitable for estimating toxicity of potential TBBPA degradates (*i.e.,* TBBPA degradation product chemicals are within the applicability domains of ECOSAR models). Therefore, the use of the EPA series 850 testing guidelines (Ref. 109), requested by the petitioners, is not needed for aquatic organisms.

Furthermore, EPA's use of available existing toxicity information and modeling approaches reduces the use of vertebrate animals in the testing of chemical substances in a manner consistent with provisions described in TSCA section 4(h).

7. *Hazard endpoints. a. Reproductive toxicity, developmental toxicity and neurotoxicity.* The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict reproductive, developmental and neurotoxicity of TBBPA. Therefore, the reproductive/developmental toxicity screening test (OECD Test Guideline 421) (Ref. 112), NTP's Modified One-Generation Reproduction Study (Ref. 113) and the complementing Developmental Neurotoxicity Study (OECD Test Guideline 426) (Ref. 114), requested by the petitioners, are not necessary. EPA has identified 15 reproductive/developmental toxicity tests conducted by the oral route of which some include evaluation of neurotoxicity endpoints. The available studies include: A one-generation reproduction toxicity test (Refs. 115 and 9); two 2-generation reproduction tests (Refs. 116 to 118); four prenatal developmental toxicity tests, including a developmental neurotoxicity test (Refs. 119 to 122); and six postnatal developmental toxicity tests, with some that also include a prenatal component (Refs. 123 to 128). All of these studies, except Hass et al. (2003) (Ref. 119) and Kim et al. (2015) (Ref. 126), were described in Appendix G of the published Problem Formulation and Initial Assessment document for TBBPA

(Ref. 2). These studies are either equivalent or superior to the methods used in the reproductive/developmental toxicity screening test (OECD Test Guideline 421) (Ref. 112) and the NTP Modified One-Generation Reproduction Study (Ref. 113).

For developmental neurotoxicity, a study for this endpoint by the oral route is available (Ref. 119), and EPA would consider the results of this study when evaluating risks from TBBPA. Although the study was conducted when the Developmental Neurotoxicity Study OECD Test Guideline 426 (Ref. 114) was a draft guideline, the study is adequate for consideration as part of a weight-of-evidence analysis along with the results of a 2-generation reproduction toxicity study that included a neurotoxicity component (Ref. 121).

Furthermore, EPA conducted an in-depth review of the existing dataset of reproductive and developmental toxicity studies identified, as well as additional animal and human data that evaluated neurotoxicity endpoints (Refs. 131 and 116) following the publication of the Problem Formulation and Initial Assessment document (Ref. 2) and determined that the developmental, reproductive and neurotoxicity endpoints are adequately addressed. Therefore, EPA could use this body of existing data in selecting studies for use in risk evaluation.

Furthermore, EPA's use of available existing toxicity information reduces the use of vertebrate animals in the testing of chemical substances in a manner consistent with provisions described in TSCA section 4(h).

b. Amphibian endocrine system. The petition does not set forth facts demonstrating that there is insufficient information available to EPA to reasonably determine or predict adverse endocrine-related effects from exposure to TBBPA. Therefore, the larval amphibian growth and development assay (LAGDA) (OCSPP Test Guideline 890.2300) (Ref. 132) is not necessary. Data are available that address thyroid effects of TBBPA for both bioactivity and dose response (Refs. 57 and 133 to 139). These data include mixed results in amphibians and more consistent results in mammals indicating that changes in thyroid hormones are associated with developmental effects (specifically neurobehavioral effects). Given the weight-of-evidence, EPA does not believe that the LAGDA would significantly change this conclusion. Furthermore, EPA's use of this available existing toxicity information reduces the use of vertebrate animals in the testing of chemical substances in a manner consistent with provisions described in TSCA section 4(h).

8. *EPA's conclusions.* EPA denied the request to issue an order under TSCA section 4 because the TSCA section 21 petition does not set forth sufficient facts for EPA to find that the information currently available to the Agency, including existing studies (identified prior to or after publication of EPA's Problem Formulation and Initial Assessment) on TBBPA and analogs, as well as alternate approaches for risk evaluation, is insufficient to permit a reasoned determination or prediction of the health or environmental effects of TBBPA at issue in the petition nor that the specific testing the petition identified is necessary to develop additional information, as elaborated throughout Unit IV of this notice.

Furthermore, to the extent the petitioners request vertebrate testing, EPA emphasizes that future petitions should discuss why such testing is appropriate, considering the reduction of testing on vertebrates encouraged by section 4(h) of TSCA, as amended.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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List of Subjects in 40 CFR Chapter I

Environmental protection, Flame retardants, Hazardous substances, tetrabromobisphenol A.

Dated: March 10, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 161216999–7232–01]

RIN 0648–BG50

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a request from the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) for authorization to take marine mammals incidental to commercial fireworks displays permitted by the Sanctuary in California, over the course of five years (2017–2022). As required by the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations.

DATES: Comments and information must be received no later than April 17, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0017, by any of the following methods:

- *Electronic submission:* Submit all electronic public comments via the federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0017,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

Instructions: 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 by NMFS. 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), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will

accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the MBNMS's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Executive Summary

These proposed regulations, under the MMPA (16 U.S.C. 1361 *et seq.*), establish frameworks for authorizing the take of marine mammals incidental to the commercial fireworks displays in four regions within the MBNMS: Half Moon Bay, Santa Cruz/Soquel, Monterey Peninsula, and Cambria.

Purpose and Need for This Regulatory Action

On October 18, 2016, NMFS received an adequate and complete application from the MBNMS requesting 5-year regulations authorizing the taking, by Level B harassment, of California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina richardii*) incidental to commercial fireworks displays permitted by the MBNMS. The Sanctuary's current incidental take authorization regulations expire July 3, 2017; therefore, the proposed regulations would be valid from July 4, 2017 through July 3, 2022.

Legal Authority for the Regulatory Action

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice and public comment, the agency makes certain findings and issue regulations. These proposed regulations contain mitigation, monitoring, and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing the five-year regulations and any subsequent Letters of Authorization (LOAs).

Summary of Major Provisions Within the Proposed Regulations

The following provides a summary of some of the major provisions within this proposed rulemaking for MBNMS fireworks in the four display areas. We have preliminarily determined that the MBNMS's adherence to the proposed mitigation, monitoring, and reporting measures listed below would achieve the least practicable adverse impact on the affected marine mammals. They include:

- Fireworks will not be authorized during the primary spring breeding season for marine wildlife (March 1 to June 30);
- Up to two shows per year can be an hour in length but all other fireworks displays will not exceed thirty minutes in duration and will occur with an average frequency less than or equal to once every two months;
- Delay of aerial ''salute'' effects until five minutes after the commencement of any fireworks display;
- Remove all plastic and aluminum labels and wrappings from pyrotechnic devices prior to use and required recovery of all fireworks-related debris from the launch site and afflicted beaches; and
- Required monitoring and reporting of marine mammals at the fireworks site prior to and after each display.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States (U.S.) citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On October 18, 2016, NMFS received a complete application from the MBNMS requesting authorization to take, by Level B harassment, two species of marine mammals incidental to commercial fireworks displays conducted under sanctuary authorization permits issued by the MBNMS. Marine mammals within the sanctuary would be exposed to elevated levels of sound and light as a result of authorized fireworks displays. The MBNMS has monitored individual displays over the years to improve its understanding of their characteristics and potential impacts to sanctuary resources. When exposed to lights and noise from fireworks, hauled-out sea lions and seals may exhibit signs of disturbance such as flushing, cessation of vocalizations, and a delay in returning to a haul-out. NMFS considers these types of responses to constitute take, by Level B harassment; therefore, the MBNMS has requested regulations governing that take. NMFS proposes to issue the requested regulations and 5-year LOA. On November 10, 2016 (81 FR 78993), we published a notice of receipt of MBNMS's application in the **Federal Register**, requesting comments and information related to the request for 30 days. We did not receive any comments.

The MBNMS was designated as the ninth national marine sanctuary (NMS) in the United States on September 18, 1992. Managed by the Office of National Marine Sanctuaries (ONMS) within NOAA, the Sanctuary adjoins 240 nautical miles (nmi) of central California's outer coastline (overlaying 25 percent of state coastal waters), and encompasses 4,601 square nmi of ocean waters from mean high tide to an average of 26 nmi offshore between Rocky Point in Marin County and Cambria in San Luis Obispo County.

The MBNMS has authorized fireworks displays over Sanctuary waters for many years as part of national and community celebrations (*e.g.,* Independence Day, municipal anniversaries), and to foster public use and enjoyment of the marine environment. In central California, marine venues are the preferred setting for fireworks in order to optimize public access and avoid the fire hazard associated with terrestrial display sites.

NMFS has issued incidental take authorizations under section 101(a)(5)(A or D) of the MMPA to MBNMS for the specified activity since 2005. NMFS first issued an incidental harassment authorization (IHA) under section 101(a)(5)(D) of the MMPA to MBNMS on July 4, 2005 (70 FR 39235; July 7, 2005), and subsequently issued 5-year regulations governing the annual issuance of LOAs under section 101(a)(5)(A) of the MMPA (71 FR 40928; July 19, 2006). Upon expiration of those regulations, NMFS issued MBNMS an IHA (76 FR 29196; May 20, 2011), and subsequent 5-year regulations and LOA which expire on July 3, 2017 (77 FR 31537; May 29, 2012).

Per previous IHAs, regulations, and LOAs, the MBNMS has monitored California sea lions and harbor seals at the four regions where fireworks displays are authorized. Based on these and other data combined with the MBNMS's estimated maximum number of annual fireworks displays, MBNMS is requesting authorization to incidentally harass up to 3,810 California sea lions and 570 harbor seals, annually.

Description of the Specified Activity

Overview

Sponsors of fireworks displays conducted in the MBNMS are required to obtain sanctuary authorization prior to conducting such displays (see 15 CFR 922.132). Since the MBNMS began issuing permits for fireworks discharge in 1993, it has received a total of 102 requests for professional fireworks displays, the majority of which have been associated with large community events such as Independence Day and municipal festivals. MBNMS has permitted, on average, approximately five fireworks displays per year; however, only 2 to 4 displays were hosted annually between 2009 and 2015. However, economic conditions or other factors could result in more requests. Therefore, the MBNMS anticipates authorizing a maximum of 10 fireworks displays, annually, in 4 display areas along 276 mi (444 km) of coastline during the effective period of these proposed regulations.

Dates and Duration

The specified activity may occur from July 1 through February 28, annually, for the effective period of the proposed regulations (July 4, 2017 through July 3, 2022). Each display will be limited to 30 minutes in duration with the exception of two events per year lasting up to one hour each. Events throughout the year will occur with an average frequency of less than or equal to once every two months within each of the four prescribed display areas. The MBNMS does not authorize fireworks from March 1 through June 30, annually, to avoid overlap with primary reproductive periods; therefore, no takes of marine mammals incidental to the specified activity would occur during this moratorium period.

Specific Geographic Region

Pyrotechnic displays within the sanctuary are conducted from a variety of coastal launch sites (*e.g.,* beaches, bluff tops, piers, offshore barges, golf courses). Authorized fireworks displays would be confined to four prescribed areas (with seven total sub-sites) within the sanctuary, while displays along the remaining 95 percent of sanctuary coastline would be prohibited. These sites were approved for fireworks events based on their proximity to urban areas and pre-existing high human use patterns, seasonal considerations such as the abundance and distribution of marine wildlife, and the acclimation of wildlife to human activities and elevated ambient noise levels in the area.

The four display areas are located, from north to south, at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula (Pacific Grove/North and South Monterey), and Cambria (Santa Rosa Creek) (see Figure 1 in MBNMS's application). The number of displays is not expected to exceed 10 total events per year across all four areas. Detailed descriptions of each display area are available in the 2006 *Environmental Assessment of the Issuance of a Small Take Regulations and LOAs and the Issuance of National Marine Sanctuary Authorizations for Coastal Commercial Fireworks Displays within Monterey Bay National Marine Sanctuary, CA* (available online at *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm*).

Half Moon Bay

Half Moon Bay is a bay of the Pacific Ocean on the coast of San Mateo County, California. Surrounding coastal towns include Princeton-by-the-Sea, Miramar, El Granada, and the city of Half Moon Bay which is located approximately 25 mi (40 km) south of San Francisco, 10 mi (16 km) west of San Mateo, and 45 mi (72 km) north of Santa Cruz. This site has been used annually for a medium-sized Independence Day fireworks display on July 4, which lasts about 20 minutes. The launch site is on a sandy beach inside and adjacent to the east outer breakwater, upon which the aerial shells are launched and aimed to the southwest. The marine venue adjacent to Pillar Point Harbor is preferred for optimal public access and to avoid the fire hazard associated with terrestrial display sites.

Half Moon Bay and specifically Pillar Point Harbor is heavily used by the public in multiple ways, including, but not limited to, commercial fishing, recreational water and beach use, and air and automobile travel. The harbor supports a commercial fishing fleet and a considerable volume of recreational boat traffic. Pillar Point is also known as ''Mavericks'' which is a world-class surfing destination; therefore, surfers and swimmers are also prevalent. Half Moon Bay Airport is located adjacent to the harbor and approach and departure routes pass directly over the acute impact area. On weekends, with good weather, the airport may accommodate as many as fifty flights per day. The impact area is also subjected to daily traffic noise from California Highway 1, which runs along the coast and is the primary travel route through the area.

Santa Cruz/Soquel

Two separate fireworks display sites are located within the Santa Cruz/Soquel area: Santa Cruz and Aptos. The launch site in Soquel is on a sandy beach on the west bank of the San Lorenzo River adjacent to the Santa Cruz Boardwalk. This site is used during October, annually, for the City of Santa Cruz anniversary fireworks displays. During the fireworks display, 40–70 vessels may anchor within the acute impact area to view the fireworks, with vessels moving throughout the waters south of the launch site to take up position. In addition, U.S. Coast Guard (USCG) and harbor patrol vessels motor through the impact area to maintain a safety zone around the launch site.

Similar to Half Moon Bay, this area is heavily urbanized. The harbor immediately adjacent to the Santa Cruz impact area is home to a commercial fishing fleet and supports a large volume of recreational boater traffic. The beaches to the west of the Soquel launch site are adjacent to a large

coastal amusement park complex and are used extensively by beachgoers and water sport enthusiasts from the local area as well as San Jose and San Francisco. Immediately southwest of the launch site is a mooring field and the Santa Cruz Municipal Pier which is lined with retail shops, restaurants, and offices. To the west of the pier is a popular local surfing destination known as 'Steamer Lane'.

The Aptos site is located at Seacliff State Beach off Highway 1 and is typically used by the Monte Foundation each October for a large fundraiser supporting Aptos area schools. At the seaward end of the Aptos Pier is a historic 400-feet (ft) (122-meters (m)) cement vessel, which was purposefully grounded in its current position as an extension of the pier, but to which public access has since been restricted. The exposed interior decks of the vessel have created convenient haul-out surfaces for harbor seals. During the period from sunset through the duration of the fireworks display, 30–40 vessels anchor within the acute impact area to view the fireworks, typically traveling throughout the waters seaward of the cement vessel to take up position. In addition, USCG and State Park Lifeguard vessels motor through the impact area to maintain a safety zone around the launch site.

Monterey Peninsula

Two separate fireworks display sites (City of Monterey and Pacific Grove) are located within the Monterey Peninsula area. For Independence Day, the City of Monterey typically launches approximately 750 shells and an equal number of low-level effects from a barge anchored approximately 1,000 ft (305 m) east of Municipal Wharf II and 1,000 ft north of Del Monte Beach. The City's display typically lasts approximately 20 minutes and is accompanied by music broadcasted from speakers on Wharf II. A Monterey New Year's festival has at times used the City's launch barge for an annual fireworks display. This medium-size aerial display typically lasts approximately 8 minutes, when it occurs. In addition, several private displays have been authorized from a launch site on Del Monte Beach, including an aerial display and low-level displays, lasting approximately 7 minutes.

As with all other sites, this region is heavily urbanized. Here, the impact area lies directly under the approach/departure flight path for Monterey Peninsula Airport and is commonly exposed to noise and exhaust from general aviation, commercial, and military aircraft at approximately 500 ft (152 m) altitude. The airport supports approximately 280 landings/takeoffs per day in addition to touch-and-goes (landing and takeoff training). Auto traffic and emergency vehicles are audible from Lighthouse and Del Monte Avenues, main transportation arteries along the adjacent shoreline. On the water, commercial and recreational vessels operate at all hours from the adjacent harbor. A thirty-station mooring field lies between the launch barge and Municipal Wharf II. The moorings are usually completely occupied during the annual fireworks event. During the period from sunset through the duration of the fireworks display, 20–30 vessels anchor within the acute impact area to view the fireworks, with vessels transiting through the waters south of the launch site to take up position. In addition, USCG and harbor patrol vessels motor through the impact area to maintain a safety zone around the launch site.

The Pacific Grove site is in the center of an urban shoreline adjacent to a public beach. The shoreline to the east and west of the launch site is lined with residences and a public road and pedestrian trail. The launch site is at the top of a rocky coastal bluff adjacent to an urban recreation trail and public road. At peak usage, the beach may support up to 500 visitors at any given time. Surfing, swimming and boating activity is common.

This Pacific Grove site is typically used for an annual 'Feast of Lanterns' fireworks display in late July which is part of a community event that has been celebrated in the City of Pacific Grove for over 100 years. The fireworks are part of a traditional outdoor play that concludes the festival. The small aerial display typically lasts approximately 20 minutes and is accompanied by music broadcasted from speakers at Lover's Cove. During the period from sunset through the duration of the fireworks display, 10–20 vessels anchor within the acute impact area to view the fireworks. A USCG vessel motors through the impact area to maintain a safety zone seaward of the launch site.

Cambria

The Cambria site is a public sandy beach at Shamel County Park. Immediately north of the launch site is the mouth of Santa Rosa Creek and Lagoon. The impact area is used by boaters, recreational fishermen, swimmers, surfers, and beachgoers. The shoreline south of the launch site is lined with hotels, abuts a residential neighborhood, and is part of San Simeon State Beach. This site is typically used each year for a 20-minute Independence Day fireworks display on July 4.

Detailed Description of the Specified Activity

Professional pyrotechnic devices used in fireworks displays can be grouped into three general categories: Aerial shells (paper and cardboard spheres or cylinders ranging from 2–12 inch (in) (5–30 centimeter (cm)) in diameter and filled with incendiary materials), low-level comet and multi-shot devices similar to over-the-counter fireworks (*e.g.,* roman candles), and ground-mounted set piece displays that are mostly static in nature. Each display is unique according to the type and number of shells, the pace of the show, the length of the show, the acoustic qualities of the display site, and even the weather and time of day. An average large display will last 20 minutes and include 700 aerial shells and 750 low-level effects. An average smaller display lasts approximately seven minutes and includes 300 aerial shells and 550 low-level effects.

Aerial Shells

Aerial shells are launched from tubes (*i.e.,* mortars), using black powder charges, to altitudes of 200 to 1,000 ft (61 to 305 m) where they explode and ignite internal burst charges and incendiary chemicals. Most of the incendiary elements and shell casings burn up in the atmosphere; however, portions of the casings and some internal structural components and chemical residue may fall back to the ground or water, depending on prevailing winds. An aerial shell casing is constructed of paper/cardboard or plastic and may include some plastic or paper internal components used to compartmentalize chemicals within the shell. Within the shell casing is a burst charge (usually black powder) and a recipe of various chemical pellets (*i.e.,* stars) that emit colored light (up to 30,000 candela) when ignited. Chemicals commonly used in the manufacturing of pyrotechnic devices include: Potassium chlorate, potassium perchlorate, potassium nitrate, sodium benzoate, sodium oxalate, ammonium, perchlorate, strontium nitrate, strontium carbonate, sulfur, charcoal, copper oxide, polyvinyl chloride, iron, titanium, shellac, dextrine, phenolic resin, and aluminum. Manufacturers consider the amount and composition of chemicals within a given shell to be proprietary information and only release aggregate descriptions of internal shell components. The arrangement and packing of stars and burst charges

within the shell determine the type of effect produced upon detonation.

Attached to the bottom of an aerial shell is a lift charge of black powder. The lift charge and shell are placed at the bottom of a mortar that has been buried in earth/sand or affixed to a wooden rack. After a fuse attached to the lift charge is ignited with an electric charge or heat source, the lift charge explodes and propels the shell through the mortar tube and into the air to a height determined by the amount of powder in the lift charge and the weight of the shell. As the shell travels skyward, a time-delay secondary fuse ignites the burst charge within the shell at peak altitude. The burst charge then detonates, igniting and scattering the stars, which may, in turn, produce small secondary explosions. Shells can be launched one at a time or in a barrage of simultaneous or quick succession launches. They are designed to detonate between 200 and 1,000 ft (61 to 305 m) above ground level.

In addition to color shells (also known as designer or starburst shells), a typical fireworks show will usually include a number of aerial 'salute' shells. The primary purpose of salute shells is to signify the beginning and end of the show and produce a loud percussive audible effect. These shells are typically 2–3 in (5–7 cm) in diameter and packed with black powder to produce a punctuated explosive burst at high altitude. From a distance, these shells sound similar to cannon fire when detonated.

Low-Level Comet and Multi-Shot Devices

Low-level devices consist of stars packed linearly within a tube which, when ignited, exit the tube in succession producing a fountain effect of single or multi-colored light as the stars incinerate during the course of their flight. Typically, the stars burn rather than explode, thus producing a ball or trail of sparkling light to a prescribed altitude where they extinguish. Sometimes they may terminate with a small explosion similar to a firecracker. Other low-level devices emit a projected hail of colored sparks or perform erratic low-level flight while emitting a high-pitched whistle, or emit a pulsing light pattern or crackling or popping sound effects. In general, low-level launch devices and encasements remain on the ground or attached to a fixed structure and can be removed upon completion of the display. Common low-level devices are multi-shot devices, mines, comets, meteors, candles, strobe pots and gerbs. They are designed to produce effects between 0 and 200 ft (61 m) AGL.

Ground Level Fireworks

Ground level or set-piece fireworks are primarily static in nature and remain close to the ground. They are usually attached to a framework that may be crafted in the design of a logo or familiar shape, illuminated by pyrotechnic devices such as flares, sparklers and strobes. These fireworks typically employ bright flares and sparkling effects that may also emit limited sound effects such as cracking, popping, or whistling. Set pieces are usually used in concert with low-level effects or an aerial show and sometimes act as a centerpiece for the display. They may have some moving parts, but typically do not launch devices into the air. Set piece displays are designed to produce effects between 0 and 50 ft (15 m) AGL.

The vast majority of fireworks displays authorized by the Sanctuary have been aerial displays that usually included simultaneous low-level displays. An average large display may last 20 minutes and include approximately 700 aerial shells and 750 low-level effects. An average smaller display may last approximately seven minutes and include 300 aerial shells and 550 low-level effects. Recent displays have shown a declining trend in the total number of shells used in aerial displays, likely due to increasing shell costs and/or fixed entertainment budgets. Low-level displays sometimes compensate for the absence of an aerial show by squeezing a larger number of effects into a shorter timeframe. This results in a dramatic and rapid burst of light and sound effects at low level. A large low-level display may expend 4,900 effects within a 7-minute period, and a small display will use an average of 1,800 effects within the same timeframe.

Fireworks Noise Levels

The MBNMS has conducted acoustic monitoring of select fireworks displays within the Sanctuary. In this document, all sound levels, unless otherwise noted, are referenced to re: 20 μPa to represent in-air levels. During a July 4, 2007 display within Monterey Bay harbor, average ambient sound levels prior to and after fireworks displays ranged from 58.8 to 59 decibels (dB). Sound levels from the show averaged 70–124 dB approximately 800 m from launch site with peaks up to 133 dB (Thorson and Berg, 2007).

Description of Marine Mammals in the Area of the Specified Activity

Twenty-six species of marine mammals are known to occur within Sanctuary boundaries. Twenty of these are cetaceans (whales and dolphins) which are not expected to be taken, by harassment, via aerial fireworks because sound attenuates rapidly across the air-water interface; therefore, they are not discussed further in this document. One species, the sea otter (*Enhydra lutris nereis*), is under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS); therefore, this species is also not considered further in this document. The five remaining species are pinnipeds (seals and sea lions).

The species of pinnipeds present within the Sanctuary include the California sea lion, Pacific harbor seal, Northern elephant seal (*Mirounga angustirostris),* Guadalupe fur seal (*Arctocephalus townsendi*), and Northern fur seal (*Callorhinus ursinus*). The Northern elephant seal does not overlap temporally with the proposed fireworks displays and therefore are not likely to be impacted by the specified activity. There is also no known temporal or spatial overlap between the display areas and Northern and Guadalupe fur seals. Therefore, based on scientific surveys investigating distribution and abundance of marine mammals throughout the Sanctuary and previous monitoring reports submitted in compliance with previous incidental take authorizations, NMFS has determined the only species likely to be harassed by the fireworks displays are the California sea lion and harbor seal.

California Sea Lion

The U.S. population of California sea lions ranges from southern Mexico to southwestern Canada (Carretta *et al.,* 2007). Pupping typically occurs in late May to June. Most individuals of this species breed during July on the Channel Islands off southern California which is approximately 100 mi (161 km) south of the MBNMS, and off Baja and mainland Mexico (Odell 1981), although a few pups have been born on Año Nuevo Island (Keith *et al.,* 1984). Following the breeding season on the Channel Islands, most adult and sub-adult males migrate northward to central and northern California and to the Pacific Northwest, while most females and young animals either remain on or near the breeding grounds throughout the year or move southward or northward, as far as Monterey Bay.

The greatest concentration of California sea lions in the MBNMS occur on Año Nuevo Island and

Monterey breakwater. Año Nuevo Island is the largest single haul-out site in the sanctuary, hosting as many as 9,000 California sea lions at times (Lowry2001). Stage structure of California sea lions within the Sanctuary varies by location, but generally, the majority of animals are adult and subadult males, primarily using the central California area to feed during the non-breeding season and are most common in the MBNMS during fall and spring migrations between southern breeding areas and northern feeding areas. Though males are generally most common, females may comprise 34 to 37 percent of juvenile individuals on the Monterey breakwater during El Niño events (Nicholson 1986).

Since nearing extinction in the early 1900s, the California sea lion population has increased dramatically; however, oceanographic conditions (*e.g.,* El Niño) influence how many are found in the Sanctuary on any given year. Population trends are based on pup counts which have increased from approximately 12,000 in 1975 to 61,943 in 2011 (Carretta *et al.,* 2016) although there is a strong correlation to decreased pup counts and increased mortality during El Nino years. The minimum population size for this stock is 153,337 with a best estimate of 296,750 individuals (Carretta *et al.,* 2016). The potential biological removal (PBR) level for this stock is 9,200 animals (Carretta *et al.,* 2016). The population is not listed as endangered or threatened under the ESA, nor is this a depleted or strategic stock under the MMPA.

Harbor Seal

Harbor seals are distributed throughout the west coast of the U.S., inhabiting near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. They generally do not migrate but have been known to travel extensive distances to find food or suitable breeding areas (Carretta *et al.,* 2006). In California, approximately 400–600 harbor seal haul-out sites are widely distributed along the mainland and on offshore islands (Carretta *et al.,* 2007).

Harbor seals are residents in the MBNMS throughout the year. This species inhabits offshore rocks, sand and mudflats in estuaries and bays, and isolated beaches. They haul out at dozens of sites from Point Sur to Año Nuevo. Within MBNMS, tagged harbor seals have been documented to move substantial distances (10–20 km (3.9–7.8 mi)) to foraging areas each night (Oxman 1995; Trumble 1995). Overall, radio-tagged individuals have moved total distances of 480 km (Allen *et al.,* 1987). The greatest concentration of harbor seals occurs on the northeast Monterey Peninsula. Using mark-recapture methods based on re-sightings of recognizable individuals, Nicholson (2000) estimated an approximate stage structure in the study area of 38 percent adult females, 15 percent adult males, 34 percent subadults, and 13 percent yearlings or juveniles in this area.

Pupping within the Sanctuary occurs primarily during March and April, followed by a molt during May and June. Peak abundance on land within the Sanctuary is reached in late spring and early summer when harbor seals haul out to breed, give birth to pups, and molt. Fireworks would not be authorized from March 1 through June 30, annually, to avoid peak reproductive periods.

Counts of harbor seals in California increased from 1981 to 2004 when the statewide maximum count was recorded. However, subsequent surveys conducted in 2009 and 2012 have been lower than the 2004 maximum count. The minimum population estimate is 27,348 with a best estimate of 30,968 individuals (Carretta *et al.,* 2016). PBR is 1,641 animals per year (Carretta *et al.,* 2016). The population is not listed as endangered or threatened under the ESA, nor is this a depleted or strategic stock under the MMPA.

Potential Effects of the Specific Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity, including mitigation, may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section and the ''Proposed Mitigation'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and, from that, on the affected marine mammal populations or stocks.

Marine mammals can be impacted by fireworks displays in four ways: sound, light, debris, and human presence. The primary causes of disturbance to pinnipeds not already disturbed by the gathering of people and/or vessels are light flashes and sound effects from exploding fireworks. Pyrotechnic devices that operate at higher altitudes (such as aerial shells) are more likely to have a larger impact area, while ground and low-level devices have more confined effects. The impact area is defined as the area where sound, light, and debris may have direct impacts on marine mammals. Impacts include, but are not limited to, abrupt changes in behavior such as cessation of vocalizations, flushing, and diving. These impacts have been described in detail in multiple documents associated with previous incidental take authorizations, including, but not limited to, NMFS *Environmental Assessment (EA) on the Issuance of Small Take Regulations and LOAs and the Issuance of National Marine Sanctuary Authorizations for Coastal Commercial Fireworks Displays Within the Monterey Bay National Marine Sanctuary* (2006), Read and Reynolds (2001), MBNMS (2002), and Thorson and Berg (2007). Here, we provide relevant information from those sources to describe the potential impacts of fireworks displays on pinnipeds within the impact area.

Auditory Effects

Marine Mammal Hearing

To review hearing capabilities of the two species of pinnipeds potentially taken incidental to the specified activity, it is necessary to break them down into their respective families: Phocidae (harbor seals) and Otariidae (California sea lions). As reviewed in NMFS (2016), phocid ears are anatomically distinct from otariid ears in that phocids have larger, more dense middle ear ossicles, inflated auditory bullae, and larger sections of the inner ear (*i.e.,* tympanic membrane, oval window, and round window. However, Southall *et al.,* (2007) discusses that, in air, pinniped ears work very much like other terrestrial mammals and estimates pinnipeds auditory bandwidth between 70 hertz (Hz) and 30 kilohertz (kHz).

Threshold Shift

When marine mammals are exposed to elevated noise levels, they can experience a threshold shift (TS). NMFS defines a noise-induced threshold shift (TS) as ''a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS 2016). The amount of threshold shift is customarily expressed in decibels (ANSI 1995; Yost 2007). A TS can be permanent (PTS) or temporary (TTS). As described in NMFS (2016), there are numerous factors to consider

when examining the potential for a noise-induced TS, including, but not limited to, the signal characteristics (*e.g.,* impulsive or non-impulsive), exposure duration, level and frequency, recovery time (seconds to minutes or hours to days), and general overlap between sound source and species (*e.g.,* spatial, temporal, and spectral), including the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.,* 2014).

There are two types of physiological auditory impacts NMFS considers when marine mammals could be exposed to elevated sounds from a specified activity: PTS and TTS. PTS is defined as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). Available data from humans and other terrestrial mammals indicate that a 40 dB threshold shift approximates PTS onset (see Ward *et al.,* 1958, 1959; Ward 1960; Kryter *et al.,* 1966; Miller 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). NMFS considers PTS to constitute Level A harassment.

TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter 1985). NMFS defines TTS as a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS 2016). A TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (as reviewed in NMFS 2016). TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity recovers rapidly after exposure to the noise ends. Richardson *et al.* (1995) noted the magnitude of TTS depends on the level and duration of noise exposure, among other considerations.

There are no direct data on pinniped hearing impacts from fireworks; however, researchers at Vandenberg Air Force Base (VAFB) conducted auditory brainstem response (ABR) testing on harbor seals prior to and after launches of four Titan IV rockets (which result in sonic booms), one Taurus launch, and two Delta IV launches in accordance with issued scientific research permits (MSRS 2009). Detailed analysis of the changes in waveform latency and waveform replication of the ABR measurements for the 14 seals showed no detectable changes in the seals' hearing sensitivity as a result of exposure to the launch noise. One seal had substantial decreased acuity to the 8 kilohertz (kHz) tone-burst stimuli prior to the launch. The cause of this hearing loss was unknown but was most likely congenital or from infection. Another seal had a great deal of variability in waveform latencies in response to identical stimuli. This animal moved repeatedly during testing, which may have reduced the sensitivity of the ABR testing on this animal for both the click and 8 kHz tone burst stimuli. More detail regarding these tests can be found in NMFS proposed rule prepared for VAFB's rocket launches (78 FR 7379; December 9, 2013).

Monitoring reports indicate sea lion vocalizations can continue throughout a display (MBNMS 2007) or a colony can reduce or cease auditory communication (MBNMS 2002). Harbor seals are more likely to cease vocalization than sea lions (NMFS 2006). In either case, within hours of a display ending, marine mammals have been documented as vocalizing and behaving normally (MBNMS 1998, 2002; NMFS 2006). As described above, sound level approximately 800 m from a fireworks barge (which is representative of distances between sources and haul-outs) averaged 70–124 dB and did not exceed 133 dB (peak). For comparison, Southall *et al.* (2000) recommended injury criteria for pinnipeds in-air be established at 149 dB (peak). Based on these data, NMFS believes it is unlikely sea lions and seals would sustain temporary, much less permanent, hearing impairment during fireworks displays.

Behavioral Disturbance

Fireworks displays are limited to urban areas and, as such, pinnipeds potentially impacted are exposed to every day anthropogenic disturbances such as human presence, boating, airplanes, etc. However, fireworks are known to acutely disturb animals due to elevated noise levels and visual stimulation. NMFS anticipates some sea lions and seals will avoid or temporarily depart the impact area during the hours immediately prior to the beginning of the fireworks display due to increased human recreational activities associated with the overall celebration event. In particular, a flotilla of recreational and commercial boats usually gathers in a semi-circle within the impact area to view the fireworks display from the water. Some boaters also set off their own personal fireworks. From sunset until the start of the display, security vessels of the USCG and/or other government agencies often patrol throughout the waters of the impact area to keep vessels a safe distance from the launch site.

In general, upon detonation of the first few fireworks, California sea lions and harbor seals will flush from usual and accustomed haul-out sites for as little as 15 minutes to as much as 15 hours following any fireworks event. Some animals may remain in the water near the haul-out site while others may leave the immediate area. Below are summaries of accounts from detailed observations made by sanctuary staff over an 8-year period (1993–2001), in-depth surveys conducted in 2001 and 2007, and pre- and post-event monitoring conducted under MMPA authorizations from 2005–2015.

California Sea Lions

Of all the display sites in the Sanctuary, California sea lions are only present in significant concentration at Monterey. No signs of long-term behavioral impacts have been detected as a result of fireworks displays. However, acute behavioral impacts have been documented and NMFS expects sea lions to react in a similar manner as described here. In the first seconds of a 2001 fireworks display at Monterey Bay, the sea lion colony became very quiet, vocalizations ceased, and younger sea lions evacuated the haul out. Most of the colony remained intact until the older bulls evacuated, usually after a salvo of overhead bursts in short succession. Once the bulls departed, the entire colony followed suit, swimming toward the open sea. Some sea lions attempted to haul-out again but returned to the water during subsequent fireworks bursts. After the show, many sea lions returned to the breakwater within 30 minutes following the conclusion of the display but have been observed to remain quiet for some time. The colony reestablished itself on the breakwater within 2–3 hours following the conclusion of the display, during which vocalization activity returned. Typically, the older bulls are the first to renew vocalization behavior (within the first hour), followed by the younger animals. By the next morning, the entire colony is expected to be intact and functioning with no visible sign of abnormal behavior.

Another detailed account of reactions of sea lions to fireworks is found within Thorson and Berg (2007) which reports marine mammal and acoustic monitoring data from the July 4, 2007 fireworks at the Monterey Bay

breakwater. The methods used during the event were as follows: Counts of marine mammals were conducted by an approved marine mammal observer, using high quality binoculars during daytime observations or when there was sufficient ambient light. Night vision goggles were used during night time hours. Observations were made from an MBNMS vessel. Counts were made approximately every hour beginning at 16:27 on July 4, 2007, and continued through 23:05. Counts were concentrated along the jetty where the majority of sea lions were hauled out. Sea lions were also counted along the USCG pier and on several buoys in the harbor. During each count, the time, area observed, the species present, group composition when possible (age class and gender), general behavior (*e.g.,* resting, interacting), and other disturbances (vessels, aircraft etc.) were recorded. Environmental conditions were also recorded and included air temperature, tide, wind speed and swell height (outside of the harbor). The response of pinnipeds to the fireworks (head lifts, flush or movements), behavior in the water (milling, interacting with conspecifics, swimming or leaving the area) and the time to return to the haul-out, if animals flush, were recorded. Counts were continued for 1.5 hours after the fireworks ended. Counts were also made on the following day (July 5) from 08:10 to 09:12.

California sea lions were the most numerous of the marine mammal species with up to 291 sea lions observed. Most sea lions were yearlings or juveniles (2–4 years old). Two sub adult males (approximately 5–6 years old) were also observed and appeared to be practicing holding a water territory. The majority of sea lions hauled out on the jetty during the day (up to 90 percent) appeared to be resting.

The number of sea lions was steady until approximately 20:45 when several boats passed by the end of the jetty and shot off their own fireworks causing a number of sea lions to enter the water. At the beginning of the fireworks display, there were only six sea lions hauled out at the end of the USCG pier. By the fourth fireworks detonation, the last of the sea lions had entered the water. The fireworks ended at 21:37, and the first sea lion hauled back out at 21:55. The first sea lion to return was a sub adult male that had been at the end of the jetty. By the time observations ended at 23:05, four sea lions had hauled out on the jetty. On July 5, two counts were made of the sea lions along the jetty and USCG pier. Both counts were higher than the previous day.

Harbor Seals

In general, harbor seals are more timid and easily disturbed than California sea lions. Thus, based on past observations of sea lion disturbance thresholds and behavior, it is very likely that harbor seals evacuate exposed haul outs in the impact area during fireworks displays, though they may loiter in adjacent surface waters until the fireworks have concluded (MBNMS). The following describes observations during the same July 4, 2007, fireworks event referenced above: Harbor seals were observed hauled out on exposed rocks just offshore of the western end of the harbor from 18:50 to 20:38; however the tide was high and only 8 harbor seals were hauled out resting, while 1 to 2 animals were seen resting in the water. Because the primary purpose of the monitoring was to document sea lion reactions to the fireworks, observations during the display were at a location not conducive to monitoring harbor seals. At 70 minutes after the end of the fireworks, there were no harbor seals hauled out. On the day after the fireworks and with a lower tide (0.8 vs. 0.0 m), there were 31 harbor seals hauled out at the west end of the harbor. These observations (*i.e.,* flushing followed by full recolonization by the next day) are consistent with other monitoring reports.

In addition to fireworks events, harbor seals have been monitored at VAFB in response to rocket launches. Since 1997, there have been five to seven space vehicle launches per year and there appears to be only short-term disturbance effects to harbor seals as a result of launch noise. Harbor seals will temporarily leave their haul-out when exposed to launch noise; however, they generally return to the haul-out within one hour. Harbor seals also typically leave the haul-out site and enter the water due to the noise created by launch vehicles during launch operations. The percentage of seals leaving the haul-out increases with noise level up to approximately 100 dB ASEL, after which almost all seals leave, although data have shown that some percentage of seals (all adults) have remained on shore during launches. The louder the launch noise, the longer it took for seals to begin returning to the haul-out site and for the numbers to return to pre-launch levels. Seals may begin to return to the haul-out site within 2–55 minutes of the launch disturbance, and the haul-out site usually returned to pre-launch levels within 45–120 minutes. In contrast, noise levels from an Atlas launch and several Titan II launches had ASELs ranging from 86.7 to 95.7 dB at the closest haul-out, and seals began to return to the haul-out site within 2–8 minutes post-launch. More detail regarding VAFB monitoring results can be found in NMFS proposed rule for VAFB's rocket launches (78 FR 7379; December 9, 2013).

Anticipated Effects on Marine Mammal Habitat

Regarding impacts to marine mammal habitat, debris and chemical residue from fireworks can fall upon land and waters near a fireworks detonation site. The tops of the mortars and other devices are usually covered with aluminum foil to prevent premature ignition from sparks during the display and to protect them from moisture. The shells and stars easily punch through the aluminum foil when ignited, scattering pieces of aluminum in the vicinity of the launch site. Through various means, the aluminum debris and garbage generated during preparation of the display may be swept into the ocean. Some pieces are immediately incinerated, while others burn totally or partially on their way to the ground. However, some devices will fail to detonate after launch (duds) and fall back to earth/sea as an intact sphere or cylinder. The freefalling projectile could pose a physical risk to any wildlife within the fallout area, but the general avoidance of the area by wildlife during the display and the low odds for such a strike likely present a negligible potential for a direct hit. At times, some shells explode in the mortar tube (referred to as a flower pot) or far below their designed detonation altitude. It is highly unlikely that mobile organisms would remain close enough to the launch site during a fireworks display to be within the effective danger zone for such an explosion.

Generally, the bulk of the debris will fall to the surface within a 0.5-mi (0.8-km) radius of the launch site; however, small casings from low-level devices (*e.g.,* small cardboard tubes) fall to earth within 200 yards (183 m) from launch site because they do not attain altitudes for greater lateral wind transport. The acute impact area from the center of the ignition point depends on the size and height of the fixed structure, the number and type of special effects, wind direction, atmospheric conditions, and local structures and topography.

The MBNMS has conducted surveys of solid debris on surface waters, beaches, and subtidal habitat after numerous fireworks displays. They also typically recover substantial uncharred casing remnants on ocean waters immediately after the display. Other items found in the acute impact area are

cardboard cylinders, disks, and shell case fragments; paper strips and wadding; plastic wadding, disks, and tubes; aluminum foil; cotton string; and even whole unexploded shells (duds or misfires). In some cases, virtually no fireworks debris is detected. This variance is likely due to several factors, such as type of display, tide state, sea state, and currents and has discovered no visual evidence of acute or chronic impacts to the environment or wildlife. In accordance with permits issued by the MBNMS, the entity conducting fireworks displays are required to clean area beaches for up to 2 days following the display.

Chemical residue is produced in the form of smoke, airborne particulates, fine solids, and slag (spent chemical waste material that drips from the deployment canister/launcher and cools to a solid form). The fallout area for chemical residue is unknown, but is probably similar to that for solid debris. Similar to aerial shells, the chemical components of low-level devices produce chemical residue that can migrate to ocean waters as a result of fallout. The point of entry would likely be within a small radius (about 300 ft (91 m)) of the launch site. The MBNMS has found only one scientific study directed specifically at the potential impacts of chemical residue from fireworks upon the environment. That study indicates that chemical residues (fireworks decomposition products) do result from fireworks displays and can be measured under certain circumstances (DeBusk *et al.,* 1992). The report, prepared for the Walt Disney Corporation, presented the results of a 10-year study of the impacts of fireworks decomposition products upon an aquatic environment. Researchers studied a small lake in Florida subjected to 2,000 fireworks displays over a 10-year period to measure key chemical levels in the lake. The report concluded that detectable amounts of barium, strontium, and antimony had increased in the lake but not to levels considered harmful to aquatic biota. The report further suggested that ''environmental impacts from fireworks decomposition products typically will be negligible in locations that conduct fireworks displays infrequently'' and that ''the infrequence of fireworks displays at most locations, coupled with a wide dispersion of constituents, make detection of fireworks decomposition products difficult.''

In summary, debris and chemical residue from fireworks displays authorized by the MBNMS could enter marine mammal habitat. However, the volume at which this would occur, coupled with clean-up requirements, is negligible. As such, NMFS does not anticipate the specified activity would have negative impacts on marine mammal habitat.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines 'harassment' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).''

All anticipated takes would be by Level B harassment, involving temporary changes in behavior such as flushing and cessation of vocalization. The risk of injury, serious injury, and mortality is considered negligible considering the nature of the specified activity and proposed mitigation measures; therefore, no take by Level A harassment is requested by the MBNMS or proposed by NMFS in these regulations.

The MBNMS anticipates permitting up to 10 fireworks events annually. Based on previous monitoring data and unpublished aerial survey data from the NMFS Southwest Fisheries Science Center (Lowry 2001, 2012, 2013), the maximum count of marine mammals, by species, was used for each site to identify potential take numbers; therefore, the amount of proposed take is considered conservative. In total, 10 fireworks displays could take up to 3810 California sea lions and 570 harbor seals, annually.

TABLE 1—ESTIMATED POTENTIAL INCIDENTAL TAKE PER YEAR BY DISPLAY AREA BASED ON DATA COLLECTED DURING PREVIOUS MONITORING EVENTS

Display location	Time of year	Estimated maximum number of events per year	Maximum number of animals present per event (total)	
			California sea lions	Harbor seals
Half Moon Bay	July	1	100	65
Santa Cruz/Soquel	October	1	190	5
Santa Cruz/Seacliff State Beach	May	1	5	50
North Monterey Bay	July	1	190	50
South Monterey Bay	January	1	800	60
South Monterey Bay	July	1	1500	60
South Monterey Bay	variable	1	800	60
Pacific Grove	July	1	150	100
Cambria (Public)	July	1	50	60
Cambria (Private)	July	1	25	60
Total		10	3810	570

Proposed Mitigation

Under section 101(a)(5)(D) of the MMPA, NMFS shall prescribe the ''permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.''

To ensure that the ''least practicable adverse impact'' will be achieved, NMFS evaluates mitigation measures in consideration of the following factors in

relation to one another: The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, their habitat, and their availability for subsistence uses (latter where relevant); the proven or likely efficacy of the measures; and the practicability of the measures for applicant implementation.

The MBNMS and NMFS worked to craft a set of mitigation measures designed to minimize fireworks impacts on the marine environment, as well as to outline the locations, frequency, and conditions under which the MBNMS would authorize marine fireworks displays. These mitigation measures, which were successfully implemented under previous NMFS-issued ITAs, include four broad approaches for managing fireworks displays. Note previous ITAs allowed for take incidental to 20 fireworks displays per year while this rule anticipates only 10 firework displays would occur annually.

- Establish a sanctuary-wide seasonal prohibition to safeguard pinniped reproductive periods. Fireworks events would not be authorized between March 1 and June 30 of any year when the primary reproductive season for pinnipeds occurs.
- Establish four conditional display areas and prohibit displays along the remaining 95 percent of sanctuary coastal areas. Display areas are located adjacent to urban centers where wildlife is often subject to frequent human disturbances. Remote areas and areas where professional fireworks have not traditionally been conducted would not be considered for fireworks approval. The conditional display areas (described previously in this document) are located at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Peninsula, and Cambria (Santa Rosa Creek).
- Displays would be authorized at a frequency equal to or less than one every 2 months in each area with a maximum of 10 displays per year.
- Fireworks displays would not exceed 30 minutes with the exception of two longer displays per year that will not exceed 1 hour.
- Implement a ramp-up period, wherein salutes are not allowed in the first 5 minutes of the display;
- Conduct a post-show debris cleanup for up to two days whereby all debris from the event is removed.

These mitigation measures are designed to prevent an incremental proliferation of fireworks displays and disturbance throughout the sanctuary and minimize area of impact by confining displays to primary traditional use areas. They also effectively remove fireworks impacts from 95 percent of the Sanctuary's coastal areas, place an annual quota and multiple conditions on the displays authorized within the remaining five percent of the coast, and impose a sanctuary-wide seasonal prohibition on all fireworks displays. These measures were developed to assure the least practicable adverse impact to marine mammals and their habitat.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;
2. An increase in our understanding of how many marine mammals are likely to be exposed to fireworks that we associate with specific adverse effects, such as behavioral harassment;
3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:
   - Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;
4. An increased knowledge of the affected species; and
5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The MBNMS will conduct a pre-event and post-event census of local marine mammal populations within the fireworks detonation area, including a report identifying if any injured or dead marine mammals are observed during the post-event census. NMFS has worked with the MBNMS to develop an observer reporting form so that data are standardized across events. Reported data include number of individuals, by species, observed prior to display, behavioral observations (if observed during display), number of individuals, by species, after the fireworks event, any observed injured or dead animals, and fireworks event details (*e.g.,* start and end time).

The MBNMS must submit a draft annual monitoring report to NMFS within 60 days after the conclusion of the calendar year. MBNMS must submit a final annual monitoring report to NMFS within 30 days after receiving comments from NMFS on the draft report. If NMFS has no comments, the draft report will be considered to be the final report. In addition, the MBNMS will continue to make its information

available to other marine mammal researchers upon request.

Summary of Previous Monitoring

A detailed description of marine mammal and acoustic monitoring from 2006–2010 can be found in the Sanctuary's previous proposed incidental take authorization rulemaking (74 FR 19976, April 3, 2012). Here we provide a summary of marine mammals observed during monitoring from 2011–2016 conducted in accordance with the required monitoring and reporting measures contained within that rule and associated LOA.

TABLE 2—INCIDENTAL TAKE OF CALIFORNIA SEA LIONS DURING MBNMS-AUTHORIZED FIREWORKS DISPLAYS, 2011–2016

Site	California Sea Lion Counts					
	2011	2012	2013	2014	2015	2016
Half Moon Bay	0	no event	no event	no event	no event	no event.
Aptos	0	0	no event	no event	no event	no event.
Monterey	no event	no event	no event	no event	no event	no event.
Pacific Grove	0	0	0	0	0	1
Cambria	0	0	0	0	no event	0
Capitola	no event	no event	no event	0	0	0
City of Santa Cruz	no event	no event	no event	130	no event	363
Total	0	0	0	130	0	364

TABLE 3—INCIDENTAL TAKE OF HARBOR SEALS DURING MBNMS-AUTHORIZED FIREWORKS DISPLAYS, 2011–2016

Site	Harbor Seal Counts					
	2011	2012	2013	2014	2015	2016
Half Moon Bay	0	no event	no event	no event	no event	no event.
Aptos	0	0	no event	no event	no event	no event.
Monterey	no event	no event	no event	no event	no event	no event.
Pacific Grove	2	8	11	2	5	18
Cambria	0	0	0	0	no event	0
Capitola	no event	no event	no event	1	0	1
City of Santa Cruz	no event	no event	no event	2	no event	0
Total	2	8	11	5	5	19

Negligible Impact Analysis and Determination

NMFS has defined egligible impact as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering the authorized number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration, etc.), as well as effects on habitat, the status of the affected stocks, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Past monitoring by the MBNMS has identified at most only a short-term behavioral disturbance of animals by fireworks displays, with the causes of disturbance being sound effects and light flashes from exploding fireworks. Any takes would be limited to the temporary incidental harassment of California sea lions and harbor seals due to evacuation of usual and accustomed haul-out sites for as little as 15 minutes and as much as 15 hours following any fireworks event. Most animals depart affected haul-out areas at the beginning of the display and return to previous levels of abundance within 4 to 15 hours following the event.

NMFS has preliminarily determined that the fireworks displays, as described in this document and in MBNMS' application, will result in no more than Level B harassment of small numbers of California sea lions and harbor seals. The effects of coastal fireworks displays are typically limited to short term and localized changes in behavior, including temporary departures from haul-outs to avoid the sight and sound of commercial fireworks. Fireworks displays are limited in duration by MBNMS authorization requirements and would not occur on consecutive days at any fireworks site in the sanctuary. The mitigation measures proposed by MBNMS—and implemented as a component of NMFS' incidental take authorizations since 2005—would further reduce potential impacts. As described previously, these measures ensure that authorized fireworks displays avoid times of importance for breeding, as well as limiting displays to 5 percent of sanctuary coastline that is already heavily used by humans, and generally limiting the overall amount and intensity of activity. No take by injury, serious injury, or mortality is anticipated, and takes by Level B harassment would be at the lowest level practicable due to incorporation of the

mitigation measures described previously in this document.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of the relevant species or stock size in our determination of whether an authorization is limited to small numbers of marine mammals.

Here, NMFS proposes to authorize the take of up to 3,810 California sea lion and 570 harbor seal, annually, incidental to fireworks displays permitted by the MBNMS. As described in the ''*Description of Marine Mammals in the Area of the Specified Activity*'' section, the population estimate for the California sea lions is 296,750 individuals while the harbor seal population estimate is 30,968 individuals. Therefore, the proposed taking represents 1.2 and 1.8 percent of each stock, respectively.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to commercial fireworks authorized by the MBNMS would contain an adaptive management component.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the MBNMS regarding practicability), on an annual or biennial basis, if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The MBNMS's monitoring program (see ''Proposed Monitoring and Reporting'') would be managed adaptively. Changes to the proposed monitoring program may be adopted if they are reasonably likely to better accomplish the MMPA monitoring goals described previously or may better answer the specific questions associated with the MBNMS's monitoring plan.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Endangered Species Act (ESA)

The MBNMS has not requested, nor is NMFS proposing to authorize, take of marine mammals listed as threatened or endangered under the ESA in these proposed regulations. Therefore, we have determined that section 7 consultation under the ESA is not required.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), we have made a preliminary determination that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the content of the proposed regulations to authorize the taking described herein (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare the final rule and make final determinations on whether to issue the requested authorizations. This notice and referenced documents provide all environmental information relating to our proposed action for public review.

Classification

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has 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. MBNMS is the sole entity that would be subject to the requirements in these proposed regulations, and the MBNMS is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

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 (PRA) unless that collection of information displays a currently valid OMB control number. This proposed rule does not contain a collection-of-information requirement subject to the provisions of the PRA because the applicant is a Federal agency.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: March 10, 2017.

Samuel D. Rauch, III,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 217 is proposed to be amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Revise Subpart B is to read as follows:

Subpart B—Taking of Marine Mammals Incidental to Commercial Fireworks Displays at Monterey Bay National Marine Sanctuary, CA

Sec.

217.11 Specified activity and specified geographical region.
217.12 Effective dates.
217.13 Permissible methods of taking.
217.14 Prohibitions.
217.15 Mitigation.
217.16 Requirements for monitoring and reporting.
217.17 Letters of Authorization.
217.18 Renewals and Modifications of Letters of Authorization.

§ 217.11 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the Monterey Bay National Marine Sanctuary (MBNMS) and those persons it authorizes to display fireworks within the MBNMS for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to authorization of commercial fireworks displays.

(b) The taking of marine mammals by MBNMS may be authorized in a Letter of Authorization (LOA) only if it occurs in the MBNMS.

§ 217.12 Effective dates.

Regulations in this subpart are effective from July 4, 2017, through July 3, 2022.

§ 217.13 Permissible methods of taking.

(a) Under LOAs issued pursuant to § 216.106 and § 217.17 of this chapter, the Holder of the LOA (hereinafter ''MBNMS'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.11(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) Reserved.

§ 217.14 Prohibitions.

Notwithstanding takings contemplated in § 217.11 of this chapter and authorized by an LOA issued under § 216.106 and § 217.17 of this chapter, no person in connection with the activities described in § 217.11 of this chapter may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under § 216.106 and § 217.17 of this chapter;

(b) Take any marine mammal not specified in such LOAs;

(c) Take any marine mammal specified in such LOAs other than by incidental, unintentional Level B harassment;

(d) Take a marine mammal specified in such LOAs if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(e) Take a marine mammal specified in such LOAs if such taking results in an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

§ 217.15 Mitigation.

(a) When conducting the activities identified in § 217.11(a) of this chapter, the mitigation measures contained in any LOA issued under § 216.106 and § 217.17 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) Limiting the location of the authorized fireworks displays to the four specifically designated areas at Half Moon Bay, the Santa Cruz/Soquel area, the northeastern Monterey Breakwater, and Cambria (Santa Rosa Creek);

(2) Limiting the frequency of authorized fireworks displays to no more than an average frequency less than or equal to once every two months in each of the four prescribed areas;

(3) Limiting the duration of authorized individual fireworks displays to no longer than 30 minutes each, with the exception of two longer shows per year not to exceed 1 hour;

(4) Prohibiting fireworks displays at MBNMS between March 1 and June 30 of any year; and

(5) Continuing to implement authorization requirements and general and special restrictions for each event, as determined by MBNMS. Standard requirements include, but are not limited to, the use of a ramp-up period, wherein salutes are not allowed in the first five minutes of the display; the removal of plastic and aluminum labels and wrappings; and post-show reporting and cleanup. MBNMS shall continue to assess displays and restrict the number of aerial salute effects on a case-by-case basis, and shall implement general and special restrictions unique to each fireworks event as necessary.

(b) [Reserved]

§ 217.16 Requirements for monitoring and reporting.

(a) MBNMS is responsible for ensuring that all monitoring required under an LOA is conducted appropriately, including, but not limited to:

(1) Counts of pinnipeds in the impact area prior to and after all displays (counts should be made as close to the start of the display as possible but no sooner than 24 hours before the display and at comparable tide stage as the fireworks display), and

(2) Reporting to NMFS of all marine mammal injury, serious injury, or mortality encountered during debris cleanup the morning after each fireworks display.

(b) Unless specified otherwise in the LOA, MBNMS must submit a draft annual monitoring report to the Director, Office of Protected Resources, NMFS, no later than 60 days after the conclusion of each calendar year. This report must contain:

(1) An estimate of the number of marine mammals disturbed by the authorized activities,

(2) Results of the monitoring required in § 217.16(a) of this chapter, and any additional information required by the LOA. A final annual monitoring report must be submitted to NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final annual monitoring report.

(c) A draft comprehensive monitoring report on all marine mammal monitoring conducted during the period of these regulations must be submitted to the Director, Office of Protected Resources, NMFS at least 120 days prior to expiration of these regulations. A final comprehensive monitoring report must be submitted to the NMFS within 30 days after receiving comments from NMFS on the draft report. If no comments are received from NMFS, the draft report will be considered to be the final comprehensive monitoring report.

§ 217.17 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the MBNMS must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the MBNMS must apply for and obtain a modification of the LOA as described in § 217.18 of this chapter.

(d) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(e) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(f) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.18 Renewals and Modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 and § 217.17 of this chapter for the activity identified in § 217.11(a) of this chapter shall be renewed or modified upon request by the applicant, provided that: (1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.18(c)(1) of this chapter), and (2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.18(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA .

(c) An LOA issued under § 217.106 and § 217.17 of this chapter for the activity identified in § 217.11(a) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with MBNMS regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from the MBNMS's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in an LOA issued pursuant to §§ 216.106 and 217.17 of this chapter, an LOA may be modified without prior notice or opportunity for public comment. The Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2017–05227 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 82, No. 51

Friday, March 17, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[AMS–CN–17–0012]

Tobacco Report: Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of the currently approved information collection for Tobacco Report (OMB No. 0581–0004).

DATES: Comments received by May 16, 2017 will be considered.

ADDRESSES: Written comments may be submitted to the addresses specified below. All comments will be made available to the public. Please do not include personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publically disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. Comments may be submitted anonymously.

Comments, identified by AMS–CN–17–0012, may be submitted electronically through the *Federal eRulemaking Portal at http://www.regulations.gov.* Please follow the instructions for submitting comments. In addition, comments may be submitted by *mail or hand delivery to* Cotton Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. Comments should be submitted in triplicate. All comments received will be made available for public inspection at Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. A copy of this document may be found at: *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Shethir M. Riva, Director, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia, 22406, telephone (540) 361–2726, facsimile (540) 361–1199, or email at *Shethir.Riva@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tobacco Report.

OMB Number: 0581–0004.

Expiration Date of Approval: May 31, 2017.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The Tobacco Statistics Act of 1929 (7 U.S.C. 501–508) provides for the collection and publication of tobacco statistics by USDA with regard to quantities of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, and others, with the exception of the original growers of the tobacco.

Inventory information about different tobacco products is reported on a quarterly basis, as of January 1, April 1, July 1, and October 1 of each year, and is due within 15 days of those dates.

The information furnished under the provisions of this Act is used only for the statistical purposes for which it is supplied. No publication shall be made by USDA whereby the data furnished by any particular establishment can be identified, nor shall anyone other than the sworn employees of USDA be allowed to examine the individual reports.

The regulations governing the Tobacco Stocks and Standards Act (7 CFR part 30) issued under the Tobacco Statistics Act (7 U.S.C. 501–508) specifically address the reporting requirements. Tobacco in leaf form or stems is reported by types of tobacco and whether it is stemmed or unstemmed. Tobacco in sheet form is segregated as to whether it is to be used for cigar wrappers, cigar binders, for cigarettes, or for other products.

Tobacco stocks reporting is mandatory. The basic purpose of the information collection is to ascertain the total supply of unmanufactured tobacco available to domestic manufacturers and to calculate the amount consumed in manufactured tobacco products.

The Quarterly Report of Manufacture and Sales of Snuff, Smoking and Chewing Tobacco is voluntary. Information on the manufacture and sale of snuff, smoking and chewing tobacco products is available from Treasury Department publications based on the collection of taxes, but not in the detail desired by the industry. All major tobacco manufacturers agreed to furnish information to AMS for this report.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes USDA to collect, tabulate and disseminate statistics on marketing agricultural products including market supplies, storage stocks, quantity, quality, condition of such products in various positions in the marketing channel, utilization of sub-products, shipments, and unloads.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.87 hours per response.

Respondents: Primarily tobacco dealers and manufacturers, including small businesses or organizations.

Estimated Number of Respondents: 30.

Estimated Total Annual Responses: 120.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 104.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Shethir M. Riva, Director, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, telephone (540) 361–2726, facsimile (540) 361–1199, or email at *Shethir.Riva@ams.usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 13, 2017.

Bruce Summers,

Acting Administrator.

[FR Doc. 2017–05297 Filed 3–16–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Missouri River Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Missouri River Resource Advisory Committee (RAC) will meet in Helena, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Act. RAC information can be found at the following Web site: *www.fs.fed.us/r1/helena/.*

DATES: The meeting will be held on April 10, 2017, at 6:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the supervisor's office for the Helena-Lewis and Clark National Forest (NF) Supervisor's Office, Elk/Tizer Meeting Room, 2880 Skyway Drive, Helena, Montana.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Helena-Lewis and Clark NF Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Dave Cunningham, RAC Coordinator, by phone at 406–791–7754 or via email at *dcunningham01@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Select a chairperson,
2. Approve operating guidelines, and
3. Review and make reccomendations on projects proposals for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 3, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Dave Cunningham, RAC Coordinator, 1220 38th Street, Great Falls, Montana, 59405; by email to *dcunningham01@fs.fed.us,* or via facsimile to (406) 731–5302.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: March 2, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–05295 Filed 3–16–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/8/2017 through 3/13/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
Atlantic Fluid Power, Inc. d/b/a Atlantic Industrial Technologies, Inc.	90 Precision Drive, Shirley, NY 11967.	3/10/2017	The firm manufactures custom controls and hydraulic systems.
Pierce Industries, LLC	465 Pierce, Industries, LLC, Rochester, NY 14624.	3/10/2017	The firm manufactures cylindrical rollers, re-manufacturing and assembly of printing machines, coatings.
Fiberplex Technologies, LLC	10840–412 Guilford Road, Annapolis Junction, MD 20701.	3/13/2017	The firm manufactures an array of video, Ethernet, and audio to fiber conversion products.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2017–05324 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of Eyad Farah, Inmate Number: 63001–018, FCI Fort Worth, Federal Correctional Institution, P.O. Box 15330, Fort Worth, TX 76119.

On December 15, 2015, in the U.S. District Court, Middle District of Florida, Eyad Farah (''Farah''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Farah knowingly and willfully attempted to export from the United States a defense article on the U.S. Munitions List without having first obtained a license from the Department of State or written prior authorization for such export. Farah was sentenced to 37 months in prison, with credit for time served, 36 months of supervised release, and a $300 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. § 1701–1706); 18 U.S.C. §§ 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. § 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. § 2778).'' 15 CFR § 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. § 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR § 766.25(d); *see also* 50 U.S.C. § 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Farah's conviction for violating the AECA, and has provided notice and an opportunity for Farah to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Farah.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Farah's export privileges under the Regulations for a period of five years from the date of Farah's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Farah had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered:*

First, from the date of this Order until December 15, 2020, Eyad Farah, with a last known address of Inmate Number: 63001–018, FCI Fort Worth, Federal Correctional Institution, P.O. Box 15330, Fort Worth, TX 76119, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Farah by ownership, control, position of

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2016). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 FR 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Farah may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Farah. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 15, 2020.

Dated: March 13, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–05356 Filed 3–16–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 14, 2016, the Department of Commerce (the Department) published the *Preliminary Results* of the administrative review of the antidumping duty order on certain lined paper products (CLPP) from India. The period of review (POR) is September 1, 2014, through August 31, 2015. This review covers two mandatory respondents, Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) and Navneet Education Limited (Navneet). For these final results, we find that neither Kokuyo Riddhi nor Navneet made sales below normal value during the POR. *See* the ''Final Results of the Review'' section below.

DATES: Effective March 17, 2017.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson for Navneet and George McMahon for Kokuyo Riddhi, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3797 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2016, Petitioner submitted new factual information regarding Navneet's U.S. sales data.[1] Given the timing of the submission, the Department could not address this new factual information in the *Preliminary Results.*[2] The Department invited interested parties to submit comments no later than October 24, 2016,[3] and to submit follow-up comments as part of their case and rebuttal briefs no later than November 14, 2016, and November 21, 2016, respectively.[4] On October 24, 2016, Navneet submitted comments on the new factual information.[5] On November 3, 2016, Petitioner submitted rebuttal comments regarding the new factual information.[6]

On October 14, 2016, the Department published the *Preliminary Results.* On November 14, 2016, Kokuyo Riddhi[7] and Navneet timely submitted their case briefs.[8] On November 21, 2016, Navneet submitted its rebuttal brief.[9] On November 14, 2016, Petitioner submitted a request for a hearing, which it subsequently withdrew on December, 15, 2016.[10] On February 6, 2017, the Department postponed the final results by 30 days, until March 13, 2017.[11]

Scope of the Order

The merchandise covered by the order is certain lined paper products. The merchandise subject to this order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[12]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. The Issues and Decision Memorandum is a

[1] *See* Petitioner's letter titled, ''Certain Lined Paper Products from India: General New Factual Information Submission,'' dated September 7, 2016.

[2] *See Certain Lined Paper Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 71046 (October 14, 2016) (*Preliminary Results*), and accompanying Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Certain Lined Paper Products from India; 2014–2015,'' dated October 5, 2016 (Preliminary Decision Memorandum). The Preliminary Decision Memorandum can be accessed directly at: *http://enforcement.trade.gov/frn/index.html.*

[3] *See* Letter titled, ''Filings by the Association of American School Paper Suppliers (Petitioners) and Navneet Education Ltd. (Navneet) Concerning Navneet's Alleged Under Reporting of U.S. Sales,'' dated September 27, 2016.

[4] *See* Letter titled, ''New Factual Information Filed by the Association of American School Paper Suppliers (Petitioner) and Extension of Deadline to Submit New Factual Information Pertaining to Navneet Education Ltd.'s (Navneet) Sales Reporting,'' dated September 27, 2016.

[5] *See* Navneet's letter titled, ''Certain Lined Paper Products from India: Response of Navneet Education Limited to Non-Reported Sales Allegation,'' dated October 24, 2016.

[6] *See* Petitioner's letter titled, ''Certain Lined Paper Products from India: Response Comments to Navneet's New Factual Information Related to Unreported U.S. Sales; Extension Request for the Case Briefs,'' dated November 3, 2016.

[7] The Department has determined that Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) is the successor-in-interest to Riddhi Enterprises. *See Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 80 FR 18373 (April 6, 2015) (*Final Results of CCR—Kokuyo Riddhi*), and the accompanying Issues and Decision Memorandum. Accordingly, we refer to Kokuyo Riddhi and Riddhi Enterprises as Kokuyo Riddhi in this review.

[8] *See* Kokuyo Riddhi's letter titled, ''Certain Lined Paper Products from India: Kokuyo Riddhi Case Brief,'' dated November 14, 2016; *see also* Navneet's letter titled, ''Certain Lined Paper Products from India: Case Brief of Navneet Education Limited,'' dated November 14, 2016; *see also* Petitioner's letter titled, ''Certain Lined Paper Products from India: Case Brief,'' dated November 14, 2016.

[9] *See* Navneet's letter titled, ''Certain Lined Paper Products from India: Rebuttal Brief of Navneet Education Limited,'' dated November 21, 2016.

[10] *See* Petitioner's letter titled, ''Certain Lined Paper Products from India: Hearing Request,'' dated November 14, 2016; *see also* Memorandum to the File titled, ''Petitioner's Request for a Meeting in Lieu of a Hearing,'' dated December 19, 2016.

[11] *See* Memorandum titled ''Certain Lined Paper Products from India: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review; 2014–2015,'' dated February 3, 2017. Postponing the final results by 30 days would place the deadline on Sunday, March 12, 2017. The Department's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[12] For a complete description of the Scope of the Order, *see* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, titled ''Certain Lined Paper Products from India: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2014–2015,'' dated concurrently with and hereby adopted by this notice (''Issues and Decision Memorandum'').

public document and is on-file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit (CRU), room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made the following company-specific changes to Navneet's final margin calculation: (1) We made changes to the SAS Comparison Market and Margin Programs for the beginning date for U.S. sales; (2) we corrected the margin program by applying the U.S. dollar denomination for the duty drawback credit; and (3) we corrected the comparison market program by applying the net quantity NTQTY2H, net of returns, as the home market sales quantity. We also corrected the draft liquidation instructions for both Navneet and Kokuyo Riddhi. As a result of these changes, the weighted-average dumping margin for Navneet and the non-selected companies has changed.

Final Results of the Review

As a result of this review, the Department calculated a dumping margin of zero for both Kokuyo Riddhi and Navneet. We are applying to the non-selected companies the rates calculated for the mandatory respondents in these final results, as referenced below.[13]

Producer/exporter	Weighted-average dumping margin (percent)
Kokuyo Riddhi Paper Products Private Limited	0.00
Navneet Education Ltd	0.00
Goldenpalm Manufacturers PVT Limited	0.00
Magic International Pvt. Ltd	0.00
Marisa International (Marisa)	0.00
Pioneer Stationery Pvt Ltd (Pioneer)	0.00
SGM Paper Products	0.00

[13] *See Albemarle Corp. & Subsidiaries* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016) (*Albemarle*).

Duty Assessment

The Department shall determine and Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries.[14] Pursuant to the *Final Modification for Reviews,* because the above-listed respondents' weighted-average dumping margins are zero, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[15] We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.91 percent, the all-others rate established in the original antidumping duty investigation.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

[14] In these Final Results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[15] *Id.,* 77 FR at 8102.

[16] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: March 13, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. List of Comments
III. Background
IV. Scope of the Order
V. Analysis of Comments

Comments Concerning Navneet

1. Completeness and Accuracy of the Reported U.S. Sales Data
2. Adjustment for the Beginning Date of U.S. Sales in the Margin Program
3. Adjustment for Unreimbursed Indian Excise Tax Credit
4. Revision to Duty Drawback Denomination in the SAS Margin Program
5. Revision to Incorrect Quantity (QTYH) in the SAS Comparison Market Program
6. Revision to Importer-Specific Rates in the Liquidation Instructions

Comment Concerning Kokuyo Riddhi

7. Inclusion of a Customer Name in Kokuyo Riddhi's Liquidation Instructions

VI. Recommendation

[FR Doc. 2017–05357 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF292

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, April 4, 2017 at 9 a.m.

ADDRESSES: The meeting will be held at the Wentworth by the Sea, 588 Wentworth Road, New Castle, NH 03854; telephone: (603) 422–7322.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will review public comments regarding limited access in Amendment 5 to the Skate Fishery Management Plan. The panel will have a discussion of limited access, including potential future steps and control dates as well as a discussion of upcoming specifications framework, including removing the prohibition of landing barndoor skate. Other business, as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–05359 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF291

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Skate Advisory Panel on Monday, April 3, 2017 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, April 3, 2017 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Wentworth by the Sea, 588 Wentworth Road, New Castle, NH 03854; telephone: (603) 422–7322.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review public comments regarding limited access in Amendment 5 to the Skate Fishery Management Plan. The panel will have a discussion of limited access, including potential future steps and control dates as well as a discussion of upcoming specifications framework, including removing the prohibition of landing barndoor skate. Other business, as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–05358 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF294

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, April 4, 2017 at 10 a.m.

ADDRESSES: The meeting will be held at the Wentworth by the Sea, 588 Wentworth Road, New Castle, NH 03854; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will discuss alternatives being considered in Amendment 8 to the Atlantic Herring Fishery Management Plan. Measures include alternative Acceptable Biological Catch (ABC) control rules and measures to address potential localized

depletion and user conflicts in the herring fishery. The Panel may recommend a final range of alternatives for the Committee to consider the following day. The panel will also review preliminary outcomes from the external peer review of the Management Strategy Evaluation of Atlantic herring ABC control rules held in March 2017. The Panel will also review the proposed action for the herring fishery in the Omnibus Industry Funded Monitoring (IFM) Amendment and make any necessary clarifications or adjustments. Other business will be discussed as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–05361 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF295

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting the Gulf of Mexico fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, April 3 through Thursday, April 6, 2017.

ADDRESSES: The meeting will take place at the Hyatt Regency Birmingham—The Winfrey Hotel, located at 1000 Riverchase Galleria, Birmingham, AL 35244; telephone: (205) 705–1234.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, April 3, 2017; 8:30 a.m.–5:30 p.m.

The Law Enforcement Committee will meet in a CLOSED SESSION, to select the 2016 Law Enforcement Officer of the Year Recipient; the Advisory Panel Selection Committee will meet in a FULL COUNCIL—CLOSED SESSION to discuss appointments to the Coastal Migratory Pelagics Advisory Panel; and the Data Collection Management Committee will receive a presentation from the Southeast Fisheries Science Center (SEFSC) on Recreational Data Procedures and discuss MRIP Percent Standard Error (PSE) Methods and Protocols.

After lunch, the Joint Coral/Habitat Protection & Restoration Committees will review scoping workshop summaries for Coral Amendment 7; the Sustainable Fisheries Committee will discuss the effectiveness of techniques to reduce Barotrauma Effects, and will review a white paper on Acceptable Biological Catch (ABC) Control Rule Revisions and Framework Procedures; the Spiny Lobster Committee will review Spiny Lobster Regulatory Amendment 4; and, the Administrative/Budget Committee will review grant expenditures and anticipated budget activities and funding, approve changes to check writing procedures and review H.R. 200 (MSA Reauthorization) potential impacts.

Tuesday, April 4, 2017; 8:30 a.m.–5 p.m.

The Reef Fish Management Committee will review projections for the 2017 Federal Recreational Fishing Seasons and discuss State Seasons, discuss Final Action items: Amendment 36A—Modifications to Commercial Individual Fishing Quota (IFQ) Programs, Amendment 46—Gray Triggerfish Rebuilding Plan, Framework Action—Mutton Snapper Annual Catch Limits (ACL) and Management Measures and Gag Commercial Size Limit, and Framework Action to Adjust Greater Amberjack Acceptable Catch Limit (ACL) and stock assessment update. The committee will review public hearing draft for Amendment 47—Modify Vermillion Snapper ACLs and Maximum Sustainable Yield (MSY) proxy. The committee will discuss SEDAR 49—Stock Assessment Results for Data-Limited Stocks, and Charter For-Hire Management. The committee will review SERO/SEFSC responses to documentation requested by Gulf Angler Fishing Group; and receive a summary from the Standing and Reef Fish Scientific and Statistical Committee (SSC).

Wednesday, April 5, 2017; 8:30 a.m.–5 p.m.

The Shrimp Management Committee will discuss the biological review of the Texas Closures; review updated stock assessments for brown, white and pink shrimp, and SSC report; receive a summary from the Shrimp Advisory Panel meeting; and discuss final action on Shrimp Amendment 17B—Yield, Threshold Number of Permits and Transit Provisions.

The Full Council will convene mid-morning (approximately 10:15 a.m.) with a Call to Order, Announcements, Introductions; Adoption of Agenda and Approval of Minutes; and review of Exempt Fishing Permit (EFPs) Applications, if any. The Council will receive presentations on Lenfest Ecosystem Task Force, and Alabama Law Enforcement. After lunch, the Council will receive public testimony from 1:30 p.m. until 5 p.m. on the following agenda testimony items: Final Action on Reef Fish Amendment 46—Modify the Gray Triggerfish Rebuilding Plan, Final Action on Reef Fish Amendment 36A—Modifications to the Commercial Individual Fishing Quota (IFQ) Programs, Final Action on Shrimp Amendment 17B—Yield, Threshold Number of Permits, and Transit Provisions, Final Action on Framework Action—Modify Mutton Snapper ACL and Management Measures and the Commercial Gag Minimum Size Limit, and Final Action—Framework Action to increase Greater Amberjack Annual Catch Limits; and, hold an open public testimony period regarding any other fishery issues or concern. Anyone wishing to speak during public comment should sign in at the registration station located at the entrance to the meeting room.

Thursday, April 6, 2017; 8:30 a.m.–4 p.m.

Full Council will receive committee reports from Shrimp, Reef Fish, Joint Coral/Habitat Protection & Restoration, Spiny Lobster, Administrative/Budget, Data Collection, and the Sustainable Fisheries Management Committees. The Council will announce the 2016 Law Enforcement Officer of the Year; vote on Exempted Fishing Permit (EFP) applications, if any; and receive updates from the following supporting agencies:

South Atlantic Fishery Management Council; Gulf States Marine Fisheries Commission; U.S. Coast Guard; U.S. Fish and Wildlife Service; and, the Department of State.

Lastly, the Council will discuss any Other Business items.

—Meeting Adjourns

The timing and order in which agenda items are addressed may change as required to effectively address the issue. The latest version will be posted on the Council's file server, which can be accessed by going to the Council's Web site at *http://www.gulfcouncil.org* and clicking on FTP Server under Quick Links. For meeting materials, select the ''Briefing Books/Briefing Book 2017–04'' folder on Gulf Council file server. The username and password are both ''gulfguest''. The meetings will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: March 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–05360 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments on the performance evaluation of the Maine Coastal Management Program. Written comments on the performance evaluation will also be accepted.

DATES: *Maine Coastal Management Program Evaluation:* The public meeting will be held on May 3, 2017, and written comments must be received on or before May 12, 2017.

For specific dates, times, and locations of the public meetings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may submit comments on the performance evaluation of the Maine Coastal Management Program.by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Wiscasset, Maine. For the specific location, see **SUPPLEMENTARY INFORMATION.**

Written Comments: Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or email comments *Carrie.Hall@noaa.gov.* Written comments must be received on or before May 12, 2017.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.* Copies of the most recent progress report, previous evaluation findings, and 2016–2020 Assessment and Strategy may be viewed and downloaded on the Internet at *http://coast.noaa.gov/czm/evaluations.*

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved state and territorial coastal programs. The process includes one or more public meetings, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Specific information on the periodic evaluation of the state and territorial coastal program that is the subject of this notice is detailed below as follows:

Maine Coastal Management Program Evaluation

You may participate or submit oral comments at the public meeting scheduled as follows:

Date: May 3, 2017.

Time: 5:00 p.m., local time.

Location: Offices of the Lincoln County Regional Planning Commission, 297 Bath Road (US Route 1), Wicasset, Maine.

Written public comments must be received on or before May 12, 2017.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: March 10, 2017.

Paul M. Scholz,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–05249 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF217

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice; request for comments.

SUMMARY: NMFS announces the receipt of an exempted fishing permit (EFP) application for 2017 and 2018 that would continue work done in 2015 and 2016, and is considering issuance of EFPs for vessels participating in the EFP fishery. The EFPs would be effective no earlier than April 3, 2017, and would expire no later than December 31, 2018, but could be terminated earlier under terms and conditions of the EFPs and other applicable laws.

DATES: Comments must be received no later than 5 p.m., local time on April 3, 2017.

ADDRESSES: You may submit comments, identified by 0648–XF217, by any one of the following methods:

- *Email: benjamin.mann@noaa.gov.*
- *Fax:* 206–526–6736, Attn: Benjamin Mann.
- *Mail:* Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, Attn: Benjamin Mann.

FOR FURTHER INFORMATION CONTACT: Benjamin Mann (West Coast Region, NMFS), phone: 206–526–6117, fax: 206–526–6736.

SUPPLEMENTARY INFORMATION: This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act provisions at 50 CFR 600.745, which states that EFPs may be used to authorize fishing activities that would otherwise be prohibited. At the June 2016 Pacific Fishery Management Council (Council) meeting in Tacoma, WA, the Council considered an EFP application from the San Francisco Community Fishing Association and Dan Platt. An opportunity for public testimony was provided during the Council meeting. For more details on this EFP application and to view a copy of the application, see the Council's Web site at *www.pcouncil.org* and browse the November 2016 Briefing Book. The Council recommended that NMFS consider issuing the following EFP, and that this EFP be issued for 2 years. The 2-year duration is intended to coincide with the 2017–2018 biennial harvest specifications and management measures process. Therefore, to reduce the administrative burden of issuing annual EFPs during the 2-year management cycle, NMFS is considering issuing the EFP described below for a 2-year period. The EFP issued for this 2-year period would expire no later than December 31, 2018, but could be terminated earlier under terms and conditions of the EFP and other applicable laws.

Commercial Yellowtail EFP

The San Francisco Community Fishing Association and Dan Platt submitted an application to continue their 2016–2017 EFP work for two more years. The primary purpose of the EFP is to test a commercial hook and line gear to target underutilized yellowtail rockfish, while keeping bycatch of overfished species low. The current application includes changes from the previous EFP including: (1) Extension of the southern boundary from Point San Pedro (37°35′ N. lat.) to Point Conception (34°27′ N. lat.); (2) addition of 3 vessels to the EFP (7 total); and (3) federal observer coverage requirement of 30 percent (trips not observed would be self-reported). The EFPs are necessary to allow activities that are otherwise prohibited by Federal regulations.

After review of the final proposal, NMFS has concerns with the proposed reduced observer coverage. NMFS has historically relied on 100 percent observer coverage to collect and maintain data critical to evaluating the feasibility of new fisheries management strategies. NMFS has never issued a groundfish EFP without 100 percent coverage. Further, the proposed extension of the southern boundary would extend the fishery into waters where no baseline data exists; highlighting the need to obtain data for management purposes that has historically be collected by observers. The Northwest Fisheries Science Center has indicated that they may be able to provide for some additional observer coverage, working with the applicants. NMFS is considering, but has not yet approved, using some electronic monitoring in lieu of observers. NMFS is inviting comments on these issues.

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

Dated: March 14, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–05351 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products from the Procurement List previously furnished by such agencies.

DATES: Effective Date is April 16, 2017.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 12/30/2016 (81 FR 96442–96443), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.
2. The action will result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

PRODUCTS:

NSN(s)—Product Name(s):
- 6530–00–NIB–0209—Hot Pack, Instant, Disposable, 6″ x 8″
- 6530–00–NIB–0217—Cold Pack, Instant, Disposable, 5″ x 6″
- 6530–00–NIB–0219—Cold Pack, Instant, Disposable, 5″ x 7″
- 6530–00–NIB–0221—Cold Pack, Instant, Disposable, 6″ x 8.75″
- 6530–00–NIB–0222—Hot Pack, Instant, Disposable, 5″ x 6″
- 6530–00–NIB–0223—Hot Pack, Instant, Disposable, 5″ x 7″

Mandatory Source(s) of Supply: Central Association for the Blind and Visually Impaired, Utica, NY

Mandatory for: Total Government Requirement

Contracting Activity: Defense Logistics Agency Troop Support

Distribution: B-List

Deletions

On 2/10/2017 (82 FR 10337–10338), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

NSN(s)—Product Name(s):

8415–01–576–0094—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XS
8415–01–576–0100—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, ML
8415–01–576–0104—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, LR
8415–01–576–0111—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, LL
8415–01–576–0116—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XLR
8415–01–576–0122—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XLL
8415–01–576–0152—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XXLL
8415–01–576–0157—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XXXLR
8415–01–576–0165—Jacket, Wet Weather Level 6, PCU, Army, Men's, Desert Camouflage, XXXLL
8415–01–576–0234—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XS
8415–01–576–0237—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, SR
8415–01–576–0238—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, MR
8415–01–576–0243—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, ML
8415–01–576–1966—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, LR
8415–01–576–1967—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, LL
8415–01–576–1970—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XL
8415–01–576–1974—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XLL
8415–01–576–1977—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XXL
8415–01–576–1980—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XXLL
8415–01–576–1982—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XXXL
8415–01–576–1985—Jacket, Wet Weather Level 6, PCU, Army, Men's, Woodland Camouflage, XXXLL
8415–01–576–5763—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XS
8415–01–576–5957—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, SR
8415–01–576–5962—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, MR
8415–01–576–5967—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, ML
8415–01–576–7101—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, LR
8415–01–576–7169—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, LL
8415–01–576–7515—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XL
8415–01–576–7517—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XLL
8415–01–576–7692—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XXL
8415–01–576–7695—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XXLL
8415–01–576–7697—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XXXL
8415–01–576–7714—Pants, Wet Weather Level 6, PCU, Army, Desert Camouflage, XXXLL
8415–01–576–7827—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XS
8415–01–576–7845—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, SR
8415–01–576–8002—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, MR
8415–01–576–8003—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, ML
8415–01–576–8024—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, LR
8415–01–576–8026—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, LL
8415–01–576–8083—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XL
8415–01–576–8091—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XLL
8415–01–576–8101—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XXL
8415–01–576–8107—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XXLL
8415–01–576–8109—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XXXL
8415–01–576–8114—Pants, Wet Weather Level 6, PCU, Army, Woodland Camouflage, XXLLL
8415–01–543–0375—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XS
8415–01–543–0378—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, S
8415–01–543–0380—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, M
8415–01–543–0385—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, L–L
8415–01–543–0389—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XL
8415–01–543–0390—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XL–L
8415–01–543–0395—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XXLL
8415–01–543–0398—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XXLL
8415–01–543–0400—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XXXL
8415–01–543–0402—Trousers, Lightweight ECWCS Level 6, PCU, Army, Green, XXXLL
8415–01–543–0416—Trousers, Lightweight Level 6, ECWCS, PCU, Army, Green, L
8415–01–543–7004—Trousers, Wet Weather Level 6 ECWCS, PCU, Army, Green, M–L
8415–01–543–0417—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XS
8415–01–543–0421—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, S
8415–01–543–0422—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, M
8415–01–543–0424—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, L–L
8415–01–543–0428—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, L
8415–01–543–0430—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XL–L

8415–01–543–0431—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XL
8415–01–543–0434—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XXLL
8415–01–543–0437—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XXL
8415–01–543–0439—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XXXL
8415–01–543–0440—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, XXXLL
8415–01–543–7038—Jacket, Parka, Lightweight Extreme Cold Wet Weather Level 6, PCU, Army, Green, M–L

Mandatory for: ReadyOne Industries, Inc., El Paso, TX

Contracting Activity: Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2017–05363 Filed 3–16–17; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete products from the Procurement List that was previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before April 16, 2017.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s): 4910–00–251–6981—Creeper, Mechanics

Mandatory Source(s) of Supply: Quadco Rehabilitation Center, Inc. (Northwest Products Division), Stryker, OH

Contracting Activity: Defense Logistics Agency Land and Maritime

NSN(s)—Product Name(s): 8415–01–576–7524—Hood, Lightweight, Performance, Fire Resistant, Type I, Army, Unisex, Green

Mandatory Source(s) of Supply: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY Dawn Enterprises, Inc., Blackfoot, ID

Contracting Activity: Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division

NSN(s)—Product Name(s): 5120–00–106–7598—Jack, Scissors, Hand

Mandatory Source(s) of Supply: Employment Source, Inc., Fayetteville, NC

Contracting Activity: Defense Logistics Agency Aviation

NSN(s)—Product Name(s):
8110–01–443–8476—Tube, Mailing, 36″ x 3″
8110–01–443–8480—Tube, Mailing, 24″ x 3″
8110–00–244–7435—Tube, Mailing, 24″ x 2″
8110–00–291–0344—Tube, Mailing and Filing, 30″ x 1–1/2″
8110–00–291–0345—Tube, Mailing, 36″ x 2″
8110–00–291–0346—Tube, Mailing, 42″ x 2″

Mandatory Source(s) of Supply: Challenge Enterprises of North FL., Inc., Green Cove Springs, FL

Contracting Activity: General Services Administration, New York, NY

Amy B. Jensen,

Director, Business Operations.

[FR Doc. 2017–05364 Filed 3–16–17; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Social Innovation Fund (SIF) Application Instructions for review and approval in accordance with the Paperwork Reduction Act of 1995. These instructions combine the previously approved SIF Application Instructions (OMB Control Number 3045–0155) and SIF Pay for Success Application Instructions (OMB Control Number 3045–0167) into one document. Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Lois Nembhard, SIF Director (Acting) at 202–606–3223 or email to *innovation@cns.gov*. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

DATES: Comments may be submitted, identified by the title of the information collection activity, within April 17, 2017.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on December 23, 2016 at 81 FR 94342. This comment period ended February 21, 2017. No public comments were received from this Notice.

Description: Comment request.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Social Innovation Fund (SIF) Application Instructions.

OMB Number: TBD.

Agency Number: None.

Affected Public: Organizations applying for funding by the Social Innovation Fund.

Total Respondents: 50.

Frequency: Annual.

Average Time per Response: Averages 24 hours.

Estimated Total Burden Hours: 1,200.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: March 10, 2017.

Lois Nembhard,

Director (Acting), Social Innovation Fund.

[FR Doc. 2017–05312 Filed 3–16–17; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0001]

Proposed Collection; Comment Request

AGENCY: US Army Medical Command, Family Advocacy Program Office, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Army Family Advocacy Program Office, US Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 16, 2017.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Army Medical Command, Health Policy & Services, Behavioral Health Service Line, Family Advocacy Program (ATTN: MCHO–CL–H/Ms. Kathleen Foreman), 2748 Worth Road, JBSA Fort Sam Houston, TX 78234; or call the Point of Contact for U.S. Army Medical Command, Family Advocacy Program Office at 210–295–7370 or email at *kathleen.p.foreman.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Family Advocacy Program; MEDCOM Form 811–Pilot (Behavioral Health Intake–Psychosocial History and Assessment); OMB Control Number 0702–XXXX.

Needs and Uses: The information collection requirement is necessary to obtain and record the behavioral/mental health, psychological and social history of military health eligible and non-eligible beneficiaries in need of domestic violence and child abuse emergency and non-emergency support. The form is used by family advocacy workers to assess the clinical and non-clinical needs of individuals and families to ensure victim safety; reduce the risk of adverse behavioral health events like suicide, homicide, accidental death, and physical, emotional, and sexual abuse and neglect; refer victims and alleged offenders to appropriate treatment and case management resources; to gather case information for presentation and incident determination by a family advocacy review board; and to gather information for data analysis and reporting purposes for overall program improvement.

Affected Public: Individuals or households.

Annual Burden Hours: 3,950.

Number of Respondents: 7,900.

Responses per Respondent: 1.

Annual Responses: 7,900.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Respondents are U.S. citizens (military, civilian, and military-affiliated civilians; spouses, intimate partners; child care providers; teachers) or foreign nationals seeking emergency and non-emergency support from military health care facilities, child care facilities, and DoD school systems who are seeking domestic violence or child abuse support for themselves or their children. MEDCOM Form 811–Pilot records the information needed to conduct a thorough and responsible risk assessment, behavioral health assessment, treatment plan, and case monitoring or management plan. The completed form is included in the Family Advocacy Case file and in Family Advocacy System of Records (information system). The form is used by family advocacy workers to assess the clinical and non-clinical needs of individuals and families to ensure victim safety; reduce the risk of adverse behavioral health events like suicide, homicide, accidental death, and physical, emotional sexual abuse and neglect; refer victims and alleged offenders to appropriate treatment and case management resources; to gather case information for presentation and incident determination by a family advocacy review board; and to gather information for data analysis and reporting purposes for overall program improvement. If the form is not included in the Family Advocacy file, the records will reflect inconsistent risk assessment, behavioral health assessment, treatment and management planning. This form is essential to data collection to inform treatment and management planning. The form bolsters efforts to maintain and document family advocacy worker's compliance with standards in the assessment of victims and alleged offenders of abuse. In addition, the information gathered supports program improvement and risk mitigation.

Dated: March 14, 2017.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2017–05365 Filed 3–16–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 16–81]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Pamela Young, (703) 697–9107 or Kathy Valadez, (703) 697–9217; DSCA/SA&E–RAN.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 16–81 with attached Policy Justification and Sensitivity of Technology.

Dated: March 14, 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

MAR 13 2017

The Honorable Paul D. Ryan
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16-81, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Singapore for defense articles and services estimated to cost $66 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 16–81

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:* Singapore

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$42 million
Other	$24 million
Total	$66 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): Two thousand (2,000) XM395 Accelerated Precision Mortar Initiative (APMI) rounds

Non-MDE includes: U.S. Government and contractor services, mortar tube compatibility testing and/or modification, and other associated support equipment and services.

(iv) *Military Department:* Army (VGG)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex Attached.

(viii) *Date Report Delivered to Congress:* 13 March 2017

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Government of Singapore—XM395 Accelerated Precision Mortar Initiative (APMI) Rounds

The Government of Singapore has requested a possible sale of two thousand (2,000) XM395 Accelerated Precision Mortar Initiative (APMI) rounds; U.S. Government and contractor services; and other associated support equipment and services. The total estimated cost is $66 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be an important partner and force for political stability and economic progress in the Asia Pacific region.

The Government of Singapore intends to use these defense articles and services to modernize its armed forces to meet current and future threats, to strengthen its homeland defense, and to provide greater security for its economic infrastructure. The Government of Singapore will have no difficulty absorbing XM395 APMI mortar rounds into its armed forces.

The proposed sale of this equipment and support does not alter the basic military balance in the region.

The prime contractor will be Orbital ATK. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require U.S. Government personnel or U.S. contractor representatives to travel to Singapore for a period of one (1) week for equipment fielding and acceptance testing by the Quality Assurance Team.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 16–81

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 XM395 Accelerated Precision Mortar Initiative (APMI) is a Global Position System (GPS), Precise Positioning Service (PPS) guided 120mm high explosive mortar cartridge capable of enemy defeat with low collateral damage. It utilizes a Precision Light-Weight Universal Mortar Setting System (PLUMSS) that contains an Improved Platform Integration kit (iPIK) to load GPS coordinates, mission trajectory and fuze mode data into the mortar round. The GPS PPS crypto key is loaded into the iPIK by system key loader PYQ–10. Both the XM395 and the iPIK contain a Selective Availability Anti-Spoofing Module (SAASM). The XM395 has 90% commonality with the Army's M1156 Precision Guided Kit. The overall system classification is SECRET.

2. XM395 utilizes the Army's M782 Multi-Option for Artillery (MOFA) Proximity Height of Burst (HOB) Technology. The HOB sensor is comprised of components with technologies deemed as state of the art, requiring specialized production skills. The sensitive/critical technology is primarily in the design, development, production and manufacturing of the components (integrated circuits and assembly), and the integration methodology required to integrate those components onto an assembly to process embedded data (the software—algorithm—working parameters). The overall system classification is SECRET.

3. Disclosure of this technology could result in an adversary developing countermeasures, thus lessening the effect of the projectile. Disclosure of test data, countermeasures, vulnerability/susceptibility analyses, and threat definition could allow reverse engineering and use by an adversary for possible use against U.S. and Coalition forces. Compromise could jeopardize the U.S. inventory through jammer development by adversaries. The risk of compromise has been assessed as moderate. Risk is reduced for fuze/munitions if adequately controlled and protected in storage and on the battlefield. Risk is mitigated by the prevention of disclosure of sensitive classified information (the know-how, software, and associated documentation).

4. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Singapore.

[FR Doc. 2017–05385 Filed 3–16–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Military Family Readiness Council (MFRC); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce a Federal Advisory Committee meeting of the Department of Defense Military Family Readiness Council (MFRC). This meeting will be open to the public.

DATES: Thursday, April 27, 2017, from 1:00 p.m. to 3:00 p.m.

ADDRESSES: Pentagon Library & Conference Center, Room B6. Escorts will be provided from the Pentagon Visitors Center waiting area (Pentagon Metro entrance) upon request.

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Dr. Randy Eltringham, Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), Office of Family Readiness Policy, 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–5315 or email: OSD Pentagon OUSD P–R Mailbox Family Readiness Council,

osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space. Members of the public who are entering the Pentagon should arrive at the Pentagon Visitors Center waiting area (Pentagon Metro entrance) at 12:00 p.m. on the day of the meeting to allow time to pass through security check points and to be escorted to the meeting location. Members of the public need to email their RSVP to the Council at *osd.pentagon.ousd-p-rmbx.family-readiness-council@mail.mil* no later than 5:00 p.m. on Thursday, April 20, 2017 to confirm seating availability, to request an escort, and to request handicapped accessible transportation (cart) if needed.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for review and consideration by submitting it to the Council's email address, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil. The deadline for written submissions is* 5:00 p.m. on Thursday, April 13, 2017 which is two weeks prior to the meeting date.

The purpose of this meeting is to receive information related to community collaboratives, policies, programs and services that provide relocation information and support services to DoD Service and family members throughout their mobile military lifecycle.

Thursday, April 27, 2017 Meeting Agenda

Welcome & Administrative Remarks.

The Impact of Relocation on Service and Family Members.

High Tech/High Touch Relocation Collaboratives and Support Services.

Minnesota's Beyond the Yellow Ribbon Support for the National Guard and Reserve.

Military OneSource Central Information and Referral Dissemination Point.

Military Service Relocation Best Practices (Panel).

Closing Remarks.

Note: Exact order may vary.

Dated: March 14, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–05368 Filed 3–16–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee Meeting; Amendment

AGENCY: Assistant Secretary of Defense (Health Affairs), Department of Defense.

ACTION: Notice of meeting; amendment.

SUMMARY: On Wednesday, February 15, 2017 (82 FR 10762), the Department of Defense published a notice announcing a Federal Advisory Committee Meeting of the Uniform Formulary Beneficiary Advisory Panel. Subsequent to the publication of the notice, an item was added to the Meeting Agenda. All other information in the February 15, 2017 notice remains the same.

DATES: Wednesday, March 22, 2017, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: CAPT Edward Norton, DFO, Uniform Formulary Beneficiary Advisory Panel, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101. Telephone: (703) 681–2890. Fax: (703) 681–1940. Email Address: *dha.ncr.health-it.mbx.baprequests@mail.mil.*

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Uniform Formulary Beneficiary Advisory Panel was unable to provide public notification concerning a change to a previously announced meeting agenda for a meeting on March 22, 2017, of the Uniform Formulary Beneficiary Advisory Panel as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140.

Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that an item in the Meeting Agenda has changed.

The revised Meeting Agenda reads as follows:

Agenda

1. Sign-In
2. Welcome and Opening Remarks
3. Public Citizen Comments
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item)
   a. Hepatitis C Agents—Direct Acting Antivirals
   b. Antibiotics—Tetracyclines
   c. Proton Pump Inhibitors
5. Recently Approved Drugs Review
6. Pertinent Utilization Management Issues
7. Panel Discussions and Vote

Dated: March 13, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–05347 Filed 3–16–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2788–017]

Goodyear Lake Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2788–017.

c. *Date filed:* February 27, 2017.

d. *Applicant:* Goodyear Lake Hydro, LLC (Goodyear Lake Hydro).

e. *Name of Project:* Colliersville Hydroelectric Project.

f. *Location:* On the North Branch of the Susquehanna River, in the Town of Milford, Otsego County, New York. The project does not occupy lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Kevin Webb, Hydro Licensing Manager; Enel

Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810; (978) 935–6039; *kevin.webb@enel.com.*

i. *FERC Contact:* Emily Carter, (202) 502–6512 or *emily.carter@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: April 28, 2017.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* 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–2788–017.

m. The application is not ready for environmental analysis at this time.

n. The existing Colliersville Hydroelectric Project consists of: (1) A 200-foot-long, 35-foot-high reinforced-concrete Ambursen-type dam; (2) a 364-acre reservoir (Goodyear Lake) with a gross storage capacity of 7,800 acre-feet at a normal pool elevation of 1,150.22 feet National Geodetic Vertical Datum of 1929; (3) a 550-foot-long reinforced concrete power canal, approximately 50 feet wide and 6 feet deep at the head gates, extending from a head gate structure adjacent to the dam (*i.e.,* the intake) to the powerhouse; (4) a 103-foot-long by 33-foot-wide reinforced concrete powerhouse with trash racks with a clear spacing of 1.5 inches, and containing two turbines rated at 850 horsepower (HP) and 1150 HP, and two generators having a rated capacity of 650 kilowatts (kW) and 850 kW, respectively; (5) a 300-foot-long and approximately 50- to 60-foot-wide tailrace; (6) approximately 80-foot-long, 4.16-kilovolt underground generator leads or transmission lines from the powerhouse to an adjacent substation owned by the New York State Electric and Gas Corporation; and (7) appurtenant facilities.

Goodyear Lake Hydro operates the project in a run-of-river mode. The project experiences substantial seasonal and annual variations in generation, and generates an annual average of 5,985 megawatt-hours. Goodyear Lake Hydro proposes to continue to operate the project in run-of-river mode.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may 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. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary) April 2017
Request Additional Information April 2017
Issue Acceptance Letter July 2017
Issue Scoping Document 1 for comments July 2017
Request Additional Information (if necessary) September 2017
Issue Scoping Document 2 November 2017
Issue notice of ready for environmental analysis December 2017
Commission issues EA or draft EA June 2018
Comments on EA or draft EA July 2018
Commission issues final EA October 2018

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05311 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–488–000]

Natural Gas Pipeline Company of America, LLC; Notice of Schedule for Environmental Review of the Gulf Coast Expansion Project

On August 1, 2016, Natural Gas Pipeline Company of America, LLC (Natural) filed an application in Docket No. CP16–488–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(b) and (c) of the Natural Gas Act to construct and abandon certain natural gas pipeline facilities. The proposed project is known as the Gulf Coast Expansion Project (Project) and would involve construction and abandonment of facilities in Wharton and Cass Counties, Texas, to transport 460,000 dekatherms per day of natural gas supplies to an existing delivery point in the South Texas Gulf Coast area.

On August 12, 2016, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—April 21, 2017.
90-day Federal Authorization Decision Deadline—July 20, 2017.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The proposed Project consists of construction and operation of a new 15,900 horsepower (hp) compressor station (CS 394) and an approximately

4,000-foot-long, 30-inch-diameter lateral connecting to Natural's Amarillo to Gulf Coast Pipeline all located in Cass County, Texas. In addition, Natural is requesting approval to abandon in place two 3,800 hp compressor units at its existing Compressor Station 301 located in Wharton County, Texas.

Background

On September 14, 2016, the Commission issued a *Notice of Intent To Prepare an Environmental Assessment for the Proposed Gulf Coast Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from Texas Parks & Wildlife regarding fish and wildlife resources. In addition, we received comments from Indian tribes requesting notification of inadvertent discoveries during construction and also requested a cultural resources survey be conducted.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP16–488), and follow the instruction. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05307 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI17–2–000]

Inside Passage Electric Cooperative; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI17–2–000.

c. *Date Filed:* February 7, 2017, and supplemented on March 1, 2017.

d. *Applicant:* Inside Passage Electric Cooperative.

e. *Name of Project:* Gunnuk Creek Hydroelectric Project.

f. *Location:* The proposed Gunnuk Creek Hydroelectric Project Project would be located on Gunnuk Creek, near the Town of Kake, on Kupreanof Island, in Prince of Wales-Hyder Census Area, Alaska.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* Brandon Shaw, Operations Manager, Inside Passage Electric Cooperative, P.O. Box 210149, 12480 Mendenhall Loop Road, Auke Bay, AK 99821, telephone: (907) 789–3196; email: *bshaw@myipec.org.*

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or email: *Jennifer.Polardino@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene 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 DI17–2–000.

k. *Description of Project:* The proposed run-of-river Gunnuk Creek Hydroelectric Project would consist of: (1) An existing 17-foot-high concrete dam on Gunnuk Creek; (2) an approximately 2,100-long, 54-inch-diameter steel penstock; (3) a 22 foot by 46 foot powerhouse; (4) a single horizontal axis crossflow turbine and synchronous generator with a rated capacity of 500 kilowatt; (5)a switchyard consisting of a pad mount transformer adjacent to the powerhouse; (6) a 130-foot-long, 12.5-kilovolt transmission line connecting the power from the switchyard to a point of interconnection with an existing utility system; and (7) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* 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 and in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

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, and .214. 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 Responsive Documents:* All filings must bear in all capital letters the title COMMENTS, PROTESTS, and MOTIONS TO INTERVENE, as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05305 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17–7–000]

Commission Information Collection Activities (FERC–725T); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725T, Mandatory Reliability Standards for the Bulk-Power System: TRE Reliability Standards.

DATES: Comments on the collection of information are due May 16, 2017.

ADDRESSES: You may submit comments (identified by Docket No. IC17–7–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725T, Mandatory Reliability Standards for the Bulk-Power System: TRE [1] Reliability Standards.

OMB Control No.: 1902–0273.

Type of Request: Three-year extension of the FERC–725T information collection requirements with no changes to the current reporting requirements.

Abstract: Reliability Standard BAL–001–TRE–01 applies to entities registered as Generator Owners (GOs), Generator Operators (GOPs), and Balancing Authorities (BAs) within the Texas Reliability Entity region.

Regional Reliability Standard BAL–001–TRE–01 is more comprehensive than the existing continent-wide Reliability Standards addressing frequency response, BAL–001–0.1a and BAL–003–0.1b in that the regional standard includes additional requirements and applies to generator owners and generator operators as well as balancing authorities. The expanded applicability of the regional Reliability Standard, thus, increases the reporting burden for entities that operate within the ERCOT [2] Interconnection.

The information collection requirements entail the setting or configuration of the Control System software, identification and recording of events, data retention, and submitting frequency measurable events to the compliance enforcement authority (Regional Entity or NERC).

Submitting frequency measurable events. As per Requirement R1, the BA has to identify and post information regarding Frequency Measurable Events (FME). Further, the BA has to calculate and report to the Compliance Enforcement Authority data related to Primary Frequency Response (PFR) performance of each generating unit/generating facility.

Data retention. The BA, GO, and GOP shall keep data or evidence to show compliance, as identified below, unless directed by its Compliance Enforcement Authority to retain specific evidence for a longer period of time as part of an investigation. Compliance audits are generally about three years apart.

- The BA shall retain a list of identified Frequency Measurable Events and shall retain FME information since its last compliance audit for Requirement R1, Measure M1.
- The BA shall retain all monthly PFR performance reports since its last compliance audit for Requirement R2, Measure M2.
- The BA shall retain all annual Interconnection minimum Frequency Response calculations, and related methodology and criteria documents, relating to time periods since its last compliance audit for Requirement R3, Measure M3.
- The BA shall retain all data and calculations relating to the Interconnection's Frequency Response, and all evidence of actions taken to increase the Interconnection's Frequency Response, since its last compliance audit for Requirements R4 and R5, Measures M4 and M5.
- Each GOP shall retain evidence since its last compliance audit for Requirement R8, Measure M8.
- Each GO shall retain evidence since its last compliance audit for Requirements R6, R7, R9 and R10, Measures M6, M7, M9 and M10.

Modification to Governor Controller Setting/Configuration (to be removed from the FERC–725T information collection). This category of response burden is being removed from FERC–725T. The ''Modification to Governor Controller Setting/Configuration'' category was a one-time requirement related to implementation of the BAL–001–TRE–01 Reliability Standard. Each GO was required to set its governor settings according to Requirement R6. In order to modify its settings, the GO had to generate governor test reports, governor setting sheets, and/or performance monitoring reports. The burden (912 hours) associated with this

[1] Texas Reliability Entity.

[2] Electric Reliability Council of Texas.

category was averaged over 2014–2016.[3] The response requirements included in this category were complete within 18 months of the effective date of the standard[4] or by 10/1/2015. Due to completion, the corresponding 304 annual burden hours are now being removed.

Type of Respondents: NERC Registered entities (specifically balancing authorities, generator owners, generator operators).

Estimate of Annual Burden:[5] The Commission estimates the annual public reporting burden for the information collection as:

FERC–725T (MANDATORY RELIABILITY STANDARDS FOR THE BULK-POWER SYSTEM: TRE RELIABILITY STANDARDS)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response[6] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Maintenance and Submission of Event Log Data.	[7] 1	1	1	16 hrs.; $1,029	16 hrs.; $1,029	$1,029
Evidence Retention	[8] 130	1	130	2 hrs.; $76	260 hrs.; $9,815	$76
Total	.....	.....	131	.....	276 hrs.; $10,844 ..	.....

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05309 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD17–1–000]

Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act; Notice of Technical Conference

In an order issued on October 8, 2004, the Commission set forth a guideline for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. *Order On Rehearing Consolidating Administrative Annual Charges Bill Appeals And Modifying Annual Charges Billing Procedures,* 109 FERC 61,040 (2004) (October 8 Order). The Commission required OFAs to submit their costs using the OFA Cost Submission Form. The October 8 Order also announced that a technical conference would be held for the purpose of reviewing the submitted cost forms and detailed supporting documentation.

The Commission will hold a technical conference for reviewing the submitted OFA costs. The purpose of the conference will be for OFAs and licensees to discuss costs reported in the forms and any other supporting documentation or analyses.

The technical conference will be held on April 6, 2017, in Conference Room 3M–1 at the Commission's headquarters, 888 First Street NE., Washington, DC. The technical conference will begin at 2:00 p.m. (EST).

The technical conference will also be transcribed. Those interested in obtaining a copy of the transcript immediately for a fee should contact the Ace-Federal Reporters, Inc., at 202–347–3700, or 1–800–336–6646. Two weeks after the post-forum meeting, the transcript will be available for free on the Commission's e-library system. Anyone without access to the Commission's Web site or who has questions about the technical conference should contact Norman Richardson at (202) 502–6219 or via email at *annualcharges@ferc.gov.*

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice), (202) 208–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05306 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–28–000]

Eastern Shore Natural Gas Company; Notice of Schedule for Environmental Review of the 2017 Expansion Project

On December 30, 2016, Eastern Shore Natural Gas Company (Eastern Shore) filed an application in Docket No. CP17–28–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. Eastern Shore's proposal is known as the 2017

[3] The total annual figure for this response category was 304 hours.

[4] The effective date of the standard was 4/1/2014.

[5] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[6] The estimates for cost per hour are based on 2015 wage figures and derived as follows:

- $64.29/hour, the average salary plus benefits per engineer (from Bureau of Labor Statistics at *https://www.bls.gov/oes/current/naics2_22.htm*)
- $37.75/hour, the salary plus benefits per information and record clerks (from Bureau of Labor Statistics at *https://www.bls.gov/oes/current/naics2_22.htm*)

All calculated wage figures within the burden table are rounded to the nearest dollar.

[7] BA (balancing authority).

[8] BA (balancing authority), GO (generator owner), and GOP (generator operator).

Expansion Project (Project), and would involve construction of approximately 40 miles of pipeline and appurtenant facilities located in Pennsylvania, Maryland, and Delaware to provide 61,162 dekatherms per day of additional firm transportation service.

On January 11, 2017, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—May 12, 2017.

90-day Federal Authorization Decision Deadline—August 10, 2017.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The facilities to be constructed and operated under Section 7(c) include: (1) Six pipeline loop segments totaling 22.7 miles; (2) one 10-inch-diameter 16.9-mile-long mainline extension; (3) upgrades to an existing Meter and Regulator Station in Lancaster County, Pennsylvania; (4) installation of an additional 3,750 horsepower compressor unit at the existing Daleville Compressor Station in Chester County, Pennsylvania; and (5) the addition of two pressure control stations in Sussex County, Delaware.

Background

On August 1, 2016, the Commission issued a *Notice of Intent To Prepare an Environmental Assessment for the Proposed 2017 Expansion Project and Request for Comments on Environmental Issues (NOI).* The NOI was issued during the pre-filing review of the Project in Docket no. PF16–7 and was sent to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners; and other interested individuals and groups in the Project area. In response to the Notice of Intent, the Commission received comments from the Pennsylvania Department of Environmental Protection, West Sadsbury Township, the Chester Water Authority, the Maryland Historical Trust, the Delaware Department of Natural Resources and Environmental Control—Division of Fish and Wildlife, the Franklin Township Historical Commission, and the National Park Service. The primary concerns raised were regarding wetland and waterbody impacts; potential damage to water mains; impacts on the White Clay Creek National Wild and Scenic River; potential impacts on bog turtles and their habitat; and potential impacts on historic, scenic, or cultural resources. Five private landowners filed comments expressing questions or concerns regarding the right-of-way acquisition process, overall public safety and pipeline reliability, restoration efforts, and the procedures to be used should future roadway widening occur where the pipeline is installed under the highway.

The U.S. Army Corps of Engineers and the U.S. Department of Agriculture Natural Resources Conservation Service are cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.* Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP17–28), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05308 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2787–007]

Green Mountain Power; Ottauquechee Hydro Company, Inc.; Notice of Transfer of Exemption

1. By letter filed February 21, 2017 and supplemented on March 2, 2017, Enel Green Power North America, Inc. informed the Commission that the exemption from licensing for the Ottauquechee Woolen Mill Project No. 2787, originally issued August 13, 1982 [1] has been transferred to the Green Mountain Power, effective January 29, 2017. The project is located on the Ottauquechee River in Windsor County, Vermont. The transfer of an exemption does not require Commission approval.

2. Green Mountain Power is now the exemptee of the Ottauquechee Woolen Mill Project No. 2787. All correspondence should be forwarded to: Green Mountain Power, 163 Acorn Lane, Colchester, VT 05446.

Dated: March 10, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–05310 Filed 3–16–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9032–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs),
Filed 03/06/2017 Through 03/10/2017.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20170032, Draft, USFS, OR, Ringo Project, Comment Period Ends: 05/01/2017, Contact: Lillian Cross, 541–433–3200.

[1] Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 MW or Less. *White Current Corporation,* 20 FERC ¶ 62,271 (1982).

EIS No. 20170033, Draft, BPA, WA, Melvin R. Sampson Hatchery Yakima Basin Coho Project, Comment Period Ends: 05/01/2017, Contact: Dave Goodman, 503–230–4764.

EIS No. 20170034, Draft, USFS, CA, Trinity Post Fire Hazard Reduction and Salvage, Comment Period Ends: 05/01/2017, Contact: Thomas Hall, 530–628–1200.

EIS No. 20170035, Final Supplement, USFS, ID, Johnson Bar Fire Salvage, Review Period Ends: 04/17/2017, Contact: Tam White, 208–926–6416.

EIS No. 20170036, Final, USFS, AK, Shoreline II Outfitter/Guide, Review Period Ends: 04/17/2017, Contact: Carey Case, 907–772–5906.

Amended Notices

EIS No. 20160261, Draft, USFS, ID, Coeur d Alene Basin Natural Resource Restoration Plan, Comment Period Ends: 04/17/2017, Contact: Jo Christensen, 208–765–7417.

Revision to FR Notice Published 11/10/2016; Reopening Comment Period to End 04/17/2017.

EIS No. 20170002, Draft, DOE, CA, Remediation of Area IV and the Northern Buffer Zone of the Santa Susana Field Laboratory, Comment Period Ends: 04/13/2017, Contact: Stephie Jennings, 1–805–842–3864.

Revision to FR Notice Published 01/13/2017; Extending the Comment Period from 03/14/2017 to 04/13/2017.

EIS No. 20170004, Draft, USFWS, NPS, WA, North Cascades Ecosystem Draft Grizzly Bear Restoration Plan, Comment Period Ends: 04/28/2017, Contact: Karen Taylor-Goodrich, 360–854–7205.

Revision to FR Notice Published 01/13/2017; Extending the Comment Period from 03/14/2017 to 04/28/2017.

EIS No. 20170031, Draft, USFS, ID, Big Creek Hot Springs Geothermal Leasing, Comment Period Ends: 05/01/2017, Contact: Julie Hopkins, 208–756–5279.

Revision to FR Notice Published 03/10/2017; Reestablish the Comment Period to End 05/01/2017.

Dated: March 14, 2017.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017–05375 Filed 3–16–17; 8:45 am]

BILLING CODE 6560–50–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 103172017–1111–10]

Proposed Amendment to Initial Funded Priorities List

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Proposed amendment to Initial Funded Priorities List.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) seeks public and Tribal comment on a proposal to amend its Initial Funded Priorities List (FPL) to approve implementation funding and associated actions for the Palm River Restoration Project Phase II, East McKay Bay project (Palm River), Florida. The Council is proposing to approve $768,680 in implementation funding for Palm River. The Council is also proposing to reallocate $87,750 from planning to implementation. The total amount available for implementation of Palm River would be $856,430. These funds would be used for construction of three stormwater ponds, exotic vegetation removal, native planting, monitoring, management of exotic species, and maintenance of the culverts/stormwater ponds along the Palm River at the mouth of McKay Bay.

In the Initial FPL, components of the Palm River project were split among two sponsors: The Environmental Protection Agency (EPA) and Florida. The EPA portion of the Palm River project was included with a larger set of restoration measures within the FPL activity entitled Tampa Bay National Estuary Program. To enhance administrative efficiency, the Council is proposing to unify the two components of the Palm River project under one sponsor, Florida. The implementation funding proposed above includes monies originally budgeted for implementation of the EPA component ($271,430).

To comply with the National Environmental Policy Act (NEPA) and other applicable laws, the Council is proposing to adopt an existing Environmental Assessment (EA) and ensure compliance with the terms and conditions of an associated Clean Water Act (CWA) Section 404 permit that has been issued for the project. In so doing, the Council would expedite project implementation, reduce planning costs and potentially increase the ecological benefits of this project.

DATES: Comments on this proposed amendment are due April 17, 2017.

ADDRESSES: Comments on this proposed amendment may be submitted as follows:

By Email: Submit comments by email to *frcomments@restorethegulf.gov.* Email submission of comments ensures timely receipt and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov,* without change, including any business or personal information provided, such as names, addresses, email addresses and telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

By Mail: Send comments to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *frcomments@restorethegulf.gov* or contact John Ettinger at (504) 444–3522.

SUPPLEMENTARY INFORMATION:

I. Background

The *Deepwater Horizon* oil spill led to passage of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act) (33 U.S.C. 1321(t) and *note),* which dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the oil spill to the Gulf Coast Restoration Trust Fund (Trust Fund). The RESTORE Act also created the Council, an independent Federal entity comprised of the five Gulf Coast states and six Federal agencies. Among other responsibilities, the Council administers a portion of the Trust Fund known as the Council-Selected Restoration Component in order to ''undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.'' Additional information on the Council can be found here: *https://www.restorethegulf.gov.*

On December 9, 2015, the Council approved the FPL, which includes projects and programs approved for funding under the Council-Selected Restoration Component, along with other activities the Council identified as priorities for potential future funding. Activities approved for funding in the FPL are included in ''Category 1;'' the priorities for potential future funding

are in ''Category 2.'' In the FPL the Council approved approximately $156.6 million in Category 1 restoration and planning activities, and prioritized twelve Category 2 activities for possible funding in the future, subject to environmental compliance and further Council and public review. The Council included planning activities for Palm River in Category 1 and implementation activities for Palm River in Category 2.

The Council reserved approximately $26.6 million for implementing priority activities in the future. These reserved funds may be used to support some, all or none of the activities included in Category 2 of the FPL and/or to support other activities not currently under consideration by the Council. As appropriate, the Council intends to review each activity in Category 2 in order to determine whether to: (1) Move the activity to Category 1 and approve it for funding, (2) remove it from Category 2 and any further consideration, or (3) continue to include it in Category 2. A Council decision to amend the FPL to move an activity from Category 2 into Category 1 must be approved by a Council vote after consideration of public and Tribal comments.

II. Environmental Compliance

Prior to approving an activity for funding in FPL Category 1, the Council must comply with NEPA and other applicable Federal environmental laws. At the time of approval of the FPL, the Council had not addressed NEPA and other laws applicable to implementation of Palm River. The Council did, however, recognize the potential ecological value of Palm River, based on a review conducted during the FPL process. For this reason, the Council approved $87,750 in planning funds for Palm River, a portion of which would be used to complete any needed environmental compliance activities. As noted above, the Council placed the implementation portion of Palm River into FPL Category 2, pending the outcome of this environmental compliance work and further Council review. The estimated cost of implementation of the Florida portion of Palm River is $497,250. As discussed earlier, EPA sponsored another component of Palm River, which was also placed in FPL Category 2. The estimated implementation cost of the EPA component is $271,430. As noted above, the Council is proposing to unify both components under one sponsor (Florida).

Since approval of the FPL, Florida, EPA, and Council staff have collaborated with the U.S. Army Corps of Engineers (USACE) to identify an existing EA and associated environmental compliance documentation that could be used to support Council approval of implementation funding for Palm River. This EA was prepared by USACE in association with a CWA Section 404 nationwide permit (NWP 27) for aquatic habitat restoration, establishment and enhancement activities.

The Council has reviewed this EA and associated documents, including a July 31, 2014, USACE memorandum for the record documenting use of NWP 27 for Palm River and a February 22, 2017, U.S. Fish and Wildlife Service letter to the Council regarding compliance with the Endangered Species Act (ESA). In addition to ESA, the EA and associated documents address compliance with other Federal environmental laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the National Historic Preservation Act, and others. Based on this review, the Council is proposing to adopt this EA to support the approval of implementation funds for Palm River, provided that the project is implemented in accordance with the terms and conditions of the CWA Section 404 permit. This EA and the associated documentation can be found here: *https://www.restorethegulf.gov/funded-priorities-list.* (See: *Palm River Restoration Project Phase II, East McKay Bay—Implementation.*)

Palm River Project

If approved for implementation funding, the Palm River project would entail construction of three stormwater ponds, exotic vegetation removal, native planting, monitoring, and perpetual maintenance of exotic species and the culverts/stormwater ponds along the Palm River at the mouth of McKay Bay. Specifically, the Palm River project would improve water quality and enhance upland and wetland areas on 53 acres of Southwest Florida Water Management District land. It would remove exotic vegetation, create an herbaceous wetland, and build three stormwater management areas to provide water quality treatment for 436 acres of residential, commercial and industrial developed land.

Additional information on this Project, including metrics of success, response to science reviews and more is available in an activity-specific appendix to the FPL, which can be found at *https://www.restorethegulf.gov.* (Please see the table on page 25 of the FPL and click on: Palm River Restoration Project Phase II, East McKay Bay, Implementation.)

Will D. Spoon,

Program Analyst, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2017–05353 Filed 3–16–17; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) reapprove the information collection project: ''*Consumer Assessment of Healthcare Providers and Systems (CAHPS) Health Plan Survey Comparative Database.*'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on December 22, 2016 and allowed 60 days for public comment. Since AHRQ did not receive any substantive comments during this period, this notice allows for an additional 30 days for public comment.

DATES: Comments on this notice must be received by April 17, 2017.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Consumer Assessment of Healthcare Providers and Systems (CAHPS) Health Plan Survey Comparative Database

The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) reapprove, under the Paperwork

Reduction Act of 1995, AHRQ's collection of information for the AHRQ Consumer Assessment of Healthcare Providers and Systems (CAHPS) Database for Health Plans: OMB Control number 0935–0165, expiration May 31, 2017. The CAHPS Health Plan Database consists of data from the AHRQ CAHPS Health Plan Survey. Health plans in the U.S. are asked to submit data voluntarily from the survey to AHRQ through its contractor, Westat. The CAHPS Database was developed by AHRQ in 1998 in response to requests from health plans, purchasers, the Centers for Medicare and Medicaid Services (CMS) to provide comparative data to support public reporting of health plan ratings, health plan accreditation and quality improvement.

This research has the following goals:

(1) To maintain the CAHPS Health Plan database using data from AHRQ's standardized CAHPS Health Plan survey to provide comparative results to health care purchasers, consumers, regulators and policy makers across the country.

(2) To offer several products and services, including comparative benchmark results presented through an Online Reporting System, summary chartbooks, custom analyses, and data for research purposes.

(3) To provide data for AHRQ's annual National Healthcare Quality and Disparities Report.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

(1) CAHPS Health Plan Survey that includes the Adult Medicaid, Child Medicaid and State Children's Health Insurance Program (SCHIP) populations. The Adult data collection uses the Adult survey and the Child and SCHIP collections include a child survey with chronic conditions and a child survey without chronic condition items. The CAHPS Health Plan surveys ask enrollees about their recent experiences with health plans and their services. This standardized survey was designed to support consumers in assessing the performance of health plans and choosing the plans that best meet their needs. Health plans can also use the survey results to identify their strengths and weaknesses and target areas for improvement. Participants have access to resources regarding the data submission process, a user guide and a technical assistance help line.

(2) Medicare health plan data are received from CMS.

Survey data from the CAHPS Health Plan Database is used to produce four types of products: (1) An annual chartbook available to the public on the CAHPS Database Web site (*https://www.cahpsdatabase.ahrq.gov/CAHPSIDB/Public/Chartbook.aspx*); (2) individual participant comparative reports that are confidential and customized for each participating organization (*e.g.,* health plan, Medicaid agency) that submits their data; (3) a research database available to researchers wanting to conduct additional analyses; and (4) data tables provided to AHRQ for inclusion in the National Healthcare Quality and Disparities Report.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondent to participate in the database. The burden hours pertain only to the collection of Medicaid data from State Medicaid agencies and individual Medicaid health plans because those are the only entities that submit data through the data submission process (other data are obtained from CMS as noted earlier in Section 2). The 85 Point of Contact (POC)s in Exhibit 1 are a combination of an estimated 75 State Medicaid agencies and individual health plans, and 10 vendor organizations.

Each State Medicaid agency, health plan or vendor will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a Health Plan information form of information about each Health Plan such as the name of the plan, the product type (*e.g.,* HMO, PPO), the population surveyed (*e.g.,* adult Medicaid or child Medicaid). Each year, the prior year's plan data are preloaded in the plan table to lessen burden on the Sponsor. The Sponsor is responsible for updating the plan table to reflect the current year's plan information. The online Health Plan Information form takes on average 30 minutes to complete per health plan with each POC completing the form for 4 plans on average. The data use agreement will be completed by the 75 participating State Medicaid agencies or individual health plans. Vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and return by fax or mail. Each submitter will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provide by the CAHPS Database. Since the unit of analysis is at the health plan level, submitters will upload one data file per health plan. Once a data file is uploaded the file will be checked automatically to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to fix any errors in their data file and resubmit if necessary. It will take about 1 hour to submit the data for each plan, and each POC will submit data for 4 plans on average. The total burden is estimated to be 501 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	85	1	5/60	7
Health Plan Information Form	75	4	30/60	150
Data Use Agreement	75	1	3/60	4
Data Files Submission	85	4	1	340
Total	320	NA	NA	501

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $22,153 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	85	7	[a] 50.99	$357
Health Plan Information Form	75	150	[a] 50.99	7,649
Data Use Agreement	75	4	[b] 89.35	357
Data Files Submission	85	340	[c] 40.56	13,790
Total	320	501	NA	22,153

* National Compensation Survey: Occupational wages in the United States May 2015, "U.S. Department of Labor, Bureau of Labor Statistics."
[a] Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
[b] Based on the mean hourly wage for Chief Executives (11–1011).
[c] Based on the mean hourly wages for Computer Programmer (15–1131).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Acting Director.

[FR Doc. 2017–05301 Filed 3–16–17; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0536]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry on Pharmacogenomic Data Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection resulting from the submission to the Agency of pharmacogenomic data during the drug development process.

DATES: Submit either electronic or written comments on the collection of information by May 16, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2010–N–0536 for "Guidance for Industry on Pharmacogenomic Data Submissions." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *https://www.regulations.gov* or at the

Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Pharmacogenomic Data Submissions

OMB Control Number 0910–0557—Extension

The guidance provides recommendations to sponsors submitting or holding investigational new drug applications (INDs), new drug applications (NDAs), or biologics license applications (BLAs) on what pharmacogenomic data should be submitted to the Agency during the drug development process. Sponsors holding, and applicants submitting, INDs, NDAs, or BLAs are subject to FDA requirements for submitting to the Agency data relevant to drug safety and efficacy (21 CFR 312.22, 312.23, 312.31, 312.33, 314.50, 314.81, 601.2, and 601.12).

The guidance interprets FDA regulations for IND, NDA, or BLA submissions, clarifying when the regulations require pharmacogenomics data to be submitted and when the submission of such data is voluntary. The pharmacogenomic data submissions described in the guidance that are required to be submitted to an IND, NDA, BLA, or annual report are covered by the information collection requirements under parts 312, 314, and 601 (approved under OMB control numbers 0910–0014 (part 312, INDs); 0910–0001 (part 314, NDAs and annual reports); and 0910–0338 (part 601, BLAs)).

The guidance distinguishes between pharmacogenomic tests that may be considered valid biomarkers appropriate for regulatory decision-making, and other, less well-developed exploratory tests. The submission of exploratory pharmacogenomic data is not required under the regulations, although the Agency encourages the voluntary submission of such data.

The guidance describes the voluntary genomic data submission (VGDS) that can be used for such a voluntary submission. The guidance does not recommend a specific format for the VGDS, except that such a voluntary submission be designated as a VGDS. The data submitted in a VGDS and the level of detail should be sufficient for FDA to be able to interpret the information and independently analyze the data, verify results, and explore possible genotype-phenotype correlations across studies. FDA does not want the VGDS to be overly burdensome and time consuming for the sponsor.

FDA has estimated the burden of preparing a voluntary submission described in the guidance that should be designated as a VGDS, based on our experience with these submissions over the past few years, and on our familiarity with sponsors' interest in submitting pharmacogenomic data during the drug development process. In 2013, we received three VGDS. Since 2013, there have been no submission of VGDS, however, for purposes of this information collection approval, we are estimating that we may receive one submission annually. We estimate each submission requires approximately 50 hours to prepare and submit to FDA.

We therefore estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
Voluntary Genomic Data Submissions	1	1	1	50	50

[1] There are no capital costs or operating and maintenance costs associated with this collection.

Dated: March 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–05293 Filed 3–16–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0804]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 17, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0120. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Notification—21 CFR Part 807, Subpart E

OMB Control Number 0910–0120—Reinstatement

Section 510(k) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360(k)) and the implementing regulation under part 807 (21 CFR part 807, subpart E) require a person who intends to market a medical device to submit a premarket notification submission to FDA at least 90 days before proposing to begin the introduction, or delivery for introduction into interstate commerce, for commercial distribution of a device intended for human use. Based on the information provided in the notification, FDA must determine whether the new device is substantially equivalent to a legally marketed device, as defined in § 807.92(a)(3) (21 CFR 807.92(a)(3)). If the device is determined to be not substantially equivalent to a legally marketed device, it must have an approved premarket approval application (PMA), product development protocol, humanitarian device exemption (HDE), petition for Evaluation of Automatic Class III Designation (de novo), or be reclassified into class I or class II before being marketed. FDA makes the final decision of whether a device is substantially equivalent or not equivalent.

Section 807.81 states when a premarket notification is required. A premarket notification is required to be submitted by a person who is: (1) Introducing a device to the market for the first time; (2) introducing a device into commercial distribution for the first time by a person who is required to register; and (3) introducing or reintroducing a device which is significantly changed or modified in design, components, method of manufacturer, or the intended use that could affect the safety and effectiveness of the device.

Form FDA 3514, a summary cover sheet form, assists respondents in categorizing administrative 510(k) information for submission to FDA. This form also assists respondents in categorizing information for other FDA medical device programs such as PMAs, investigational device exemptions, and HDEs. Under § 807.87(h), each 510(k) submitter must include in the 510(k) either a summary of the information in the 510(k) as required by § 807.92 (510(k) summary) or a statement certifying that the submitter will make available upon request the information in the 510(k) with certain exceptions as per § 807.93 (510(k) statement). If the 510(k) submitter includes a 510(k) statement in the 510(k) submission, § 807.93 requires that the official correspondent of the firm make available within 30 days of a request all information included in the submitted premarket notification on safety and effectiveness. This information will be provided to any person within 30 days of a request if the device described in the 510(k) submission is determined to be substantially equivalent. The information provided will be a duplicate of the 510(k) submission including any safety and effectiveness information, but excluding all patient identifiers and trade secret and commercial confidential information.

Section 204 of the Food and Drug Administration Modernization Act (FDAMA) (Pub. L. 105–115) amended section 514 of the FD&C Act (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions including premarket notifications or other requirements. FDA has published and updated the list of recognized standards regularly since enactment of FDAMA and has allowed 510(k) submitters to certify conformance to recognized standards to meet the requirements of § 807.87. Form FDA 3654, the 510(k) Standards Data Form, standardizes the format for submitting information on consensus standards that a 510(k) submitter chooses to use as a portion of their premarket notification submission (Form FDA 3654 is not for declarations of conformance to a recognized standard). FDA believes that use of this form will simplify the 510(k) preparation and review process for 510(k).

Under § 807.90, submitters may request information on their 510(k) review status 90 days after the initial login date of the 510(k). Thereafter, the

submitter may request status reports every 30 days following the initial status request. To obtain a 510(k) status report, the submitter should complete the status request form, Form FDA 3541, and fax it to the Center for Devices and Radiological Health office identified on the form.

In the **Federal Register** of November 18, 2016 (81 FR 81772), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and 21 CFR part/section	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
510(k) submission (807 subpart E)		3,900	1	3,900	79	308,100
Summary cover sheet (807.87)	3514	1,956	1	1,956	.5 (30 minutes)	978
Status request (807.90(a)(3))	3541	218	1	218	.25 (15 minutes)	55
Standards (807.87(d) and (f))	3654	2,700	1	2,700	10	27,000
510(k) statement (807.93)		225	10	2,250	10	22,500
Total						358,633

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–05300 Filed 3–16–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0117]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Providing Information About Pediatric Uses of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 17, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0762. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Providing Information About Pediatric Uses of Medical Devices Under Section 515A of the Federal Food, Drug, and Cosmetic Act

OMB Control Number 0910–0762—Extension

The guidance document entitled ''Providing Information About Pediatric Uses of Medical Devices—Guidance for Industry and Food and Drug Administration Staff'' suggests that applicants who submit certain medical device applications include, if readily available, pediatric use information for diseases or conditions that the device is being used to treat, diagnose, or cure that are outside the device's approved or proposed indications for use, as well as an estimate of the number of pediatric patients with such diseases or conditions. The information submitted will allow FDA to identify pediatric uses of devices outside their approved or proposed indication for use to determine areas where further pediatric device development could be useful. This recommendation applies to applicants who submit the following applications: (1) Any request for a humanitarian device exemption submitted under section 520(m) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(m)); (2) any premarket approval application (PMA) or supplement to a PMA submitted under section 515 of the FD&C Act (21 U.S.C. 360e); and (3) any product development protocol submitted under section 515 of the FD&C Act.

Respondents are permitted to submit information relating to uses of the device outside the approved or proposed indication if such uses are described or acknowledged in acceptable sources of readily available information. We estimate that 20 percent of respondents submitting information required by section 515A of the FD&C Act will choose to submit this information and that it will take 30 minutes for them to do so.

In the **Federal Register** of December 5, 2016 (81 FR 87575), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Description	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Uses outside approved indication	148	1	148	0.5 (30 minutes)	74

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–05302 Filed 3–16–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given that a meeting is scheduled for the National Advisory Committee on Rural Health and Human Services (NACRHHS). This meeting will be open to the public. Information about NACRHHS and the agenda for this meeting can be obtained by accessing the following Web site: *http://www.hrsa.gov/advisorycommittees/rural.*

DATES:

April 10, 2017, 9:00 a.m.–5:00 p.m. EDT
April 11, 2017, 8:30 a.m.–5:00 p.m. EDT
April 12, 2017, 9:00 a.m.–11:00 a.m. EDT

ADDRESSES: This meeting will be held in-person at the Hyatt Place Hotel. The address for the meeting is 400 E Street SW., Washington, DC 20024. The meeting will also be held in-person at the Hubert H. Humphrey Building, located at 200 Independence Avenue SW., Washington, DC, on April 11.

FOR FURTHER INFORMATION CONTACT: Steve Hirsch, Administrative Coordinator, NACRHHS, HRSA, 5600 Fishers Lane, Room 17W41C, Rockville, Maryland 20857, telephone (301) 443–0835, fax (301) 443–2803 or by email at *shirsch@hrsa.gov.*

Persons interested in attending any portion of the meeting, including the April 11 portion at the Hubert H. Humphrey Building, should contact Adam Cohen at the Federal Office of Rural Health Policy before April 7, 2017 by telephone at (301) 443–0445 or by email at *acohen@hrsa.gov.*

SUPPLEMENTARY INFORMATION: NACRHHS provides counsel and recommendations to the Secretary with respect to the delivery, research, development, and administration of health and human services in rural areas.

The meeting on Monday, April 10, will be called to order at 9:00 a.m. by the Chairperson of the Committee, the Honorable Ronnie Musgrove. The Committee will examine the current delivery of health care and human services in rural areas. The day will conclude with a period of public comment at approximately 5:00 p.m.

The Committee will visit the Hubert H. Humphrey Building on Tuesday, April 11. The day will conclude with a period of public comment at approximately 5:00 p.m.

The Committee will meet to summarize key findings and develop a work plan for the next quarter and its future meeting on Wednesday, April 12, at 9:00 a.m., at the Hyatt Place Hotel.

The Hubert H. Humphrey Building requires a security screening on entry. To facilitate your access to the building, please contact Adam Cohen before April 7, 2017 at (301) 443–0445. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Adam Cohen by telephone at (301) 443–0445 or by email at *acohen@hrsa.gov* at least 10 days prior to the meeting.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–05298 Filed 3–16–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, March 21, 2017, 08:30 a.m. to 05:00 p.m., National Institutes of Health, 31 Center Drive, Building 31, Conference Room 10, Bethesda, MD, 20892 which was published in the **Federal Register** on March 3, 2017, 82 FR 12459.

The meeting notice is amended to change the meeting start and end time to 9:00 a.m. to 4:30 p.m. The date and location remain the same. The meeting is open to the public.

Dated: March 14, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05391 Filed 3–16–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Gabriella Miller Kids First.

Date: April 24, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Thomas Boardroom, 2350 M Street NW., Washington, DC 20037.

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Ste. 4076, MSC 9306, Bethesda, MD 20892–9306, 301–402–0838, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 14, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05392 Filed 3–16–17; 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 (5 U.S.C. App.), 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; Instrumentation Systems Development Special Emphasis Panel.

Date: April 6, 2017.

Time: 1:15 p.m. to 2:00 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: Kathryn Kalasinsky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–16–005: 2017 Pioneer Award Review.

Date: April 18–20, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: James W. Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics.

Date: April 18, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 806–2515, *chatterm@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: March 14, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05390 Filed 3–16–17; 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 (5 U.S.C. App.), 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 conflict: GI Physiology and Pathology.

Date: March 22, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Meenakshisundar Ananthanarayanan, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, Bethesda, MD 20817, 301–435–1234, *ananth.ananthanarayanan@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: *March 14, 2017.*

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05389 Filed 3–16–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: May 16–17, 2017.

Closed: May 16, 2017, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, C Wing 6th Floor Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 17, 2017, 8:00 a.m. to 12:15 p.m.

Agenda: Call to order and report from the Director; Discussion of future meeting dates; Consideration of minutes of last meeting; Reports from Task Force on Minority Aging Research, Working Group on Program; Council Speaker; Program Highlights.

Place: National Institutes of Health, Building 31, C Wing 6th Floor Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Robin Barr, Director, National Institute on Aging, Office of

Extramural Activities, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (301) 496–9322, *barrr@nia.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 beforebeing allowed on campus. Visitors will be asked to show one form of identification (for example, agovernment-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: *www.nih.gov/nia/naca/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 13, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05393 Filed 3–16–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE ON AGING, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA.

Date: May 9, 2017.

Closed: 8:00 a.m. to 8:20 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research, Center 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Open: 8:20 a.m. to 11:50 a.m.

Agenda: Committee discussion, individual presentations, laboratory overview.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard Baltimore, MD 21224.

Closed: 11:50 a.m. to 1:05 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Open: 1:05 p.m. to 3:05 p.m.

Agenda: Committee discussion, individual presentations, laboratory overview.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Closed: 3:05 p.m. to 3:40 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room 251 Bayview Boulevard, Baltimore, MD 21224.

Open: 3:40 p.m. to 4:40 p.m.

Agenda: Committee discussion, individual presentations, laboratory overview.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Closed: 4:40 p.m. to 5:45 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institute on Aging, Biomedical Research Center, 3rd Floor Conference Room, 251 Bayview Boulevard, Baltimore, MD 21224.

Contact Person: Luigi Ferrucci, Ph.D., MD, Scientific Director, National Institute on Aging, 251 Bayview Boulevard, Suite 100, Room 4C225, Baltimore, MD 21224, 410–558–8110, *LF27Z@NIH.GOV*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 14, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05394 Filed 3–16–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis And Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIAMS.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAMS.

Date: April 4–5, 2017

Time: 6:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate program performance and investigators.

Place: National Institutes of Health, Building 31, Room: 4C32, 31 Center Drive, Bethesda, MD 20892.

Contact Person: John J. O'Shea, MD, Ph.D., Scientific Director, National Institute of Arthritis & Musculoskeletal and Skin Diseases, Building 10, Room 9N228, MSC 1820, Bethesda, MD 20892, (301) 496–2612, *osheaj@arb.niams.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: March 14, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–05395 Filed 3–16–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2016–N217; BAC–4333–99]

Massasoit National Wildlife Refuge, Plymouth, MA; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and environmental assessment (EA) for Massasoit National Wildlife Refuge (NWR) for public review and comment. Massasoit NWR is located in Plymouth, Massachusetts, and is administered by staff at Eastern Massachusetts NWR Complex based in Sudbury, Massachusetts. The draft CCP and EA describes two alternatives for managing Massasoit NWR for the next 15 years. Alternative B is identified as the Service-preferred alternative. Also available for public review and comment are the draft compatibility determinations, which are included as appendix B in the draft CCP and EA.

DATES: To ensure consideration of your written comments, please send them by May 16, 2017. We will also hold a public meeting. We will announce the meeting and other opportunities for public input in local news media, via our project mailing list, and on the refuge planning Web site: *http://www.fws.gov/refuge/Massasoit/what_we_do/conservation.html.*

ADDRESSES: You may submit comments, request copies of the document, or obtain more information on the plan by any of the following methods.

Email: northeastplanning@fws.gov. Please include ''Massasoit CCP'' in the subject line of the message.

U.S. Mail: Elizabeth Herland, Project Leader, Eastern Massachusetts NWR Complex, 73 Weir Hill Road, Sudbury, MA 01776.

Fax: Attention: Elizabeth Herland, 978–443–2898.

In-Person Drop-off, Viewing, or Pickup: Call Elizabeth Herland, Project Leader, Eastern Massachusetts NWR Complex, at 978–579–4026, during regular business hours to make an appointment to view the document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Herland, Project Leader, Eastern Massachusetts NWR; mailing address: 73 Weir Hill Road, Sudbury, MA 01776; 978–579–4026 (phone); 978–443–2898 (fax); *northeastplanning@fws.gov* (email) (please put ''Massasoit NWR'' in the subject line).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Massasoit NWR. We published our original notice of intent to prepare a CCP in the **Federal Register** on January 10, 2012 (77 FR 1503).

The 209-acre Massasoit NWR is located in Plymouth, Massachusetts, and is comprised of three parcels: Crooked Pond (184 acres), Island Pond (15 acres), and Hoyts Pond (10 acres). The refuge was established in 1983 primarily to conserve the federally endangered northern red-bellied cooter (cooter). In addition, the refuge protects other wildlife and plant species, including rare moths and other native pollinators, migratory songbirds, and small mammals. Habitats on the refuge include pine-oak upland forest with varying understory types, and coastal plain ponds and associated shoreline and upland habitats.

The refuge is currently closed to all public uses. It has not been open to the public since its establishment due to both staffing limitations and the presence of the cooter that is sensitive to disturbance. Exceptions have been made for occasional interpretive and environmental education programs under a special use permit (SUP), or via special staff-led programs.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years, in accordance with the Refuge Administration Act.

Public Outreach

In April 2012, we distributed a planning newsletter to inform stakeholders about the planning process and asked recipients to contact us about issues or concerns they would like us to address. We also posted the newsletter on our Web site and published news releases in local newspapers. We held stakeholder and public scoping meetings in early April 2012, in Plymouth, Massachusetts. These meetings helped refine the partner and public concerns to be address in the planning process. Throughout the planning process, refuge staff have conducted additional outreach via participation in community meetings and events, other public forums, and meetings with the Massachusetts Division of Fisheries and Wildlife. We have considered and evaluated all of the comments we received and address them in various ways in the two alternatives presented in the draft CCP and EA.

CCP Alternatives We Are Considering

We developed and evaluated two management alternatives in the draft CCP and EA. A full description of each alternative is in the draft plan. Both alternatives include measures to continue conducting biological and ecological research and investigations on cooters, as well as continue active habitat management to benefit the cooters and other species of concern.

There are other actions that differ among the alternatives. Below, we provide summaries of the two alternatives, highlighting the differences.

Alternative A (Current Management)

Alternative A is the ''no action'' alternative required by the National Environmental Policy Act. Alternative A defines our current management activities, including those planned, funded, or underway, and serves as the baseline against which to compare alternative B. Under alternative A, we would continue to contribute to rangewide cooter population recovery goals by protecting existing pond and shoreline habitat on the refuge from human disturbance, creating and maintaining high quality nesting habitat, and increasing nest success and hatchling survival. Our work with the cooter recovery team and species experts would continue to refine our understanding of species habitat requirements and the factors limiting survival and reproduction. We would continue to manage mixed pine-oak forest and other upland habitats to

reduce hazardous fuel loading through mechanical clearing and prescribed fire. We would also continue to allow limited environmental education and interpretation programs under a SUP, or led by refuge staff.

Alternative B (Increased Ecosystem Monitoring, Partnerships, and Public Use; Service-Preferred Alternative)

Alternative B is the Service-preferred alternative. It combines the actions we believe would best achieve the refuge's purposes, vision, and goals and respond to public issues. Alternative B represents an extension and progression of all areas of current refuge management, including additional biological work, increased visitor services opportunities, and enhanced outreach to local communities. Alternative B places a greater emphasis on the importance of the refuge in a larger landscape context. This alternative would expand habitat management and monitoring for cooter and other species on additional refuge-owned parcels, and would include the use of prescribed burning to increase the structure and species composition of upland habitats to benefit wildlife resources of concern.

Alternative B would pursue the Service's administrative requirements to evaluate potential hunting opportunities on the Crooked Pond parcel. Wildlife observation, photography, interpretation, and environmental education would be allowed on special occasions when led by refuge staff or partners working under a SUP. These activities would allow visitors to gain a better understanding of the unique natural resources the refuge protects and encourage visitors to become better stewards and advocates for resource conservation.

Under alternative B, refuge staff would increase outreach to the local community to raise the refuge's visibility and promote the relevancy of the refuge and the Eastern Massachusetts NWR Complex to conservation in southeast Massachusetts.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and, if appropriate, finding of no significant impact.

Public Availability of Documents

In addition to any methods listed in **ADDRESSES,** you can view or obtain documents from the agency Web site at: *http://www.fws.gov/refuge/Massasoit/what_we_do/conservation.html.*

Submitting Comments

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document.
- Question, with reasonable basis, the adequacy of the EA.
- Present reasonable alternatives other than those presented in the EA.
- Provide new or additional information relevant to the EA.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, 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.

Dated: March 13, 2017.

Wendi Weber,

Regional Director, Northeast Region.

[FR Doc. 2017–05369 Filed 3–16–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTM00000.L111100000.XP0000 17XL1109AF MO#4500082502]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Central Montana RAC meeting will be held on March 29 and 30, 2017, in Glasgow, Montana. The meeting on March 29, 2017, will be held from 12 p.m. to 5 p.m., with a 30-minute public comment period at 12:30 p.m. RAC members will take a field trip on March 30, 2017.

ADDRESSES: The meetings will be in the Cottonwood Inn Conference Room, 54250 U.S. Hwy. 2, Glasgow, MT 59230.

FOR FURTHER INFORMATION CONTACT: Mark Albers, North Central Montana District Manager, 1220 38th Street North, Great Falls, MT 59401, (406) 791–7794, *malbers@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior, through the BLM, on a variety of management issues associated with public land management in Montana. During these meetings, the RAC is scheduled to participate in, discuss, and act upon these topics or activities. All RAC meetings are open to the public.

Agenda items for the March 29–30, 2017, sessions include, but are not limited to: An update on implementation of the existing Sweet Grass Hills mineral withdrawal; an update on the American Prairie Reserve bison conversion proposal; information on BLM travel management planning; HiLine precipitation; a briefing on the proposed Sandy Coal Boat Ramp; regular business items such as planning the next meeting's agenda; and. a field trip to a sage grouse lek.

The RAC meeting will also have time allocated for oral public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

Authority: 43 CFR 1784.4–2.

Rick Hotaling,

Acting Associate State Director, BLM Montana/Dakotas.

[FR Doc. 2017–05386 Filed 3–16–17; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–560 and 731–TA–1320 (Final)]

Carbon and Alloy Steel Cut-to-Length Plate From China

Determination

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of carbon and alloy steel cut-to-length plate from China, provided for in subheadings 7208.40.30, 7208.51.00, 7208.52.00, 7211.13.00, 7211.14.00, 7225.40.11, 7225.40.30, 7226.20.00, and 7226.91.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'') and subsidized by the government of China.

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted these investigations effective April 8, 2016, following receipt of petitions filed with the Commission and Commerce by ArcelorMittal USA LLC (Chicago, Illinois), Nucor Corporation (Charlotte, North Carolina), and SSAB Enterprises, LLC (Lisle, Illinois). The Commission scheduled the final phase of the investigations following notification of a preliminary determination by Commerce that imports of carbon and alloy steel cut-to-length plate from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 12, 2016 (81 FR 70440). The hearing was held in Washington, DC, on November 30, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 13, 2017. The views of the Commission are contained in USITC Publication 4675 (March 2017), entitled *Carbon and Alloy Cut-to-Length Plate From China: Investigation Nos. 701–TA–560 and 731–TA–1320 (Final).*

By order of the Commission.

Issued: March 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–05315 Filed 3–16–17; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Digital Cable and Satellite Products, Set-Top Boxes, Gateways, and Components Thereof, DN 3204;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Sony Corporation and Sony Electronics Inc. on March 10, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital cable and satellite products, set-top boxes, gateways, and components thereof. The complaint names as respondents ARRIS International plc of Suwanee, GA; ARRIS Group, Inc. of Suwanee, GA; ARRIS Technology, Inc. of Horsham, PA; ARRIS Enterprises, LLC of Suwanee, GA; ARRIS Solutions, Inc. of Suwanee, GA; ARRIS Global Ltd. (formerly Pace Ltd.) of England; Pace Americas, LLC of Boca Raton, FL; Pace Americas Holdings, Inc. of Boca Raton, FL; Pace USA LLC of Boca Raton, FL; and Pace Americas Investments, LLC of Boca Raton, FL. The complainants request that the Commission issue an exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third

party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3204'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.
Issued: March 13, 2017.

Lisa R. Barton,
Secretary to the Commission.

[FR Doc. 2017–05321 Filed 3–16–17; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–227]

Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries

AGENCY: United States International Trade Commission.

ACTION: Scheduling of public hearing and opportunity to submit information in connection with the Commission's 23rd report.

SUMMARY: The Commission is inviting the public to appear at the public hearing and or to submit information in writing in connection with the preparation of its 23rd report under section 215 of the Caribbean Basin Economic Recovery Act, which requires the Commission to report biennially to the Congress and the President by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers and on the economy of the beneficiary countries. The report is being prepared under Commission investigation No. 332–227, *Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries.* The report will cover trade during calendar years 2015 and 2016, and will be transmitted to the Congress and the President by September 29, 2017.

DATES:

April 13, 2017: Deadline for filing requests to appear at the public hearing.

April 20, 2017: Deadline for filing pre-hearing briefs and statements.

May 11, 2017: Public hearing.

May 18, 2017: Deadline for filing post-hearing briefs and statements.

May 18, 2017: Deadline for filing all other written submissions.

September 29, 2017: Transmittal of Commission report to Congress and the President.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public file for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Justino De La Cruz (202–205–3252 or *Justino.DeLaCruz@usitc.gov*) or Deputy Project Leader Heather Wickramarachi (202–205–2699 or *Heather.Wickramarachi@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site at *http://www.usitc.gov.* Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background: Section 215(a)(1) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)(1)) requires that the Commission submit biennial reports to the Congress and the President regarding the economic impact of the Act on U.S. industries and consumers, and on the economy of the beneficiary countries. Section 215(b)(1) requires that the reports include, but not be limited to, an assessment regarding:

(A) The actual effect, during the period covered by the report, of

[CBERA] on the United States economy generally, as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act terminate.

The report will cover trade with the 17 beneficiary countries: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

Notice of institution of the investigation was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The Commission plans to transmit the 23rd report, covering calendar years 2015 and 2016, by September 29, 2017.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on May 11, 2017. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., April 13, 2017, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., April 20, 2017; and all post-hearing briefs and statements responding to matters raised at the hearing should be filed not later than 5:15 p.m., May 18, 2017. In the event that, as of the close of business on April 13, 2017, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after April 13, 2017, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., May 18, 2017. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information: Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission will not include any confidential business information in the report it makes available to the public. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of positions of interested persons. Persons wishing to have a summary of their position included in the report should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: March 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–05319 Filed 3–16–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–556 and 731–TA–1311 (Final)]

Truck and Bus Tires From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is not materially injured or threatened with material injury by reason of imports of truck and bus tires from China, provided for in statistical reporting numbers 4011.20.1015 and 4011.20.5020 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of China.[2]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective January 29, 2016, following receipt of a petition filed with the Commission and Commerce by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Pittsburgh, PA. The final phase of the investigations was scheduled by the Commission following notification of a preliminary determinations by Commerce that imports of truck and bus

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Rhonda K. Schmidtlein and Commissioner Irving A. Williamson determine that a domestic industry is materially injured by reason of subject imports. Commissioner Dean A. Pinkert did not participate in these investigations.

tires from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 15, 2016 (81 FR 63494). The hearing was held in Washington, DC, on January 24, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 13, 2017. The views of the Commission are contained in USITC Publication 4673 (March 2017), entitled *Truck and Bus Tires From China: Investigation Nos. 701–TA–556 and 731–TA–1311 (Final).*

By order of the Commission.

Issued: March 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–05320 Filed 3–16–17; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Intravascular Administration Sets and Components Thereof, DN 3205;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Curlin Medical Inc., ZEVEX, Inc., and Moog Inc. on March 13, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain intravascular administration sets and components thereof. The complaint names as a respondent Yangzhou WeiDeLi Trade Co., Ltd. of China. The complainants request that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3205'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices,

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–05323 Filed 3–16–17; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On March 13, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Virginia in the lawsuit entitled *United States* v. *Michael Cosola,* Civil Action No. 1:17–CV–00007.

The proposed Consent Decree will resolve claims alleged under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') against Michael Cosola for costs incurred in responding to releases and threatened releases of hazardous substances at the Twin Cities Iron and Metal Site (the ''Site'') located in Bristol, Virginia. Michael Cosola is the current owner of Site property. The proposed Consent Decree imposes certain access and use restrictions at the Site, requires Mr. Cosola to perform a Phase II Site Assessment prior to disturbing soil on the property, and requires Mr. Cosola to record an environmental covenant on the Site property that will protect the remedy and run with the property in perpetuity.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Michael Cosola,* Civil Action No. 1:17–CV–00007, D.J. Ref. No. 90–11–3–10712/2. 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 e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department 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 $24.75 (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 $5.50.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–05322 Filed 3–16–17; 8:45 am]

BILLING CODE 4410–15–P

MARINE MAMMAL COMMISSION

Sunshine Act Notice

Time and Date: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will hold a public meeting on Wednesday, 5 April 2017, from 10:30 a.m. to 5:30 p.m.; Thursday, 6 April 2017, from 8:30 a.m. to 5:30 p.m.; Friday, 7 April 2017, from 8:30 a.m. to 4:00 p.m. The Commission and the Committee also will meet in executive session on Wednesday, 5 April 2017, 8:00 to 10:00 a.m.

Place: Ballroom I and II of the Sea Crest Beach Hotel, 350 Quaker Rd., North Falmouth, Massachusetts.

Status: The executive session will be closed to the public in accordance with the provisions of the Government in the Sunshine Act (5 U.S.C. 552b) and applicable regulations. The session will be limited to discussions of internal agency practices, personnel, and the budget of the Commission. All other portions of the meeting will be open to the public. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

Matters To Be Considered: The Commission and Committee will meet in public session to discuss a broad range of marine mammal science and conservation policy issues, with a particular focus on pinniped and large whales scientific and policy issues in the Northeast. The agenda for the meeting is posted on the Commission's Web site at *www.mmc.gov/events-meetings-and-workshops/marine-mammal-commission-annual-meetings/2017-annual-meeting/.*

Contact Person For More Information: Luis F. Leandro, Director of Communications and External Affairs, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, MD 20814; (301) 504–0087; email: *mmc@mmc.gov.*

Dated: March 8, 2017.

Rebecca J. Lent,

Executive Director.

[FR Doc. 2017–05317 Filed 3–15–17; 4:15 pm]

BILLING CODE 6820–31–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2017–030]

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 no longer needed 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 April 17, 2017. Once NARA completes appraisal of 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 in which agencies propose to destroy records 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 retention periods for records 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 disposal 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 has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of 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 (in the case of schedules that 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 Health and Human Services, Centers for Medicare & Medicaid Services (DAA–0440–2015–0009, 2 items, 1 temporary item). Records related to research and statistical analysis, including demonstration projects and research-related records. Proposed for permanent retention are public use statistical research files and data sets.

2. Department of Health and Human Services, National Institutes of Health (DAA–0443–2017–0001, 4 items, 4 temporary items). Certificates of Confidentiality records issued for research to include correspondence, denied applications, and issued applications.

3. Department of Homeland Security, Immigration and Customs Enforcement (DAA–0567–2015–0016, 1 item, 1 temporary item). Records related to fugitive alien arrest operations, including operation worksheets and copies of relevant information related to the targeted fugitive.

4. Department of Homeland Security, Transportation Security Administration (DAA–0560–2017–0006, 1 item, 1 temporary item). Records related to internal agency and State Department authorizations for agency staff to travel abroad to perform official duties.

5. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2016–0017, 2 items, 2 temporary items). Naturalization and citizenship supplementary and process administration forms, which do not document decisions to grant or deny citizenship benefits.

6. Department of Labor, Mine Safety and Health Administration (DAA–0433–2015–0004, 25 items, 14 temporary items). Records related to program development and management, administrative issuances, training and public affairs, and publications. Proposed for permanent retention are high level correspondence, program policies and directives, educational and public affairs products, and publications for the mining industry.

7. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (DAA–0571–2015–0007, 9 items, 8 temporary items). Hazardous materials information system records to include telephonic information on hazardous material incidents and workflow information on approvals of hazardous material processes, special permits, development of standards, enforcement cases, registration of hazardous materials carriers, approval of carrier design certification, and publication requests. Proposed for permanent retention is an incident reporting database.

8. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (DAA–0571–2015–0019, 4 items, 4 temporary items). Records pertaining to field operations, including case files, fitness memos, special project files, and investigator qualifications.

9. Department of Veterans Affairs, Veterans Health Administration (DAA–0015–2016–0007, 6 items, 6 temporary items). Records cover site protection, investigations, and technical assistance on security matters at agency facilities.

10. Broadcasting Board of Governors, International Broadcasting Bureau (DAA–0517–2015–0001, 8 items, 5 temporary items). Records include general program review files and reports, customer surveys, public service announcements, foreign language versions of editorials, working files and reference materials. Proposed for permanent retention are editorials and related clearance correspondence, and leadership subject files.

11. Export-Import Bank of the United States, Office of the Inspector General (DAA–0275–2016–0001, 8 items, 3 temporary items). Routine administrative and program records, including working papers. Proposed for permanent retention are significant investigations, audits and evaluations, annual reports to Congress, and program policy files.

12. National Archives and Records Administration, Government-wide (DAA–GRS–2016–0015, 20 items, 20 temporary items). General Records Schedule for employee compensation and benefits records including records of payroll, its calculation (deductions, withholding, time and attendance, leave donation) and deposit; tax statements; wage surveys; hiring incentives; workers' compensation; various subsidy programs; Family Medical Leave Act program; and program administration.

13. Peace Corps, Office of Global Operations (DAA–0490–2017–0002, 2 items, 1 temporary item). Records include routine program files and working papers. Proposed for permanent retention are policies, assessments, and related reports.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2017–05348 Filed 3–16–17; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0123]

Information Collection: "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations"

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.''

DATES: Submit comments by May 16, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0123. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0123 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0123.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML16270A052.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2016–0123 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 34, ''Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.''
2. *OMB approval number:* 3150–0007.
3 *Type of submission:* Extension.
4. *The form number, if applicable:* N/A

5. *How often the collection is required or requested:* Applications for new licenses and amendments may be submitted at any time (on occasion). Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

6. *Who will be required or asked to respond:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for radiography.

7. *The estimated number of annual responses:* 3,031.

8. *The estimated number of annual respondents:* 578.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 260,457.

10. *Abstract:* Part 34 of title 10 of the *Code of Federal Regulations* establishes radiation safety requirements for the use of radioactive material in industrial radiography. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

III. Specific Requests for Comments.

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 13th day of March 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–05354 Filed 3–16–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0275]

Information Collection: Comprehensive Decommissioning Program, Including Annual Data Collection

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Comprehensive Decommissioning Program, Including Annual Data Collection.''

DATES: Submit comments by May 16, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0275. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0275 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0275. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0275 on this Web site.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML16354B305.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2016–0275 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC

does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Comprehensive Decommissioning Program, Including Annual Data Collection.
2. *OMB approval number:* 3150–0206.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* N/A
5. *How often the collection is required or requested:* Annually.
6. *Who will be required or asked to respond:* All Agreement States who have signed Section 274(b) Agreements with the NRC.
7. *The estimated number of annual responses:* 69 (45 responses from Agreement States with sites of interest +24 responses from Agreement States with no sites of interest).
8. *The estimated number of annual respondents:* 37 (13 Agreement States respondents with sites of interest +24 Agreement States respondents with no sites of interest).
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 432 (360 hours from Agreement States with sites of interest +72 hours from Agreement States with no sites of interest).
10. *Abstract:* The Agreement States will be asked to provide information about uranium recovery and complex sites undergoing decommissioning regulated by the Agreement States on an annual basis. The information request will allow the NRC to compile, in a centralized location, more complete information on the status of decommissioning and decontamination in the United States in order to provide a national perspective on decommissioning. The information will be made available to the public by the NRC in order to ensure openness and promote communication to enhance public knowledge of the national decommissioning program. This does not apply to information, such as trade secrets and commercial or financial information provided by the Agreement States, that is considered privileged or confidential.

III. Specific Requests for Comments.

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 13th day of March 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–05355 Filed 3–16–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Notice of Intent To Prepare a Programmatic Environmental Assessment for the Purchase of Commercial Vehicles

AGENCY: Postal Service.

ACTION: Notice of intent to prepare a Programmatic Environmental Assessment.

SUMMARY: To comply with the requirements of the National Environmental Policy Act (NEPA), the Postal Service intends to prepare a Programmatic Environmental Assessment (PEA) for the purchase of commercial off-the-shelf (COTS) delivery vehicles to accommodate route growth and replace aged, high-maintenance vehicles over the next three years. This PEA will evaluate the environmental impacts of the proposed action versus the alternatives of leasing the vehicles in lieu of purchase, and taking no action.

DATES: Comments should be received no later than April 3, 2017. In May of 2017, the Postal Service will publish a Notice of Availability to announce the availability of the Draft PEA and solicit comments on the Draft PEA during a second 15-day public comment period.

ADDRESSES: Interested parties may direct comments, questions, or requests for additional information to: Davon Collins, Environmental Counsel, U.S. Postal Service, Room 6333, 475 L'Enfant Plaza SW., Washington, DC 20260, telephone (202) 268–4570, email *davon.m.collins@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice concerns a proposed purchase of commercial off-the-shelf (COTS) delivery vehicles, and the intent of the Postal Service, pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, its implementing procedures at 39 CFR 775, and the President's Council on Environmental Quality Regulations (40 CFR parts 1500–1508), to prepare a PEA to evaluate the environmental impacts of the proposed action versus the alternatives of leasing the vehicles in lieu of purchase, or taking no action.

To stabilize its delivery fleet pending the development of a longer-term solution to its vehicle needs, the Postal Service is considering the purchase of approximately 25,000 left-hand drive and right-hand drive COTS delivery vehicles to accommodate route growth over the next three years and to replace approximately 18,000 aged and high-maintenance cost vehicles. The prospective PEA will be prepared in accordance with NEPA, and will consider the physical, biological, cultural, and socioeconomic environments. To assist in this process, the Postal Service is soliciting the public's input and comments.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–05304 Filed 3–16–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80226; File No. SR–Phlx–2017–22]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Data Collection Requirements in Rule 3317

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3317 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 3317(b) (Compliance with Data Collection Requirements) [3] implements the data collection and Web site publication requirements of the Plan.[4] Commentary .08 to Rule 3317 provides, among other things, that the requirement that the Exchange make certain data publicly available on the Exchange Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,[5] and that Phlx shall make data for the Pre-Pilot Period publicly available on the Exchange Web site pursuant to Appendix B and C to the Plan by February 28, 2017.[6]

Phlx is proposing amendments to Commentary .08 to Rule 3317 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange's Web site from February 28, 2017, until April 28, 2017. Appendix C data for the Pre-Pilot Period through the month of January 2017 will be published on the Exchange's Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.[7] As some of the data reporting requirements set forth in Rule 3317 require members to report data to their Designated Examining Authority (''DEA''), which may not be Phlx, the Exchange is also proposing to add references in Commentary .08 to reflect the fact that the Exchange or the DEA may be publishing such data.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free ''on a disaggregated basis by trading center'' on the Web sites of the Participants and the Designated Examining Authorities.[8] However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (''OTC'') data.[9] Thus, Phlx is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.[10] Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing additional proposed rule changes to address Appendix B data publication.

Phlx has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Phlx also believes that the proposal is consistent with Section 6(b)(8) of the Act,[13] which requires that Exchange rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. Phlx believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change implements the provisions of the Plan.

[3] *See* Rule 3317(b). *See also* Securities Exchange Act Release No. 77458 (March 28, 2016), 81 FR 18919 (April 1, 2016) (SR–Phlx–2016–39).

[4] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[5] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 3317.

[6] On November 30, 2016, the SEC granted exemptive relief to the Participants to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, dated November 30, 2016; *see also* Securities Exchange Act Release No. 79545 (December 14, 2016), 81 FR 92916 (December 20, 2016) (SR–Phlx–2016–118).

[7] Since, under Rule 3317(b)(4), Phlx is not independently publishing Market Maker profitability data collected pursuant to Item I of Appendix C of the Plan, no corresponding change to the language of Rule 3317(b)(4) relating to the timing of the publication of Appendix C data for the Pilot Period is needed.

[8] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4–657) (''Tick Size Plan Proposal'').

[9] *See* letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (''Citadel letter''); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (''FIF letter'').

[10] In connection with its filing to implement a similar change in its rules, the Financial Industry Regulatory Authority, Inc. is also is submitting an exemptive request to the SEC on behalf of all Plan Participants requesting relief from the relevant requirements of the Plan.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.[16] The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.[17] Delaying publication of Exchange's Appendix B data [18] will prevent the publication of partial (*i.e.,* Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–22, and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05341 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] *See supra* note 9. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. *See* SR–FINRA–2017–005.

[17] The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. *See* SR–FINRA–2017–006.

[18] The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. *See* SR–BatsBYX–2017–05; SR–BatsBZX–2017–15; SR–BatsEDGA–2017–05; SR–BatsEDGX–2017–13; SR–BX–2017–016; SR–CHX–2017–05; SR–FINRA–2017–005; SR–IEX–2017–07; SR–NASDAQ–2017–024; SR–NYSE–2017–10; SR–NYSEArca–2017–19; SR–NYSEMKT–2017–11.

[19] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80223; File No. SR–IEX–2016–18]

Self-Regulatory Organizations; Investors Exchange, LLC; Order Granting Approval to a Proposed Rule Change To: (i) Amend Rules 11.190(a)(3) and 11.190(b)(8) To Modify the Operation of the Primary Peg Order Type; (ii) Amend Rule 11.190(h)(3)(C)(ii) and (D)(ii) Regarding Price Sliding in Locked and Crossed Markets To Simplify the Price Sliding Process for Both Primary Peg Orders and Discretionary Peg Orders Resting on or Posting to the Order Book; and (iii) Make Minor Technical Changes To Conform Certain Terminology

March 13, 2017.

I. Introduction

On November 29, 2016, the Investors Exchange LLC (''Exchange'') filed with

the Securities and Exchange Commission (''SEC'' or ''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: (i) Amend IEX Rules 11.190(a)(3) and 11.190(b)(8) to modify the operation of the primary peg order type; (ii) amend IEX Rule 11.190(h)(3)(C)(ii) and (D)(ii) regarding price sliding in locked and crossed markets to modify the price sliding process for both primary peg orders and discretionary peg orders resting on or posting to the IEX order book; and (iii) make minor technical changes to conform certain terminology. The proposed rule change was published for comment in the **Federal Register** on December 13, 2016.[3] On January 26, 2017, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

Primary Peg Order Type Functionality

The Exchange has proposed to amend Rules 11.190(a)(3) and 11.190(b)(8) to modify the operation of the primary peg order type offered by the Exchange. Currently, a primary peg order is a non-displayed order that the Exchange system automatically adjusts (upon entry and when posting to the Exchange order book) to be equal to and ranked at the less aggressive of the near-side primary quote (*i.e.,* the national best bid (''NBB'') for buy orders and the national best offer (''NBO'') for sell orders) or the order's limit price, if any.[6] While resting on the Exchange's order book, the order is automatically adjusted by the system in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any.[7]

Under the proposal, the operation of the primary peg order type would be amended such that the Exchange system would automatically adjust a primary peg order, upon entry and when the order is posting to the Exchange order book, to be equal to and ranked at the less aggressive of one (1) minimum price variant (''MPV'') less aggressive than the primary quote (*i.e.,* one MPV below (above) the NBB (NBO) for buy (sell) orders) or the order's limit price, as applicable.[8] The primary peg order would continue to be a non-displayed order type, and the Exchange's system would continue to automatically adjust a primary peg order in response to changes in the NBB (NBO) for buy (sell) orders up (down) to the order's limit price, if any.[9]

In addition, under the proposal, in order to meet the limit price of active orders on the Exchange order book, a primary peg order would be able to exercise price discretion from its resting price to a discretionary price (defined as the primary quote), except during periods of quote instability as defined in Rule 11.190(g) [10] or where the primary peg order is resting at its limit price.[11] Specifically, as set forth in proposed Rule 11.190(b)(8)(K), if the Exchange system were to determine the NBB for a particular security to be an unstable quote in accordance with Rule 11.190(g), it would restrict buy primary peg orders in that security from exercising price discretion to trade against interest at the NBB (and thus they would be executable only at their resting price one MPV less aggressive than the NBB, subject to any limit price); likewise, if the Exchange system were to determine the NBO for a particular security to be an unstable quote in accordance with Rule 11.190(g), it would restrict sell primary peg orders in that security from exercising price discretion to trade against interest at the NBO (and thus they would be executable only at their resting price one MPV less aggressive than the NBO, subject to any limit price).[12]

Further, as proposed, when exercising price discretion, a primary peg order would maintain its time priority position among non-displayed orders (and behind any displayed orders) at its resting price and would be prioritized behind any non-displayed (and displayed) interest resting at the discretionary price for the duration of that book processing action.[13] If multiple primary peg orders were to exercise price discretion during the same book processing action, they would maintain their relative time priority at the discretionary price.[14]

According to the Exchange, the primary peg order type, as proposed, is designed to offer Exchange members an opportunity to rest orders one MPV less aggressive than the primary quote but remain eligible to exercise price discretion up (down) to the NBB (NBO) for buy (sell) orders, and to protect such orders from unfavorable executions by preventing the exercise of such price discretion when the Exchange has determined that the market is moving against the order (*i.e.,* a crumbling quote is detected).[15]

Price Sliding in Locked or Crossed Markets

The Exchange also has proposed to amend Rule 11.190(h)(3)(C)(ii) and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79502 (December 7, 2016), 81 FR 90035 (December 13, 2016) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 79883, 82 FR 9083 (February 2, 2017). The Commission designated March 13, 2017 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] *See* Rules 11.190(a)(3) and (b)(8); *see also* Notice, *supra* note 3, at 90035.

[7] *See id.*

[8] *See* proposed Rules 11.190(a)(3) and (b)(8); *see also* Notice, *supra* note 3, at 90036. In its proposal, the Exchange noted that the BATS BZX exchange's primary pegged order type has an offset feature that allows primary pegged orders on that exchange to rest more passively than the primary quote. *See* Notice, *supra* note 3, at 90036–37.

[9] *See* proposed Rules 11.190(a)(3) and 11.190(b)(8). The Exchange has not proposed to amend the order modifiers and parameters currently applicable to primary peg orders as set forth in Rule 11.190(b)(8)(A)–(J), and such order modifiers and parameters would continue apply to the amended primary peg order type. *See* Notice, *supra* note 3, at 90037 and n.13.

[10] As set forth in Rule 11.190(g), the Exchange utilizes real time relative quoting activity of protected quotations and a proprietary mathematical calculation (the ''quote instability calculation'') to assess the probability of an imminent change to the current protected NBB to a lower price or protected NBO to a higher price for a particular security (''quote instability factor''). *See* Rule 11.190(g); *see also* Notice, *supra* note 3, at 90036 n.12. When the quoting activity meets predefined criteria and the quote instability factor calculated is greater than the Exchange's defined threshold (''quote instability threshold''), the system treats the quote as not stable (''quote instability'' or a ''crumbling quote''). *See id.* During all other times, the quote is considered stable (''quote stability''). The system independently assesses the quote stability of the protected NBB and protected NBO for each security. *See id.* When the system determines that a quote, either the protected NBB or the protected NBO, is unstable, the determination remains in effect at that price level for ten (10) milliseconds. *See id.* The system will only treat one side of the protected NBBO as unstable in a particular security at any given time. *See id.*

[11] *See* proposed Rules 11.190(a)(3) and (b)(8). In its proposal, the Exchange represented that the manner in which a primary peg order would exercise discretion is similar to the manner in which the Exchange's discretionary peg order exercises discretion. *See* Notice, *supra* note 3, at 90036.

[12] *See* proposed Rule 11.190(b)(8)(K).

[13] *See* proposed Rule 11.190(b)(8); *see also* Notice, *supra* note 3, at 90036. Displayed orders have precedence over non-displayed orders at a given price level in the IEX order book. *See* Rule 11.220(a)(1)(B).

[14] *See* proposed Rule 11.190(b)(8); *see also* Notice, *supra* note 3, at 90036. In its proposal, the Exchange represented that the proposed priority rules for the primary peg order are identical to those for the Exchange's discretionary peg order. *See* Notice, *supra* note 3, at 90037.

[15] *See* Notice, *supra* note 3, at 90036.

(D)(ii) regarding the price sliding process for both primary peg and discretionary peg orders in locked and crossed markets. Currently, in the event the NBBO becomes locked or crossed, primary peg and discretionary peg orders resting on or posting to the order book are priced to the less aggressive of either: (i) The prior non-locked or non-crossing near side quote (*i.e.,* the prior unlocked or uncrossed NBB (NBO) for buy (sell) orders), or (ii) one MPV less aggressive than the locking or crossing price.[16] Under the proposal, the first alternative under the current rule would be eliminated such that in locked or crossed markets, primary peg and discretionary peg orders would slide to one MPV less aggressive than the locking or crossing price rather than remaining at the prior non-locked or non-crossed price when such price is less aggressive.[17]

Specifically, proposed Rule 11.190(h)(3)(C)(ii) would provide that in the event the market becomes locked, primary peg orders and discretionary peg orders resting on or posting to the order book would be priced one MPV less aggressive than the locking price.[18] Proposed Rule 11.190(h)(3)(D)(ii) would provide that in the event that the market becomes crossed, primary peg orders and discretionary peg orders resting on or posting to the order book would be priced one MPV less aggressive than the crossing price, *i.e.,* the lowest protected offer for buy orders and the highest protected bid for sell orders, before posting.[19] In addition, proposed Rule 11.190(h)(3)(D)(ii) would specify that if a primary peg order is submitted to the Exchange while the market is crossed, the order would post to the order book priced one MPV less aggressive than the crossing price.[20] In its proposal, the Exchange noted that its goal with respect to its rules for price sliding primary peg and discretionary peg orders in locked or crossed markets is to ensure that such orders do not rest at locking or crossing prices.[21]

Technical Change

Lastly, the Exchange has proposed to make a technical change to Rule 11.190(h)(3)(D)(ii) to refer to the ''crossing price'' rather than the ''crossed quote'' in order to be consistent with other references within the rule.[22]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] 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 Exchange has described the proposed amendments to its primary peg order type as combining an offset feature offered by another exchange that allows primary pegged orders on that exchange to rest more passively than the primary quote, with the discretionary feature of the Exchange's discretionary peg order type.[25] As noted above, according to the Exchange, its amended primary peg order type would be designed to enable a member (or customer thereof) to rest non-displayed trading interest on the Exchange order book at a price inferior to the primary quote and remain available to execute against an incoming order seeking to cross the spread and execute at prices equal to or more aggressive (from the taker's perspective) than such quote, while minimizing adverse selection to the poster (if its resting order were to ''jump'' to the primary quote) when the market appears to be moving against the resting primary peg order (*i.e.,* moving lower in the case of a buy order or higher in the case of a sell order).[26] The Exchange believes that adding to its primary peg order type both an offset feature and the discretionary functionality that currently is applied to the discretionary peg order type would incentivize members and their customers to post more passive resting liquidity on the Exchange that is priced to execute at the primary quote during periods of quote stability, and consequently may result in greater execution opportunities at the far side quote for members entering spread-crossing orders.[27]

The Commission does not believe that the Exchange's proposed amendments to its primary peg order type raise any novel issues that the Commission has not previously considered, and notes in this regard that the Commission received no comments on the Exchange's proposed rule change. The Commission's approval of IEX's Form 1 application included, among other things, approval of IEX's discretionary peg order type, which utilizes the same discretionary feature (though a different discretionary price) that the Exchange proposes to apply to its primary peg order type.[28] As with the Exchange's discretionary peg order type, the amended primary peg order type would be eligible to exercise price ''discretion'' to move itself to a price that is more aggressive than its resting/ranked price (subject to the constraints of a limit price, if any), except during periods of ''quote instability'' as defined in Rule 11.190(g).[29] Rule 11.190(g) sets forth the formula that the Exchange utilizes for determining quote stability for purposes of exercising discretion to move a resting order to a more aggressive price, and is the same formula that the Exchange already utilizes for the quote stability determinations relative to it discretionary peg order type.[30] In the IEX Form 1 Approval, the Commission stated that Rule 11.190(g) delineates the specific conditions under which IEX discretionary peg orders are eligible to exercise discretion by setting forth the mathematical formula that IEX uses to determine quote stability.[31] The Commission believes that, as with the Exchange's discretionary peg order, the Exchange has set forth in its rule the totality of the discretionary feature of

[16] *See* Rule 11.190(h)(3)(C)(ii) and (D)(ii); *see also* Notice, *supra* note 3, at 90035–36.

[17] *See* proposed Rule 11.190(h)(3)(C)(ii) and (D)(ii); *see also* Notice, *supra* note 3, at 90036.

[18] *See* proposed Rule 11.190(h)(3)(C)(ii).

[19] *See* proposed Rule 11.190(h)(3)(D)(ii).

[20] *See id.; see also* Notice, *supra* note 3, at 90036–37.

[21] *See* Notice, *supra* note 3, at 90037.

[22] *See* proposed Rule 11.190(h)(3)(D)(ii); *see also* Notice, *supra* note 3, at 90037.

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Notice, *supra* note 3, at 90036–37.

[26] *See id.*

[27] *See* Notice, *supra* note 3, at 90036.

[28] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142, 41152–53 (June 23, 2016) (File No. 10–222; In the Matter of the Application of: Investors' Exchange, LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission) (''IEX Form 1 Approval''); *see also* Rule 11.190(b)(10).

[29] *See* proposed Rule 11.190(b)(8); Rule 11.190(b)(10). *See also* Notice, *supra* note 3, at 90036. In addition, as the Exchange has noted, the priority scheme that would be applied to the proposed primary peg order when it exercises discretion is identical to that applied to the Exchange's discretionary peg order when it exercises discretion. *See* proposed Rule 11.190(b)(8); Rule 11.190(b)(10). *See also* Notice, *supra* note 3, at 90037.

[30] *Compare* proposed Rule 11.190(b)(8) and Rule 11.190(b)(10).

[31] *See* IEX Form 1 Approval, *supra* note 30, at 41153.

the proposed primary peg order type, and that it is hardcoded conditionality based on pre-determined, objective factors.[32] In addition, as the Commission observed in the IEX Form 1 Approval, other exchanges offer both discretion and pegging functionalities, including the combination of both of those functionalities in a single order type, and thus an order type that offers both discretion and pegging features is not novel.[33]

Importantly, the Commission notes that the Exchange's amended primary peg order type would remain a non-displayed order type, like all of the Exchange's pegged order types, including the discretionary peg order type.[34] Thus, the proposed amended primary peg order type, with its added discretionary and crumbling quote determination functionalities, should not impact the Exchange's dissemination of a protected quotation, which must be displayed,[35] or market participants' ability to execute against the Exchange's protection quotation, and does not appear otherwise designed to impede the mechanism of a free and open market. Accordingly, the Commission believes that the proposed amendments to the Exchange's primary peg order type are consistent with the Act and, in particular, the Section 6(b)(5) requirement that a national securities exchange's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.[36]

The Commission also believes that the proposed amendments to the Exchange's price sliding process for primary peg orders and discretionary peg orders in locked or crossed markets are consistent with the Act. The Exchange has stated that its existing approach to price sliding for such orders in locked or crossed markets is unnecessarily complicated, without any material benefit, and that the proposed amendments to the approach would remove the variability of a primary peg order's booked price in locked or crossed market situations, and make the Exchange's rules more clear and transparent.[37] The Commission believes these changes should help lessen the complexity in the Exchange's price sliding rules, which may reduce the potential for investor confusion as to how primary peg and discretionary peg orders would price slide in locked or crossed markets, and thereby help protect investors and the public interest consistent with Section 6(b)(5) of the Act. In addition, the proposed amendments appear to be consistent with the requirements of Rule 610(d) of Regulation NMS which, among other things, requires that the rules of a national securities exchange be reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock.[38]

Lastly, the Commission believes that the Exchange's proposed technical change to conform certain terminology in its proposed rules is intended to enhance the clarity of its rules, which should reduce the potential for investor confusion, and thereby help protect investors and the public interest consistent with Section 6(b)(5) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[39] that the proposed rule change (SR–IEX–2016–18) be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Assistant Secretary.

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[32] *See* proposed Rule 11.190(b)(8) and Rule 11.190(g); *see also* IEX Form 1 Approval, *supra* note 28, at 41153.

[33] *See* IEX Form 1 Approval, *supra* note 28, at 41153; *see also, e.g.,* Nasdaq Rule 4703(g); NYSE Arca Equities Rule 7.31P(h)(3). In addition, as the Exchange has noted, primary pegged orders on other exchanges may be pegged to prices less aggressive than the near-side primary quote. *See* Notice, *supra* note 3, at 90036–37; *see also, e.g.,* BZX Rule 11.9(c)(8)(A).

[34] *See* Rules 11.190(a)(3) and (b)(8)(H). The Commission also notes that primary pegged orders on other exchanges may be non-displayed. *See, e.g.,* BZX Rule 11.9(c)(8)(A).

[35] *See* 17 CFR 242.600(b)(57) and (58).

[36] The Commission notes that the Exchange would be required to submit a proposed rule change pursuant to Section 19(b) of the Act prior to implementing any changes to the proposed primary peg order type.

[37] *See* Notice, 81 FR at 90037.

[38] *See* 17 CFR 242.610(d).

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80225; File No. SR–ISE–2017–02]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Exchange Opening Process

March 13, 2017.

I. Introduction

On January 13, 2017, the International Securities Exchange, LLC (''ISE'' 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 amend the Exchange's opening process. The proposed rule change was published for comment in the **Federal Register** on January 27, 2017.[3] On March 3, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to delete the entirety of current ISE Rule 701 and replace the current Exchange opening process with an opening process reflected in proposed ISE Rules 701 and 715(t).[5] The new opening process is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79887 (February 2, 2017), 82 FR 9090 (''Notice'').

[4] In Amendment No. 1, the Exchange provided clarifying details to its proposal, including: (i) Expanding its proposed definition of ''Quality Opening Market''; (ii) clarifying that only Public Customer interest is routable during the Opening Process; (iii) clarifying that when routing orders during the Opening Process the Exchange will do so based on price/time priority of routable interest; and (iv) clarifying that the proposed opening rule will not provide for after-hours trading rotations. The Exchange also made technical corrections and revisions to the proposed rule text for readability and consistency. Amendment No. 1 amends and replaces the original filing in its entirety. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. The amendment is available at: *https://www.sec.gov/comments/sr-ise-2017-02/ise201702.htm.*

[5] The Exchange represents that this proposed rule change is being made in connection with a technology migration to a Nasdaq, Inc. (''Nasdaq'') supported architecture called INET which is utilized on The NASDAQ Options Market LLC,

Continued

similar to the process used by Phlx,[6] as well as the new opening process recently adopted by ISE Gemini, LLC (''ISE Gemini'').[7] The Exchange's current and proposed opening processes are described below.[8]

A. Current Exchange Opening Process

Currently, a Primary Market Maker (''PMM'') on ISE initiates the ''trading rotation'' in a specified options class.[9] The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market.[10] For each rotation, except as the Exchange may direct, rotations are conducted in the order and manner the PMM determines to be appropriate under the circumstances.[11] The PMM, with the approval of the Exchange, has the authority to determine the rotation order and manner or deviate from the rotation procedures.[12] Such authority may be exercised before and during a trading rotation.[13] Additionally, two or more trading rotations may be employed simultaneously, if the PMM, with the approval of the Exchange, so determines.[14]

Pursuant to ISE Rule 701(b), the opening rotation for each class of options is held promptly following the opening of the market for the underlying security.[15] In the event the underlying security has not opened within a reasonable time after 9:30 a.m. Eastern Time, the PMM reports the delay to the Exchange and an inquiry is made to determine the cause of the delay.[16] The opening rotation for the affected options series is then delayed until the market for the underlying security has opened, unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts.[17]

Currently, in connection with a trading rotation, ISE Rule 701(c) specifies how transactions may be effected in a class of options after the end of normal trading hours. A trading rotation may be employed whenever the Exchange concludes that such action is appropriate in the interests of a fair and orderly market.[18] The decisions to employ a trading rotation in non-expiring options are disseminated prior to the commencement of such rotation and, in general, the Exchange will commence no more than one trading rotation after the normal close of trading.[19] If a trading rotation is in progress and the Exchange determines that a final trading rotation is needed to assure a fair and orderly market close, the rotation in progress will be halted and a final rotation will begin as promptly as possible.[20] Finally, any trading rotation in non-expiring options conducted after the normal close of trading may not begin until five minutes after news of such rotation is disseminated by the Exchange.[21]

B. Proposed New Opening Process

1. Opening Sweep

At the outset, the Exchange proposes to adopt a new order type, ''Opening Sweep'', for the new opening process.[22] Proposed Rule 701(b)(1)(i) states that a Market Maker assigned to a particular option may only submit an Opening Sweep if, at the time of entry, that Market Maker has already submitted and maintains a Valid Width Quote.[23] Opening Sweeps may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered.[24] A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level.[25] If a Market Maker submits multiple Opening Sweeps, the system will consider only the most recent Opening Sweep at each price level submitted by such Market Maker in determining the Opening Price (described below).[26] Unexecuted Opening Sweeps will be cancelled once the affected series is open.[27]

2. Interest Included in the Opening Process

The first part of the Opening Process determines what constitutes ''eligible interest''. The Exchange proposes that eligible interest during the Opening Process[28] will include Valid Width Quotes,[29] Opening Sweeps, and orders.[30] Quotes, other than Valid Width Quotes, will not be included in the Opening Process.[31] All-or-None Orders that can be satisfied, and the displayed and non-displayed portions of Reserve Orders, are considered for execution and in determining the Opening Price throughout the Opening Process.[32] The system will aggregate the size of all eligible interest for a particular participant category at a particular price level for trade allocation purposes pursuant to Rule 713.[33] Only Public Customer interest is routable during the Opening Process.[34]

Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time, or 7:25 a.m. Eastern Time for U.S. dollar-settled

NASDAQ PHLX LLC (''Phlx'') and NASDAQ BX, Inc. *See id.*

[6] *See* Phlx Rule 1017. *See also* Securities Exchange Act Release No. 79274 (November 9, 2016), 81 FR 80694 (November 16, 2016) (SR–Phlx–2016–79).

[7] *See* ISE Gemini Rules 701 and 715(t). *See also* Securities Exchange Act Release No. 10952 (February 10, 2017), 82 FR 10952 (February 16, 2017) (SR–ISEGemini–2016–18).

[8] In connection with the new opening process, the Exchange proposes to adopt a new ''Definitions'' section in proposed Rule 701(a), similar to Phlx Rule 1017(a), to define several terms that are used throughout the opening rule. Proposed Rule 701(a) will define: ABBO, ''market for the underlying security,'' Opening Price, Opening Process, Potential Opening Price, Pre-Market BBO, Quality Opening Market, Valid Width Quote, and Zero Bid Market. For definitions of these terms, *see* Notice *supra* note 3 at 9091.

[9] *See* ISE Rule 701(a).

[10] *See* ISE Rule 701(a)(1).

[11] *See* ISE Rule 701(a)(2).

[12] *See* ISE Rule 701(a)(3).

[13] *See* ISE Rule 701(a)(3).

[14] *See* ISE Rule 701(a)(4).

[15] *See* ISE Rule 701(b)(2). For purposes of ISE Rule 701(b)(2), the ''market for the underlying security'' is either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's Web site. *See id.*

[16] *See* ISE Rule 701(b)(3).

[17] *See id.* Additionally, the Exchange may delay the commencement of the opening rotation in any class of options in the interests of a fair and orderly market. *See* ISE Rule 701(b)(4).

[18] *See* ISE Rule 701(c)(1). The factors that may be considered include, but are not limited to, whether there has been a recent opening or reopening of trading in the underlying security, a declaration of a ''fast market'' pursuant to ISE Rule 704, or a need for a rotation in connection with expiring individual stock options or index options, an end of the year rotation, or the restart of a rotation which is already in progress. *See id.*

[19] *See* ISE Rule 701(c)(2).

[20] *See* ISE Rule 701(c)(3).

[21] *See* ISE Rule 701(c)(4).

[22] The Exchange proposes to define an ''Opening Sweep'' as a Market Maker order submitted for execution against eligible interest in the system during the Opening Process pursuant to proposed Rule 701(b)(1). *See* proposed Rule 715(t).

[23] All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series. *See* proposed Rule 701(b)(1)(i).

[24] *See* proposed Rule 701(b)(1)(ii).

[25] *See id.*

[26] *See id.* The Exchange proposes to define ''Opening Price'' by cross-referencing proposed Rule 701(h) and (j). *See* proposed Rule 701(a)(3).

[27] *See id.*

[28] The Exchange proposes to define ''Opening Process'' by cross-referencing proposed Rule 701(c). *See* proposed Rule 701(a)(4).

[29] The Exchange proposes to define ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with ISE Rule 803(b)(4). *See* proposed Rule 701(a)(8).

[30] *See* proposed Rule 701(b).

[31] *See id.*

[32] *See id.*

[33] *See* proposed Rule 701(b)(2).

[34] *See* proposed Rule 701(b).

foreign currency options, are included in the Opening Process.[35] Orders entered at any time before an option series opens are included in the Opening Process.[36]

3. Opening Process and Reopening After a Trading Halt

The Exchange proposes that the Opening Process for an option series will be conducted pursuant to proposed Rules 701(f)–(j) on or after 9:30 a.m. Eastern Time, or on or after 7:30 a.m. Eastern Time for U.S. dollar-settled foreign currency options, if: (1) The ABBO,[37] if any, is not crossed; and (2) the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site) of the opening trade or quote on the market for the underlying security [38] in the case of equity options, or the receipt of the opening price in the underlying index in the case of index options, or market opening for the underlying security in the case of U.S. dollar-settled foreign currency options, any of the following: (i) A PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if no PMM's Valid Width Quote nor two CMMs' Valid Width Quotes within such timeframe, one CMM's Valid Width Quote.[39]

For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence.[40] The Opening Process will stop and an option series will not open if the ABBO becomes crossed or a Valid Width Quote(s) pursuant to proposed Rule 701(c)(1) is no longer present.[41] Once each of these conditions no longer exists, the Opening Process in the affected option series will recommence.[42] The Exchange would wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace as the Exchange determines the Opening Price.[43]

Proposed Rule 701(c)(3) states that the PMM assigned to a particular equity option must enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned to a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote not later than one minute after the announced market opening.[44] Furthermore, a CMM that submits a quote pursuant to proposed Rule 701 in any option series when the PMM's quote has not been submitted will be required to submit continuous, two-sided quotes in such option series until such time the PMM submits a quote, after which the Market Maker that submitted such quote will be obligated to submit quotations pursuant to ISE Rule 804(e).[45]

Proposed Rule 701(d) states that the procedure described in proposed Rule 701 will be used to reopen an options series after a trading halt.[46] If there is a trading halt or pause in the underlying security, the Opening Process will recommence irrespective of the specific times listed in proposed Rule 701(c)(1).[47] Unlike the current ISE opening rule, the proposed new opening process does not provide for after-hours trading rotations.[48]

4. Opening With a BBO (No Trade)

Under proposed Rule 701(e), the Exchange will first see if the option series will open for trading with a BBO. If there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO, the system will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO''), unless all three of the following conditions exist: (i) A Zero Bid Market; [49] (ii) no ABBO; and (iii) no Quality Opening Market.[50]

A ''Quality Opening Market'' is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's Web site.[51] The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions.

If all three of the conditions described above exist, the Exchange will calculate an Opening Quote Range (''OQR'') pursuant to proposed Rule 701(i) (described below) and conduct the Price Discovery Mechanism (''PDM'') pursuant to proposed Rule 701(j) (described below).[52] The Exchange believes that when these conditions exist, further price discovery is warranted.[53]

5. Opening With a Trade

If there are Valid Width Quotes or orders that lock or cross each other, the system will try to open with a trade. Proposed Rule 701(h) provides that the Exchange will open the option series with a trade of Exchange interest only at the Opening Price, if any of the following conditions occur: (1) The Potential Opening Price (described below) is at or within the best of the highest bid and the lowest offer among Valid Width Quotes (''Pre-Market BBO'') [54] and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening

[35] *See* proposed Rule 701(c).

[36] *See id.*

[37] The Exchange proposes to define ''ABBO'' as the Away Best Bid or Offer. *See* proposed Rule 701(a)(1). The ABBO does not include ISE's market. *See* Notice, *supra* note 3, at 9091.

[38] The Exchange proposes to define ''market for the underlying security'' as either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's Web site. *See* proposed Rule 701(a)(2).

[39] *See* proposed Rule 701(c)(1). The Exchange represents that it anticipates initially setting the timeframe during which a PMM's Valid Width quote or the presence of at least two CMMs' Valid Width Quotes will initiate the Opening Process at 30 seconds. *See* Notice, *supra* note 3, at 9092–93 n.18. The Exchange represents that it will provide notice of the initial setting to Members and provide notice if the Exchange determines to reduce the timeframe. *See id.*

[40] *See* proposed Rule 701(c)(2). Proposed Rule 701(c)(2) stipulates that this time period will be no less than 100 milliseconds and no more than 5 seconds. The Exchange represents that it will set the timer initially at 100 milliseconds and will issue a notice to provide the initial setting and will thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 9092. If the Exchange were to select a time not between 100 milliseconds and 5 seconds, it will be required to file a rule proposal with the Commission. *See id.*

[41] *See* proposed Rule 701(c)(5).

[42] *See id.*

[43] *See* Notice, *supra* note 3, at 9093.

[44] *See* proposed Rule 701(c)(3).

[45] *See* proposed Rule 701(c)(4).

[46] *See* proposed Rule 701(d).

[47] *See id.*

[48] *See* Amendment No. 1, *supra* note 4.

[49] The Exchange proposes to define the term ''Zero Bid Market'' as where the best bid for an options series is zero. *See* proposed Rule 701(a)(9).

[50] *See* proposed Rule 701(e).

[51] *See* proposed Rule 701(a)(7).

[52] *See id.*

[53] *See* Notice, *supra* note 3, at 9093.

[54] *See* proposed Rule 701(a)(6). The Exchange states that the Pre-Market BBO would not include orders. *See* Amendment No. 1, *supra* note 4.

Price is at or within the Pre-Market BBO which is also a Quality Opening Market.

To undertake the above described process, the Exchange will calculate the Potential Opening Price by taking into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed portions of Reserve Orders), except All-or-None Orders that cannot be satisfied, and identify the price at which the maximum number of contracts can trade (''maximum quantity criterion'').[55]

Under proposed Rule 701(g)(1), when two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the system would take the highest and lowest of those prices and takes the mid-point. If such mid-point cannot be expressed as a permitted minimum price variation, the mid-point will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the system will round up to the minimum price variation to determine the Opening Price.[56] Further, if any value used for the mid-point calculation would cross either the Pre-Market BBO, or the ABBO, then, for the purposes of calculating the mid-point, the Exchange will use the better of the Pre-Market BBO or ABBO as a boundary price and will open the option series for trading with an execution at the resulting Potential Opening Price.[57] The Exchange states that the purpose of these boundaries is to help ensure that the Potential Opening Price is reasonable and does not trade through other markets.[58]

If two or more Potential Opening Prices for the affected series would satisfy the maximum quantity criterion and leave contracts unexecuted, the Opening Price will be either the lowest executable bid or highest executable offer of the largest sized side.[59] This is designed to base the Potential Opening Price on the maximum quantity of contracts that are executable.[60] Furthermore, the Potential Opening Price calculation will be bounded by the better away market price that cannot be satisfied with the Exchange routable interest.[61] According to the Exchange, this would ensure that the Exchange would not open with a trade that would trade through another market.[62]

6. Price Discovery Mechanism

If the Exchange has not opened with a BBO or trade pursuant to proposed Rule 701(e) or (h), the Exchange will conduct a PDM pursuant to proposed Rule 701(j) to determine the Opening Price. According to the Exchange, the purpose of the PDM is to satisfy the maximum number of contracts possible by applying wider price boundaries and seeking additional liquidity.[63]

Before conducting a PDM, however, the Exchange will calculate the OQR under proposed Rule 701(i). The OQR, which is used during PDM, is an additional boundary designed to limit the Opening Price to a reasonable price and reduce the potential for erroneous trades during the Opening Process.[64]

To determine the minimum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be subtracted from the highest quote bid among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[65] To determine the maximum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be added to the lowest quote offer among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[66] If one or more away markets are collectively disseminating a BBO that is not crossed, however, and there are Valid Width Quotes on the Exchange that are executable against each other or that are executable against the ABBO, then the minimum value of the OQR will be the highest away bid and the maximum value will be the lowest away offer.[67] Additionally, if there are Valid Width Quotes on the Exchange that are executable against each other, and there is no away market disseminating a BBO in the affected option series, the minimum value of the OQR will be the lowest quote bid among Valid Width Quotes on the Exchange and the maximum value will be the highest quote offer among Valid Width Quotes on the Exchange.[68]

The Exchange will use the OQR to help calculate the Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted, any price used for the mid-point calculation, pursuant to proposed Rule 701(g)(1), that is outside of the OQR will be restricted to the OQR on that side of the market.[69] Other instances that implicate the OQR are described below.

During PDM, the Exchange will take into consideration the away market prices in calculating the Potential Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted and the price used for the mid-point calculation is an away market price, pursuant to proposed Rule 701(g)(3), the system will use the away market price as the Potential Opening Price.[70] Moreover, proposed Rule 701(i)(7) provides that if the Exchange determines that non-routable interest can execute the maximum number of contracts against Exchange interest, after routable interest has been determined by the system to satisfy the away market, then the Potential Opening Price will be the price at which such maximum number of contracts can execute—excluding the interests to be routed to an away market.[71]

After the OQR is calculated, the system will broadcast an Imbalance Message for the affected series[72] to attract additional liquidity and begin an ''Imbalance Timer,'' not to exceed three seconds.[73] The Imbalance Timer will be for the same number of seconds for all options traded on the Exchange, and each Imbalance Message will be subject to an Imbalance Timer.[74] The Exchange may have up to four Imbalance Messages which each run its own Imbalance Timer pursuant to the PDM process.[75]

[55] *See* proposed Rule 701(g).

[56] *See* proposed Rule 701(g)(1).

[57] If the Exchange has not yet opened and the above conditions are not met, an Opening Quote Range (as described below) will be calculated pursuant to proposed Rule 701(i), and thereafter, the Price Discovery Mechanism described in proposed Rule 701(j) below will commence. *See* proposed Rule 701(h)(3)(i)(B)(II).

[58] *See* Notice, *supra* note 3, at 9094.

[59] *See* proposed Rule 701(g)(2).

[60] *See* Notice, *supra* note 3, at 9094.

[61] *See* proposed Rule 701(g)(3).

[62] *See* Notice, *supra* note 3, at 9094.

[63] *See* Notice, *supra* note 3, at 9095.

[64] *See* Notice, *supra* note 3, at 9094.

[65] *See* proposed Rule 701(i)(1).

[66] *See* proposed Rule 701(i)(2).

[67] *See* proposed Rule 701(i)(3). Proposed Rule 701(i)(3) further notes that the Opening Process will stop and an options series will not open if the ABBO becomes crossed pursuant to proposed Rule 701(c)(5).

[68] *See* proposed Rule 701(i)(4).

[69] *See* proposed Rule 701(i)(5).

[70] *See* proposed Rule 701(i)(6).

[71] The system will route Public Customer interest in price/time priority to satisfy the away market. *See* proposed Rule 701(i)(7).

[72] Imbalance Message includes the symbol, side of the imbalance (unmatched contracts), size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO.

[73] *See* proposed Rule 701(j)(1). The Exchange represents that it will issue a notice to provide the initial setting of the Imbalance Timer and would thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 9095 n.32.

[74] *See* proposed Rule 701(j)(1).

[75] *See* Notice, *supra* note 3, at 9100.

Proposed Rule 701(j)(2), states that any new interest received by the system will update the Potential Opening Price. If during or at the end of the Imbalance Timer, the Opening Price is at or within the OQR, the Imbalance Timer will end and the system will open with a trade at the Opening Price if the executions consist of Exchange interest only without trading through the ABBO and without trading through the limit price(s) of interest within the OQR, which is unable to be fully executed at the Opening Price. If no new interest comes in during the Imbalance Timer and the Potential Opening Price is at or within the OQR and does not trade through the ABBO, the Exchange will open with a trade at the end of the Imbalance Timer at the Potential Opening Price.

If the option series has not opened pursuant to proposed Rule 701(j)(2) described above, the system will concurrently: (i) Send a second Imbalance Message with a Potential Opening Price that is bounded by the OQR (and would not trade through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price) and includes away market volume in the size of the imbalance to participants; and (ii) initiate a Route Timer, not to exceed one second.[76] As proposed, the Route Timer will operate as a pause before an order is routed to an away market. The Exchange states that the Route Timer is intended to give participants an opportunity to respond to an Imbalance Message before any opening interest is routed to away markets and thereby maximize trading on the Exchange.[77] If during the Route Timer, interest is received by the system which would allow the Opening Price to be within the OQR without trading through away markets and without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price, the system will open with trades at the Opening Price, and the Route Timer will simultaneously end. The system will monitor quotes received during the Route Timer and make ongoing changes to the OQR and Potential Opening Price to reflect them.

Proposed Rule 701(j)(3)(iii) provides that, if no trade occurs pursuant to proposed ISE Rule 701(j)(3)(ii), when the Route Timer expires, if the Potential Opening Price is within the OQR (and would not trade through the limit price(s) of interest within the OQR that is unable to be fully executed at the Opening Price), the system will determine if the total number of contracts displayed at better prices than the Exchange's Potential Opening Price on away markets (''better priced away contracts'') would satisfy the number of marketable contracts available on the Exchange. The Exchange will then open the option series by routing and/or trading on the Exchange, pursuant to proposed Rule 701(j)(3)(iii) paragraphs (A) through (C).

Proposed Rule 701(j)(3)(iii)(A) provides that, if the total number of better priced away contracts would satisfy the number of marketable contracts available on the Exchange on either the buy or sell side, the system will route all marketable contracts on the Exchange to such better priced away markets as an Intermarket Sweep Order (''ISO'') designated as Immediate-or-Cancel (''IOC'') order(s) and determine an opening BBO that reflects the interest remaining on the Exchange. The system will price any contracts routed to away markets at the Exchange's Opening Price. The Exchange states that routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.[78]

Proposed Rule 701(j)(3)(iii)(B) provides that, if the total number of better priced away contracts would not satisfy the number of marketable contracts on the Exchange, the system will determine how many contracts it has available at the Opening Price. If the total number of better priced away contracts plus the number of contracts available at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange on either the buy or sell side, the system will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy such away market interest, and trade available contracts on the Exchange at the Opening Price. The system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price pursuant to proposed Rule 701(j)(vi)(C)(3)(ii). The Exchange states that this proposed rule is designed to maximize execution of interest on the Exchange or away markets.[79]

Proposed Rule 701(j)(3)(iii)(C) provides that, if the total number of better priced away contracts plus the number of contracts available at the Opening Price plus the contracts available at away markets at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange, either the buy or sell side, the system will contemporaneously route, based on price/time priority, a number of contracts that will satisfy such away market interest (pricing any contracts routed to away markets at the better of the Opening Price or the order's limit price), trade available contracts on the Exchange at the Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Opening Price. The Exchange states that routing at the better of the Opening Price or the order's limit price is intended to achieve the best possible price available at the time the order is received by the away market and that routing at the order's limit price ensures that the order's limit price is not violated.[80]

Proposed Rule 701(j)(4) provides that the system may send up to two additional Imbalance Messages[81] (which may occur while the Route Timer is operating) bounded by the OQR and reflecting away market interest in the volume. After the Route Timer has expired, the processes in proposed Rule 701(j)(3) will repeat (except no new Route Timer will be initiated).

7. Forced Opening

Proposed Rule 701(j)(5) describes the process that occurs if the steps described above have not resulted in an opening of the options series. After all additional Imbalance Messages have been broadcasted pursuant to proposed Rule 701(j)(4), the system will open the series by executing as many contracts as possible by: (i) Routing to away markets at prices better than the Opening Price for their disseminated size; (ii) trading available contracts on the Exchange at the Opening Price bounded by the OQR (without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price); and (iii) routing contracts to away markets at prices equal to the Opening Price at their disseminated size. In forced opening, the system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price. Otherwise such orders will remain in the order book.

[76] *See* proposed Rule 701(j)(3).

[77] *See* Notice, *supra* note 3, at 9096–97.

[78] *See* Notice, *supra* note 3, at 9100–01.

[79] *See id.*

[80] *See* Notice, *supra* note 3, at 9100–01.

[81] The Exchange notes that the first two Imbalance Messages always occur if there is interest which will route to an away market. *See* Notice, *supra* note 3, at 9096 n.37.

Proposed Rule 701(j)(6) provides that, to the extent possible, the system will execute orders at the Opening Price that have contingencies (such as without limitation, All-or-None, and Reserve Orders) and non-routable orders such as ''Do-Not-Route'' or ''DNR'' Orders.[82] The system will only route non-contingency Public Customer orders, except that the full volume of Public Customer Reserve Orders may route.

Proposed Rule 701(j)(6)(i) provides that the system will cancel: (i) Any portion of a Do-Not-Route Order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur, (ii) an All-or-None Order that is not executed during the opening and is priced through the Opening Price; and (iii) any order that is priced through the Opening Price. All other interest will remain in the system and be eligible for trading after opening. The Exchange states that it cancels these orders since it lacks enough liquidity to satisfy these orders on the opening.[83] In addition, the Exchange believes that participants would prefer to have these orders returned to them for further assessment rather than have them entered into the order book at a price which is more aggressive than the price at which the Exchange opened.[84]

8. Other Provisions

Proposed Rule 701(k) provides that during the opening of the option series, where there is a possible execution, the system will give priority first to Market Orders [85] then to resting Limit Orders [86] and quotes. Additionally, the allocation provisions of ISE Rule 713 and the Supplementary Material to that rule apply with respect to other orders and quotes with the same price. Finally, proposed Rule 701(l) provides that upon the opening of the option series, regardless of an execution, the system will disseminate the price and size of the Exchange's best bid and offer.

9. Implementation

The Exchange states that it intends to begin implementation of the proposed rule change in the second quarter of 2017.[87] The Exchange represents that migration of the Exchange system to Nasdaq INET technology will be on a symbol by symbol basis and that the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates.[88]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[89] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[90] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to delete in its entirety the current opening process and replace it with an opening rotation similar to the process in place on its affiliated exchanges, Phlx and ISE Gemini. In making this change, the Exchange delineates, unlike in the current, more opaque rule, detailed steps of the opening process. By providing more clearly each sequence of the opening process, the Commission notes that the proposed rule helps market participants understand how the new opening rotation will operate. To that extent, the new opening process may promote transparency, reduce the potential for investor confusion, and assist market participants in deciding whether to participate in ISE's opening rotation. Further, if they do participate in the new opening process, the proposed rule may help provide market participants with the confidence and certainty as to how their orders or quotes will be processed.

Further, the Commission believes that the proposed rule change is designed to promote just and equitable principles of trade by seeking to ensure that option series open in a fair and orderly manner. For example, the Commission notes that the proposed rule change is designed to mitigate the effects of the underlying security's volatility as the overlying option series undergoes the opening rotation. Specifically, the proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that the Exchange has the ability to adjust the period for which the underlying must be open on the primary market before the opening process commences. Moreover, the Commission notes that the proposed rule provides an orderly process for handling eligible interests during the opening rotation, while seeking to avoid opening executions at suboptimal prices. For instance, the new process ensures that the Exchange will not open with the Exchange's BBO if there is a Zero Bid Market, no ABBO, and no Quality Opening Market. Likewise, the Exchange will not open an option series with a trade unless one of the following conditions is met: (1) The Potential Opening Price is at or within the Pre-Market BBO and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market. Finally, while the new opening process attempts to maximize the number of contracts executed on the Exchange during such rotation, including by seeking additional liquidity, if necessary, the Commission notes that the new opening process, unlike the current process, takes into consideration away market interests and ensures that better away prices are not traded through. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[91] that the proposed rule change (SR–ISE–2017–02), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[92]

Eduardo A. Aleman,

Assistant Secretary.

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[82] *See* ISE Rule 715(m).

[83] *See* Notice, *supra* note 3, at 9101.

[84] *See id.*

[85] *See* ISE Rule 715(a).

[86] *See* ISE Rule 715(b).

[87] *See* Notice, *supra* note 3, at 9090.

[88] *See id.* For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3.

[89] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[90] 15 U.S.C. 78f(b)(5).

[91] 15 U.S.C. 78s(b)(2).

[92] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80219; File No. SR–ISE–2017–22]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule To Change the Definition of Net Zero Complex Order

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2017, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to change the definition of net zero complex order for purposes of determining eligibility for Priority Customer complex order rebates.

While changes to the Schedule of Fees are effective upon filing, the Exchange has designated these changes to be operative on February 10, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change to amend the Schedule of Fees to change the definition of net zero complex order for purposes of determining eligibility for Priority Customer complex order rebates. Currently, the Exchange does not provide Priority Customer rebates for complex orders that that leg in to the regular order book and trade at a net price at or near $0.00 (*i.e.,* net zero complex orders), provided those orders are entered on behalf of originating market participants that execute an ADV of at least 2,000 net zero complex orders in a given month.[3] While these complex orders would generally not find a counterparty in the complex order book, they may leg in to the regular order book where they are typically executed by Market Makers [4] or other market participants on the individual legs who pay a fee to trade with this order flow. The Exchange does not provide rebates for net zero complex orders to prevent members from engaging in rebate arbitrage by entering valueless complex orders solely to recover rebates. For purposes of determining which complex orders qualify as net zero, the Exchange counts all complex orders that leg in to the regular order book and are executed at a net price that is within a range of $0.01 credit and $0.01 debit. In particular, the Exchange calculates the net price of the complex order by multiplying the quantity on each leg by the amount of credit or debit for that leg, and summing the prices calculated with respect to each leg. Based on that calculation, the complex order is counted as net zero if the net price is within a range of $0.01 credit and $0.01 debit. This methodology is illustrated in the example below.

Example 1:

SPY Feb 188 Put, Buy 270 contracts @ $0.01 = $2.70 debit

SPY Feb 193 Put, Sell 270 contracts @ $0.01 = ($2.70) credit

Net price = $0 (*i.e.,* $2.70—$2.70)

[3] *See* Securities Exchange Act Release No. 77821 (May 12, 2016), 81 FR 31270 (May 18, 2016). *See also* SR–ISE–2017–16 (pending publication). Priority Customer complex orders that do not meet the definition of a net zero complex order, or that are entered on behalf of originating market participants that do not reach the 2,000 contract ADV threshold, remain eligible for rebates based on the tier achieved.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. See ISE Rule 100(a)(25).

The Exchange believes that its current methodology does not fully capture the trading activity that this provision is meant to cover, as the market participants that are entering these net zero orders have found a way to continue to earn a rebate for their valueless trades at the expense of the Exchange and the members who trade against these complex orders when they leg in to the regular market. In particular, these market participants have been submitting complex orders that are essentially valueless on a per contract basis, but that result in a net credit or debit on a full trade basis that is not within $0.01 credit or $0.01 debit based on the methodology illustrated in the example above. The Exchange therefore proposes to change its methodology to look at the net price *per contract,* which the Exchange believes more accurately captures its intentions in eliminating rebates for net zero complex orders. To calculate the net price per contract, the Exchange will use the same methodology described above, and then divide the calculated net price by the total quantity (*i.e.,* the sum of the contracts for each leg).[5] The Exchange believes that this methodology will discourage market participants from engaging in this valueless conduct as these non-economic complex orders will no longer be rebate eligible. The example below illustrates the proposed net zero per contract methodology.

Example 2:

SPY Feb 188 Put, Buy 270 contracts @ $0.01 = $2.70 debit

SPY Feb 199 Put, Buy 180 contracts@ $0.02 = $3.60 debit

SPY Feb 193 Put, Sell 450 contracts @ $0.01 = ($4.50) credit

Net price = $1.80 debit (*i.e.,* $4.50 − $2.70 − $3.60)

Net price per contract = $0.002 debit (*i.e.,* $1.80 ÷ 900)

Finally, the Exchange proposes to clarify that the current ADV threshold is based on the number of contracts executed in net zero complex orders. Although the Exchange has always calculated the ADV threshold, which is a measure of volume, based on the number of contracts executed, the Exchange believes that explicitly adding the word ''contract'' to this rule will avoid any possible confusion among members. Members will not receive rebates for net zero complex orders entered on behalf of originating market participants that execute an ADV of at

[5] Complex orders executed from February 1, 2017 to February 9, 2017 will be provided rebates based on the net zero logic in place prior to this filing.

least 2,000 *contracts in* net zero complex orders in a given month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and Section 6(b)(4) of the Act,[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed per contract methodology is reasonable and equitable as it is designed to remove financial incentives for market participants to engage in rebate arbitrage by entering net zero complex orders on the Exchange that do not have any economic substance. The Exchange currently has a rule in place to discourage members from entering net zero complex orders. The rule, however, is not sufficiently broad to stop this trading activity, as market participants continue to receive rebates for complex orders that would be considered net zero on a per contract basis. The Exchange is therefore proposing to modify its definition of a net zero complex order, consistent with its intent in adopting this provision. Priority Customer complex orders, including net zero complex orders that leg in to the regular order book, are currently paid significant rebates by the Exchange, which are funded in part by charging higher fees to the market participants that trade against these orders. The Exchange believes that changing the methodology used for determining net zero complex orders will discourage market participants from entering these valueless orders, which are entered for the sole purpose of earning a rebate.

In January 2017, no market participants met the 10,000 contract ADV threshold for net zero complex orders based on the current net zero criteria. In addition, no market participants that traded complex orders on the Exchange during January 2017 would have met the lower 2,000 contract ADV threshold implemented this February.[8] This is not due to market participants stopping this behavior but rather to firms modifying their activity to get around the net zero criteria implemented in the original net zero filing. With the proposed per contract change, the Exchange believes that market participants engaged in rebate arbitrage will be effectively prohibited from earning rebates for their net zero complex orders. In January 2017, for example, the Exchange notes that although no market participants met the net zero ADV threshold based on current criteria, five market participants would have met the current threshold based on the proposed criteria. Based on the proposed per contract methodology, each of these market participants executed a net zero ADV of greater than 7,000 contracts compared to a net zero ADV of less than 300 contracts for the next highest market participant, and an average net zero ADV of approximately 6 contracts for all market participants that entered complex orders on the Exchange during the month of January other than the five that would have surpassed the threshold. In addition, the Exchange notes that the vast majority of market participants that entered complex orders on the Exchange in January 2017 would continue to have a net zero ADV of 0 contracts based on the per contract methodology.

The continued submission by a handful of market participants of a high volume of net zero complex orders that leg into the regular order book has generated complaints from the Market Makers that trade against these orders in the regular order book, as firms recognize these net zero complex orders as essentially non-economic. The Exchange believes that adopting the proposed per contract methodology will make it more difficult for firms to continue to enter net zero complex orders purely to earn a rebate. This will reduce the cost of these trades to the Exchange and its members as firms are limited in the amount of this net zero complex order activity that they can conduct on the Exchange.

The Exchange also believes that the proposed rule change is not unfairly discriminatory as it is designed to stop market participants from taking advantage of Exchange rebates by entering orders that lack economic substance. The Exchange is proposing to eliminate Priority Customer complex order rebates for all market participants that execute a large number of net zero complex orders based on the proposed methodology. To the extent that those market participants execute legitimate complex orders, however, they will continue to receive the same rebates that they do today. In addition, market participants that execute an insubstantial volume of net zero complex orders will also continue to receive rebates. The Exchange does not believe that it is unfairly discriminatory to continue to offer rebates to firms that do not hit the net zero ADV threshold as this more limited trading activity is not indicative of rebate arbitrage. While the Exchange could prohibit rebates for any net zero complex orders without an ADV threshold, doing so would disadvantage innocent market participants that are not engaged in rebate arbitrage. The Exchange believes that the decision to allow rebates for firms with a limited ADV in net zero complex orders properly balances the need to encourage market participants to send order flow to the Exchange, and the need to prevent activity that is harmful to the market. Moreover, all market participants will be treated the same based on their net zero ADV.

Finally, the Exchange believes that addition of the word ''contract'' to the ADV threshold is reasonable, equitable, and not unfairly discriminatory as this change will clarify for members that the ADV threshold, which is a measure of volume, is calculated based on the number of contracts executed. The Exchange notes that this is not a change to the Exchange's current practice but is a simple clean up change to make the Schedule of Fees easier for members to understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. By refining the definition of net zero complex order, the proposed rule change is designed to eliminate the ability for certain market participants to engage in rebate arbitrage to the detriment of the Exchange and its members. In addition, adding the word ''contract'' to the ADV threshold is a non-substantive change made purely for clarification. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] *See* supra note 3.

[9] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[10] and Rule 19b–4(f)(2) [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2017–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2017–22 and should be submitted on or before April 7,2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05335 Filed 3–16–17; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80230; File No. SR–MIAX–2017–12]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 515, Execution of Orders and Quotes

March 13, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 515, Execution of Orders and Quotes.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to amend Exchange Rule 515(c) to enhance the price protection process of the Exchange's System.[3] The proposal will (i) eliminate a Member's [4] ability to disable the price protection process, (ii) refine the settings associated with the price protection process, (iii) propose a new behavior of the price protection process to remove certain orders immediately following the commencement of a trading halt and at the end of each trading session, and (iv) eliminate the establishment of a price protection limit for orders received (A) prior to the open or during a trading halt, and (B) during a prior trading session that remain on the Book [5] at the conclusion of the opening process.[6]

The Exchange provides a price protection process for all orders (excluding Market Maker [7] orders) as part of its commitment to providing risk protection for Member's orders.[8] The price protection process prevents an order from being executed beyond the price designated in the order's price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[4] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[5] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the System. *See* Exchange Rule 100.

[6] *See* Exchange Rule 503(f).

[7] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[8] *See* Exchange Rule 519 for additional order protections.

protection instructions (the ''price protection limit'').[9] The starting point for establishing an order's price protection limit is the NBBO[10] at the time the order is received by the System, or the MBBO[11] if the ABBO[12] is crossing the MBBO at the time of receipt. The Exchange refers to this value internally as the initial reference price (''IRP''). The Member may determine the number of Minimum Price Variations (''MPVs'')[13] away from the IRP that it wants to use to establish its price protection limit. If the order is a ''buy,'' some number of Minimum Price Variations (''MPVs''), either as designated by the Member or as defaulted by the Exchange, is added to the IRP to establish the order's price protection limit. If the order is a ''sell,'' some number of MPVs, either as designated by the Member or defaulted by the Exchange, is subtracted from the IRP to establish the order's price protection limit. When an order's price protection limit is triggered, the order (or the remaining contracts of an order) is canceled by the System.

Current Rule 515(c)(1) provides that ''[m]arket participants may designate or disable price protection instructions on an order by order basis.'' In order to enhance the Exchange's price protection process, the Exchange proposes to amend the Rule so that market participants no longer have the option to disable price protection instructions on orders. The Exchange believes that this enhancement benefits market participants and the options market as a whole, as this will ensure that all eligible orders have at least some level of price protection. While this proposal effectively mandates usage of the price protection process, the Exchange notes that market participants will still have the ability to set price protection instructions a significant number of MPVs away from the IRP (as discussed below) should they so elect, therefore the Exchange does not view the proposal as a material or significant change.

Additionally, the Exchange proposes to enhance the price protection process by refining the settings associated with this process. Currently in the System, Members may disable price protection by providing a value of −1 in the price protection instructions, or Members may enable price protection by selecting an MPV value from a range (in whole numbers only) of 0 through 99—that is, the number of MPVs beyond the IRP that an order may trade. Providing Members with such a wide range of MPV settings could render the price protection process ineffective, should a Member select an MPV setting at the upper end of that range. Accordingly, the Exchange proposes to establish a narrower range of MPV settings, and to insert the range into the Rule. While this range will be determined by the Exchange and announced to Members through a Regulatory Circular, the range will be (in whole numbers only) no less than zero (0) MPVs and no greater than twenty (20) MPVs away from the IRP.

The Exchange also proposes to establish a range of MPV settings from which the Exchange may select to serve as the default value for price protection instructions, should a market participant not provide its own price protection instructions for its order. The current Rule states that this default price protection will be one MPV away from the NBBO at the time of receipt, or the MBBO if the ABBO is crossing the MBBO. The Exchange now proposes to establish a range of MPV settings from one (1) to five (5) MPVs away from the NBBO at the time of receipt. The Exchange will announce the default value for the price protection instruction to Members through a Regulatory Circular, such value shall be in whole numbers only and shall apply universally to all products traded on the Exchange. The Exchange believes that having a range of MPV settings to choose from will provide greater flexibility to the Exchange and enable it to select an appropriate global default MPV value where one is not provided by the market participant.

Except as discussed below, orders can be received by the Exchange either prior to or after completion of the opening process. Orders may have a limit price (''limit orders'')[14] or be priced to buy or sell at the current market price (''market orders'').[15] A market order represents a willingness to buy or sell at the best price available at the time of execution. A market order to buy could execute at the maximum price permitted by the Exchange,[16] whereas a market order to sell could execute at the minimum price permitted by the Exchange, or one (1) MPV above zero.[17] When orders are received after the opening process is complete and when the market is in a regular trading state, the price protection process tethers the order's price to the current NBBO, (or MBBO if the ABBO is crossing the MBBO at the time of receipt), and provides protection (based on the number of MPVs supplied by the Member or defaulted by the Exchange) for orders that are priced through the NBBO.

Limit Orders

For purposes of this Rule 515(c), the Exchange is proposing to consider the effective limit price of a limit order to be the limit price of the order. Depending upon the NBBO at the time of receipt by the System, and the order's price protection instructions, the order's price protection limit can be considered either ''more aggressive'' (equal to or higher than the order's effective limit price for a buy order or equal to or lower than the order's effective limit price for a sell order) or ''less aggressive'' (lower than the order's effective limit price for a buy order or higher than the order's effective limit price for a sell order) than the order's effective limit price. When an order's price protection limit is equal to or more aggressive than its effective limit price, the order's effective price protection limit will be the order's limit price, as an order will never trade through its limit price on the Exchange.

Market Orders

For purposes of evaluating market orders under the proposed price protection process outlined in this Rule, the Exchange is proposing to consider the effective limit price of a market order to buy to be the maximum price currently permitted by the Exchange's System,[18] and the effective limit price for a market order to sell to be one (1) MPV above zero ($.01 for options quoted and traded in increments as low as $.01, or $.05 for options quoted and traded in increments as low as $.05).[19]

Depending upon the NBBO at the time of receipt by the System, and the order's price protection instructions, the order's price protection limit can either

[9] *See* Exchange Rule 515(c)(1).

[10] The term ''NBBO'' means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[11] The term ''MBBO'' means the best bid or offer on the Exchange. *See* Exchange Rule 100.

[12] The term ''ABBO'' or ''Away Best Bid or Offer'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Rule 1400(f)) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[13] *See* Exchange Rule 510.

[14] A limit order is an order to buy or sell a stated number of option contracts at a specified price or better. *See* Exchange Rule 516.

[15] A market order is an order to buy or sell a stated number of option contracts at the best price available at the time of execution. *See* Exchange Rule 516.

[16] The Exchange notes that the maximum price that an order may be executed at in the System is $1,999.99.

[17] A market order to sell could execute at $.01 in an option class quoted and traded in increments as low as $.01; or at $.05 in an option class quoted and traded in increments as low as $.05. *See* Exchange Rule 510.

[18] *See supra* note 16.

[19] *See* Exchange Rule 510.

be more aggressive (equal to or higher than the order's effective limit price for a buy order or equal to or lower than the order's effective limit price for a sell order) or less aggressive (lower than the order's effective limit price for a buy order or higher than the order's effective limit price for a sell order) than the order's effective limit price.

The price protection process will remain unchanged for orders received after the opening process has been completed, when the market is in a regular trading session. For both limit and market orders, when an order's price protection limit is triggered, the order, or the remaining contracts of the order, is canceled. Under the current rule, this cancellation will only occur during regular trading and can possibly result in an order not receiving an execution at the price anticipated by the Member when the order was submitted, as a result of a price protection limit that is less aggressive than the order's effective limit price. Under the current rule, an order with a price protection limit less aggressive than the order's effective limit price will persist throughout the course of an entire trading day, including through a trading halt, (provided the order's price protection limit isn't triggered).

The Exchange now proposes to evaluate orders at the conclusion of each trading session (including after a trading halt as defined in Rule 504), to identify those orders that have a price protection limit that is less aggressive than the order's effective limit price, in addition to current functionality. The Exchange believes it is in the best interest of its Members to proactively identify orders on the Book that have a price protection limit that is less aggressive than the order's effective limit price at the conclusion of each trading session when the market is not in a regular trading state. Given that these orders will never trade to their effective limit price, the Exchange proposes to cancel these orders from the Book so that Members can benefit from an increase in the amount of time available to re-evaluate the current market conditions prior to resubmitting the order to the Exchange.

The following examples demonstrate how the proposed process would work for non-routable limit orders.

Option MPV = $.01
MBBO: $1.00 × $1.05
ABBO: $1.01 × $1.03
NBBO: $1.01 × $1.03

Order #1 Received: Buy @$1.08 GTC, Price Protection MPVs: 2

1. Order is managed to the ABBO
2. Effective limit price: $1.08 (bid)
3. Display price: $1.02 (bid)
4. Book price: $1.03 (bid)
5. Price protection limit: $1.05 [(IRP + 2 MPVs) or ($1.03 + $.02)]
6. The order's price protection limit ($1.05) is less aggressive than the order's effective limit price ($1.08)

Order #2 Received: Buy @$1.04 GTC, Price Protection MPVs: 2

1. Order is Managed to the ABBO
2. Effective limit price: $1.04
3. Display price: $1.02 (bid)
4. Book price: $1.03 (bid)
5. Price protection limit: $1.05 [(IRP + 2 MPVs) or ($1.03 + $.02)]
6. The order's price protection limit ($1.05) is more aggressive than the order's effective limit price ($1.04)

The Market closes (or Halts as per Rule 504).

1. Order #1 is canceled as the order's price protection limit ($1.05) is less aggressive than its effective limit price ($1.08). Under proposed Interpretations and Policies .04, the System will cancel a buy order when the order's price protection limit is lower than the order's effective limit price.
2. Order #2 is maintained on the Book as the order's price protection limit ($1.05) is more aggressive than its effective limit price ($1.04). Under proposed Interpretations and Policies .04, the System will not cancel a buy order when the order's price protection limit is higher than the order's effective limit price.

The following examples demonstrate how the proposed process would work for non-routable market orders.

Option MPV = $.01
MBBO: $1.00 × $1.05
ABBO: $1.01 × $1.03
NBBO: $1.01 × $1.03

Order # 3 Received: Buy @the Market GTC, Price Protection MPVs: 2

1. Order is Managed to the ABBO
2. Effective limit price: $1,999.99 (Exchange Maximum)
3. Display price: $1.02 (bid)
4. Book price: $1.03 (bid)
5. Price protection limit: $1.05 [(IRP + 2 MPVs) or ($1.03 + $.02)]
6. The order's price protection limit ($1.05) is less aggressive than the order's effective limit price ($1,999.99)

Option MPV = $.01
MBBO: $.00 × $.15
ABBO: $.05 × $.15
NBBO: $.05 × $.15

Order #4 Received: Sell @the Market, Price Protection MPVs: 2

1. Order is managed to the ABBO
2. Effective limit price: $.01
3. Display price: $.06 (offer)
4. Book price: $.05 (offer)
5. Price protection limit: $.03 [(IRP − 2 MPVs) or (.05 − $.02)]
6. The order's price protection limit ($.03) is less aggressive than the order's effective limit price ($.01)

Order #5 Received: Sell @the Market, Price Protection MPVs: 4

1. Order is managed to the ABBO
2. Effective limit price: $.01
3. Display price: $.06 (offer)
4. Book price: $.05 (offer)
5. Price protection limit: $.01 [(IRP − 4 MPVs) or ($.05 − $.04)]
6. The order's price protection limit ($.01) is equal to the order's effective limit price ($.01)

The Market closes (or Halts as per Rule 504).

3. Order #3 is canceled as the order's price protection limit ($1.05) is less aggressive than the orders effective limit price ($1,999.99). Under proposed Interpretations and Policies .04, the System will cancel a buy order when the order's price protection limit is lower than the order's effective limit price.

- Order #4 is canceled as the order's price protection limit ($0.03) is less aggressive than its effective limit price ($0.01). Under proposed Interpretations and Policies .04, the System will cancel a sell order when the order's price protection limit is higher than the order's effective limit price.
- Order #5 is maintained on the Book as the order's price protection limit ($0.01) is equal to its effective limit price ($0.01). Under proposed Interpretations and Policies .04, the System will not cancel a sell order when the order's price protection limit is not higher than the order's effective limit price.

The Exchange believes that its proposal to cancel orders at the end of a trading session, when the order's price protection limit is less aggressive than the order's effective limit price, will afford market participants the opportunity to evaluate whether to re-submit their orders and/or establish a different price and/or price protection instructions, based on then-current market conditions, prior to the opening of the next trading session. Given that the Exchange can discern when an order may not fill at the price levels anticipated, (based on an order having a price protection limit that is less aggressive than the order's effective limit price), the Exchange believes the most prudent course of action in these circumstances is to return the order to the Member for analysis and evaluation, while the market is not in a regular

trading state, (*e.g.,* a Member submitting a non-routable market order to sell in an option class quoting in $.01 increments, when the MBBO is $0.00 × $0.15 and the NBBO is $0.05 × $0.15, could expect to sell at every price increment down to $.01. However, if the Exchange default price protection instruction is 2 MPVs, the order would receive a price protection limit of $0.03. When the price protection limit is triggered, the order, or the remaining contracts of the order, would be canceled, and the order would not execute at $0.02 or $0.01).

Specifically, the Exchange proposes to adopt new Interpretations and Policies .04, to state that the System will cancel certain orders from the Book immediately following the commencement of a trading halt pursuant to Rule 504, and at the end of each trading session, when the order's price protection limit is less aggressive than the order's effective limit price. Interpretations and Policies .04 further states that, for the purposes of this Rule, the effective limit price of a limit order will be the order's limit price; the effective limit price of a market order to buy, will be the maximum price currently permitted by the Exchange; [20] and the effective limit price of a market order to sell, will be one (1) MPV as established by Rule 510, either $.01 for option classes quoted and traded in increments as low as $.01, or $.05 for option classes quoted and traded in increments as low as $.05.

Finally, the Exchange proposes to eliminate the establishment of a price protection limit for orders that are received prior to the open or during a trading halt and for orders that remain on the Book at the conclusion of the opening process. Orders received prior to the opening process or during a trading halt and orders carried over from a prior trading session participate in the opening process. This is true today under existing Exchange rules and is not changing under this proposal. The Exchange has a single opening process that is used to open the System for trading at the start of the day, and to reopen the System for trading after an intraday halt.[21] During the opening process, the opening price serves as a price protection limit for all orders participating in the opening, and orders that are priced through the opening price are canceled at the conclusion of the opening process.[22] [23] Following the opening process, the System currently assigns a new IRP equal to the NBBO to any such orders that remain unexecuted after the opening process is complete.

The Exchange now proposes to eliminate the establishment of a price protection limit for orders that have participated in the opening process and that remain on the Book. As proposed, orders that are received prior to the open or during a trading halt and orders from a prior trading session that remain on the Book after the opening process concludes, will be booked and managed at the order's limit price. An order that is received prior to the open or during a trading halt and that remains on the Book after the opening process concludes is not priced through the opening price and may be booked and managed at its limit price. The order's limit price serves as the most effective price protection limit as an order will never trade through its limit price on the Exchange.

During a regular trading session, an order with a price protection limit that is more aggressive than its limit price will either rest on the Book or fill to its limit price and no further. An order with a price protection limit that is less aggressive than its limit price will either rest on the Book or fill to its price protection limit, which once triggered will cancel the order, or the remaining contracts of the order, which in all cases will be before the order has a chance to trade to its limit price. As proposed, at the conclusion of each trading session, the System will cancel orders with a price protection limit that is less aggressive than the order's effective limit price. Therefore, the only orders that will remain in the System from a prior session to participate in the opening will be orders with a price protection limit that is more aggressive than the order's effective limit price. As previously discussed, limit orders with a price protection limit more aggressive than the order's effective limit price are managed to their limit price, as a limit order will never execute through its limit price, and the price protection limit is not a factor for these orders. Therefore, additional price protection is unnecessary for orders that remain on the Book after participating in the opening process as orders on the Exchange will never trade through their limit price.

The Exchange believes that the enhancements it is proposing to its price protection process in the proposed rule change should assist market participants in making informed decisions concerning trading opportunities by clarifying the relationship between an order's limit price, price protection limit, and the operation of the Exchange's price protection process. The Exchange believes that the detailed description of this functionality belongs in the Exchange's Rules in order to inform market participants whose orders are being managed, that such orders may be canceled by the Exchange under certain circumstances, and the reasons therefore. The proposed rule change should assist market participants in making decisions concerning price limits and routing decisions. While this proposal effectively mandates usage of the price protection process, the Exchange notes that market participants will still have the ability to set price protection limits at higher thresholds should they so elect, therefore the Exchange does not view the proposal as a material or significant change.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [24] in general, and furthers the objectives of Section 6(b)(5) of the Act [25] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The system protections described above are designed in the interest of protecting investors and to assure fair and orderly markets on the Exchange.

Specifically, the Exchange operates an electronic marketplace in which orders are processed and executed in less than one second. Without any safeguards, orders that outsize the liquidity available at the displayed best bid or offer on the Exchange could potentially trade at prices far below the best bid and far above the best offer, creating extreme volatility in the marketplace and poor executions for investors.

The Exchange believes that the proposed rule change to enhance the price protection process of the Exchange's System will protect investors and the public interest. The Exchange believes that reducing the number of price levels at which an incoming order can execute

[20] *See supra* note 16.

[21] *See* Exchange Rule 503.

[22] *See* Exchange Rule 503(f)(2)(vii)(B)(5).

[23] The Exchange notes that market orders will never remain on the book after the opening process concludes, as by definition these orders will always be priced through the opening price and will be filled to the extent possible and then conceled at the conclusion of the opening process.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

appropriately balances the interests of investors seeking execution of their orders and the Exchange's obligations to provide a fair and orderly market. Further, the Exchange believes that defining the minimum and maximum range of MPVs available to the Members within the Rule promotes transparency and clarity in the Exchange's rules and protects investors and the public interest.

Additionally, the proposal provides the Exchange with a range of values to select from when establishing a default price protection limit, which provides greater flexibility for the Exchange to adequately tailor its default setting to market conditions. Providing default values will benefit market participants and the options market as a whole as this will ensure that all eligible orders have a minimal level of price protection. The proposal to eliminate a Member's ability to disable the price protection process will facilitate transactions in securities as Members will have greater confidence that protections are in place that reduce the risk of executions at prices that are significantly through the market. Additionally, the Exchange believes that this benefits all market participants by ensuring that all eligible orders have some level of price protection. As a result, the enhancements to the price protection process promotes just and equitable principles of trade. While this proposal effectively mandates usage of the price protection process, the Exchange notes that market participants will still have the ability to set price protection limits at high thresholds should they so elect, therefore the Exchange does not view the proposal as a material or significant change.

The Exchange believes that its proposal to remove orders with a price protection limit less aggressive than the order's effective limit price at the conclusion of a trading session (or after a trading halt as defined in Rule 504) to be in the best interest of the investor as these orders will never fill to their effective limit price. The price protection process will cancel an order, or the remaining contracts of an order, when the price protection limit is triggered during regular trading. The Exchange believes it is in the best interest of investors for the Exchange to return an order with a price protection limit that is less aggressive than the order's effective limit price to the Member, while the market is not in regular trading, so that the Member has more time to evaluate whether to re-submit the order and/or establish a different price and/or different price protection instructions, based on the then-current market conditions. Specifically, the Exchange believes the proposed change will remove impediments to and perfect the mechanism of a free and open market by providing market participants with more time to evaluate their orders which will promote fair and orderly markets, increase overall market confidence, and promote the protection of investors.

The Exchange believes that the elimination of a price protection limit for orders that are received prior to the opening or during a trading halt and for orders received during a prior trading session that remain on the book following the Opening Process (other than the price protection afforded by opening price) provides transparency and clarity in the Exchange's rules. As noted above, the Exchange believes that booking and posting these orders at their limit price provides the same level of protection as the price protection process, as an order will never trade through its limit price on the Exchange. The Exchange believes it is in the interest of investors and the public to accurately describe the behavior of the Exchange's System in its rules as this information may be used by investors to make decisions concerning the submission of their orders. Transparency and clarity are consistent with the Act because it removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest by accurately describing the behavior of the Exchange's System.

The Exchange believes its proposal to add new Interpretations and Policies .04 protects investors and the public interest by clearly stating in the Exchange's rules the method by which the Exchange is evaluating orders for removal by the System. Further, the Exchange believes that providing the definition of effective limit price provides clarity and transparency in the Exchange's rules. Additionally, the Exchange's proposal to remove orders where the price protection limit for a buy order is lower than the order's effective limit price; and where the price protection limit for a sell order is higher than the order's effective limit price, contributes to the maintenance of a fair and orderly market by returning orders that would not fill to their effective limit price to the market participant for re-evaluation while the market is not in a regular trading state. Market participants can evaluate the current market conditions and consider re-submitting their order with a new price and/or new price protection instructions while the market is not active.

The Exchange believes this proposal will provide MIAX participants with a better understanding of the Exchange's price protection process. The description of the System's functionality is designed to promote just and equitable principles of trade by providing a clear and accurate description to all participants of how the price protection process is applied and should assist investors in making decisions concerning their orders. Further, the Exchange believes that the price protection process provides market participants with an appropriate level of risk protection on their orders and contributes to the maintenance of a fair and orderly market.

Additionally, the Exchange notes that it has an affiliate Exchange, MIAX PEARL, LLC (''MIAX PEARL'') and that MIAX Options and MIAX PEARL have similar rules.[26] A substantially similar rule on MIAX PEARL became operative when the Exchange commenced operations on February 6, 2017.[27] Further, MIAX Options and MIAX PEARL also have a number of common Members and on each Exchange, where feasible, the Exchange intends to implement similar behavior to provide consistency between the Exchanges so as to avoid confusion among Members. Aligning similar rules on the Exchange and MIAX PEARL provides transparency and clarity in the rules and minimizes the potential for confusion, thereby protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by providing further enhancements and transparency regarding the Exchange's price protection functionality.

[26] The Exchange notes that MIAX PEARL incorporates the following Chapters of the MIAX Options Rule Book by reference: Chapter III, VII, VIII, IX, XI, XIII, XIV, XV, and XVI.

[27] *See* MIAX PEARL Rule 515.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [28] and Rule 19b–4(f)(6) [29] thereunder.

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [30] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [31] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange notes that the Exchange and MIAX PEARL have common Members and the proposal will provide, where feasible, consistent functionality between the Exchange and MIAX PEARL, and thus reduce complexity and avoid potential confusion among Members. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR-MIAX–2017–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2017–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2017–12 and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05345 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80228; File No. SR–BX–2017–016]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Data Reporting Requirements of Rule 4770

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2017, NASDAQ BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4770 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 4770(b) (Compliance with Data Collection Requirements) [3] implements the data collection and Web site publication requirements of the Plan.[4] Commentary .08 to Rule 4770 provides, among other things, that the requirement that the Exchange make certain data publicly available on the Exchange Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,[5] and that BX shall make data for the Pre-Pilot Period publicly available on the Exchange Web site pursuant to Appendix B and C to the Plan by February 28, 2017.[6]

BX is proposing amendments to Commentary .08 to Rule 4770 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange's Web site from February 28, 2017, until April 28, 2017. Appendix C data for the Pre-Pilot Period through the month of January 2017 will be published on the Exchange Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.[7] As some of the data reporting requirements set forth in Rule 4770 require members to report data to their Designated Examining Authority (''DEA''), which may not be BX, the Exchange is also proposing to add references in Commentary .08 to reflect the fact that the Exchange or the DEA may be publishing such data.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free ''on a disaggregated basis by trading center'' on the Web sites of the Participants and the Designated Examining Authorities.[8] However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (''OTC'') data.[9] Thus, BX is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.[10] Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing additional proposed rule changes to address Appendix B data publication.

BX has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. BX also believes that the proposal is consistent with Section 6(b)(8) of the Act,[13] which requires that Exchange rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. BX believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide BX with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The

[3] *See* Rule 4770(b). *See also* Securities Exchange Act Release No. 77457 (March 28, 2016), 81 FR 18913 (April 1, 2016) (SR–BX–2016–019).

[4] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[5] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 4770.

[6] On November 30, 2016, the SEC granted exemptive relief to the Participants to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, dated November 30, 2016; *see also* Securities Exchange Act Release No. 79549 (December 14, 2016), 81 FR 92886 (December 20, 2016) (SR–BX–2017–067).

[7] Since, under Rule 4770(b)(4), BX is not independently publishing Market Maker profitability data collected pursuant to Item I of Appendix C of the Plan, no corresponding change to the language of Rule 4770(b)(4) relating to the timing of the publication of Appendix C data for the Pilot Period is needed.

[8] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4–657) (''Tick Size Plan Proposal'').

[9] *See* letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (''Citadel letter''); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (''FIF letter'').

[10] In connection with its filing to implement a similar change in its rules, the Financial Industry Regulatory Authority, Inc. is also is submitting an exemptive request to the SEC on behalf of all Plan Participants requesting relief from the relevant requirements of the Plan.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.[16] The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.[17] Delaying publication of Exchange's Appendix B data [18] will prevent the publication of partial (*i.e.,* Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2017–016, and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05343 Filed 3–16–17; 8:45 am]

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[16] *See supra* note 9. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. *See* SR–FINRA–2017–005.

[17] The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. *See* SR–FINRA–2017–006.

[18] The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. *See* SR–BatsBYX–2017–05; SR–BatsBZX–2017–15; SR–BatsEDGA–2017–05; SR–BatsEDGX–2017–13; SR–CHX–2017–05; SR–FINRA–2017–005; SR–IEX–2017–07; SR–NASDAQ–2017–024; SR–Phlx–2017–22; SR–NYSE–2017–10; SR–NYSEArca–2017–19; SR–NYSEMKT–2017–11.

[19] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17a–5, SEC File No. 270–155, OMB Control No. 3235–0123.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–5 (17 CFR 240.17a–5), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–5 is the basic financial reporting rule for brokers and dealers.[1] The rule requires the filing of Form X–17A–5, the Financial and Operational Combined Uniform Single Report (''FOCUS Report''), which was the result of years of study and comments by representatives of the securities industry through advisory committees and through the normal rule proposal methods. The FOCUS Report was designed to eliminate the overlapping regulatory reports required by various self-regulatory organizations and the Commission and to reduce reporting burdens as much as possible. The rule also requires the filing of an annual audited report of financial statements.

The FOCUS Report consists of: (1) Part I, which is a monthly report that must be filed by brokers or dealers that clear transactions or carry customer securities; (2) one of three alternative quarterly reports: Part II, which must be filed by brokers or dealers that clear transactions or carry customer securities; Part IIA, which must be filed by brokers or dealers that do not clear transactions or carry customer

[1] Rule 17a–5(c) requires a broker or dealer to furnish certain of its financial information to customers and is subject to a separate PRA filing (OMB Control Number 3235–0199).

securities; and Part IIB, which must be filed by specialized broker-dealers registered with the Commission as OTC derivatives dealers;[2] (3) supplemental schedules, which must be filed annually; and (4) a facing page, which must be filed with the annual audited report of financial statements. Under the rule, a broker or dealer that computes certain of its capital charges in accordance with Appendix E to Exchange Act Rule 15c3–1 must file additional monthly, quarterly, and annual reports with the Commission.

The Commission estimates that the total hours burden under Rule 17a–5 is approximately 356,020 hours per year when annualized, and the total cost burden under Rule 17a–5 is approximately $45,133,148 per year.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to *PRA_Mailbox@sec.gov.*

Dated: March 14, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05362 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[2] Part IIB of Form X–17A–5 must be filed by OTC derivatives dealers under Exchange Act Rule 17a–12 and is subject to a separate PRA filing (OMB control number 3235–0498).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80220; File No. SR–BatsBYX–2017–05]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 11.27 To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2017, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.27 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 11.27(b) (Compliance with Data Collection Requirements)[5] implements the data collection and Web site publication requirements of the Plan.[6] Rule 11.27(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority (''DEA'') make certain data publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,[7] and that the Exchange or DEA shall make data for the Pre-Pilot Period publicly available on their Web site pursuant to Appendix B and C to the Plan by February 28, 2017.[8]

The Exchange is proposing amendments to Rule 11.27(b).08 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange or DEA's Web site from February 28, 2017, until April 28, 2017.[9] Appendix C data

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Exchange Rule 11.27(b). *See also* Securities Exchange Act Release Nos. 77418 (March 22, 2016), 81 FR 17213 (March 28, 2016); *and* 78795 (September 9, 2016), 81 FR 63508 (September 15, 2016).

[6] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[7] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 11.27.

[8] On November 30, 2016, the SEC granted exemptive relief to the Participants, and the Exchange filed proposed rule changes to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; *see also* Securities Exchange Act Release No. 79534 (December 13, 2016), 81 FR 91965 (December 19, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR–BatsBYX–2016–37).

[9] In addition, the Exchange is proposing an amendment to Rule 11.27(a)(6)(B) to clarify that no member, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than $0.05, unless an exception

Continued

for the Pre-Pilot Period through the month of January 2017, will be published on the Exchange or DEA's Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free ''on a disaggregated basis by trading center'' on the Web sites of the Participants and the Designated Examining Authorities.[10] However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (''OTC'') data.[11] Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.[12] Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing an additional proposed rule change in the near future to address the Appendix B data publication.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(5) of the Act[14] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.[17] The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.[18] Delaying publication of Exchange's Appendix B data[19] will prevent the publication of partial (*i.e.,* Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

applies. This proposed amendment makes the rule consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

[10] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4–657) (''Tick Size Plan Proposal'').

[11] *See* letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (''Citadel letter''); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (''FIF letter'').

[12] FINRA, on behalf of the Exchange, also is submitting an exemptive request with the SEC in connection with the instant filing.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] *See supra* note 11. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. *See* SR–FINRA–2017–005.

[18] The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. *See* SR–FINRA–2017–006.

[19] The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. *See* SR–BatsBZX–2017–15; SR–BatsEDGA–2017–05; SR–BatsEDGX–2017–13; SR–BX–2017–016; SR–CHX–2017–05; SR–FINRA–2017–005; SR–IEX–2017–07; SR–NASDAQ–2017–024; SR–Phlx–2017–22; SR–NYSE–2017–10; SR–NYSEArca–2017–19; SR–NYSEMKT–2017–11.

[20] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBYX–2017–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBYX–2017–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBYX–2017–05 and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05336 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80224; File No. SR–BX–2017–017]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7018

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2017, NASDAQ BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Rule 7018 to add a new charge for providing liquidity on the BX equity market.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018 to add a reduced fee for providing liquidity on the BX equity market if certain volume requirements are met. The Exchange operates on the ''taker-maker'' model, whereby it pays rebates to members that take liquidity and charges fees to members that provide liquidity. Currently, a member that adds liquidity through a displayed order and that does not qualify for one of the current reduced fees would be assessed a charge of $0.0020 per share executed. With this proposal, the Exchange proposes to charge $0.0018 per share executed for a displayed order entered by a member that adds liquidity equal to or exceeding the member's Growth Target. The Growth Target is defined as the liquidity the member added in January 2017 as a percent of total Consolidated Volume plus 0.04% of total Consolidated Volume.[3] As such, if the member added liquidity that represented 0.10% of total Consolidated Volume in January, the member's Growth Target would be 0.14% of total Consolidated Volume. A member that added 0.14% of total Consolidated Volume in March would therefore qualify for the reduced fee in March.[4]

The purpose of this reduced fee is to incentivize members to add additional liquidity to the Exchange, thereby increasing the market quality of the Exchange and benefitting all participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fee of $0.0018 per share executed is reasonable. The charge for adding

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 7018(a) defines ''Consolidated Volume'' as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

[4] If a member was not active in the month of January, its Growth Target would be 0.04% for purposes of determining the eligibility for this fee.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

displayed liquidity to the Exchange set forth in Rule 7018(a) ranges from $0.0014 per share executed to $0.0020 per share executed, depending on whether any required volume thresholds were met. The Exchange believes that the proposed fee of $0.0018 is reasonable, because it is consistent with other of the Exchange's charges for adding liquidity, while it is sufficiently low that it incentivizes members to add increased liquidity.

The Exchange also believes that the corresponding volume threshold to qualify for the fee, and the utilization of January 2017 as the base for the Growth Target, is reasonable. The requirement that a member add 0.04% over its January added liquidity as a percent of Consolidated Volume is a meaningful requirement which is designed to incentivize members to add liquidity. In addition, the proposed volume threshold is closely aligned with the amount of the transaction fee, and is consistent with similar volume requirements assessed by the Exchange in connection with other transaction fees.[7] The Exchange believes that using January 2017 as the base for the Growth Target is reasonable because that month represents the most recent full month of trading, and because the selection of a previous month as a baseline prevents members from changing their behavior prospectively to influence their baseline, and thus, their eligibility for the reduced fee.

The Exchange also notes that the proposal is consistent with transaction fees and credits assessed by other exchanges. For example, Bats BZX Exchange, which operates a maker-taker model, pays a credit of $0.0030 per share for displayed orders if the member increases its share of total Consolidated Volume for adding liquidity by 0.15% or more in comparison to its volume in April 2016,[8] and assesses a fee of $0.00295 per share if the member increases its share of total Consolidated Volume for removing liquidity by 0.05% or more in comparison to its July 2016 volume.[9] Similarly, Bats EDGX Exchange pays a credit of $0.0032 per share if the member increases its share of total Consolidated Volume for adding liquidity by 0.10% or more in comparison to its volume in January 2017.[10]

BX also believes that the proposed change is equitably allocated among members, and is not designed to permit unfair discrimination. BX notes that participation on the Exchange, and eligibility for the reduced fee, is voluntary, and that the proposed charge applies to all members that otherwise qualify for the reduced fee, *e.g.,* members that add 0.04% in excess of the liquidity added in January in a given month.

In adopting this fee, the Exchange is providing members with another way in which they may qualify for a reduced transaction fee, while incentivizing members to add increased liquidity, thereby benefitting all participants. BX notes that a member that adds 0.04% in excess of its January liquidity provided as a percent of total Consolidated Volume would continue to be eligible for the reduced fee for each month in which it met this requirement. BX believes this aspect of the proposal is equitable and not unfairly discriminatory, as this way to receive an ongoing reduced transaction fee is open to any member that elects to meet the volume requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable.

In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed fee does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The new fee is consistent with transaction fees and credits currently assessed by other exchanges. The new fee applies equally to all members that meet the volume requirements, and all similarly situated members are equally capable of qualifying for the fee if they choose to meet the volume requirements. Moreover, the same fee will be assessed to all members that qualify for the volume requirement. Finally, the purpose of the reduced fee is to incentivize members to add liquidity to the Exchange, potentially attracting additional participants to the Exchange and thereby promoting competition.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[7] For example, the Exchange assesses a transaction fee of $0.0017 per share executed for a Displayed order entered by a member that adds liquidity equal to or exceeding 0.15% of total Consolidated Volume during a month, and $0.0024 per share executed for Non-displayed orders (other than orders with Midpoint pegging) entered by a member that adds 0.06% of total Consolidated Volume of non-displayed liquidity.

[8] To be eligible for this rebate, the member must also have an average daily added volume as a percentage of total Consolidated Volume that equals or exceeds 0.20%.

[9] To be eligible for this fee, the member must also have Customer orders that remove liquidity that equal or exceed 0.30% of total Consolidated Volume.

[10] To be eligible for this fee, the member must also add an average daily volume that equals or exceeds 0.40% of total Consolidated Volume.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2017–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2017–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2017–017 and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05339 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80227; File No. SR–CHX–2017–05]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on February 28, 2017, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Article 20, Rule 13(b) of the Rules of the Exchange (''CHX Rules'') to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Article 20, Rule 13(b) (Compliance with Data Collection Requirements) [3] implements the data collection and Web site publication requirements of the Plan.[4] Paragraph .08 of Article 20, Rule 13(b) provides, among other things, that the requirement that the Exchange make certain data publicly available on the Exchange or Designated Examining Authority's (''DEA's'') Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,[5] and that the Exchange shall make data for the Pre-Pilot Period publicly available on the Exchange Web site pursuant to Appendix B to the Plan by February 28, 2017.[6]

The Exchange is proposing amendments to paragraph .08 of Article 20, Rule 13(b) to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on the Exchange's Web site from February 28, 2017, until April 28, 2017.[7]

In the SRO Tick Size Plan Proposal, the Plan Participants stated that the public data will be made available for free ''on a disaggregated basis by trading

[3] *See* Securities Exchange Act Release No. 79538 (December 13, 2016), 81 FR 91979 (December 19, 2016) (SR–CHX–2016–21); *see also* Securities Exchange Act Release No. 77469 (March 29, 2016), 81 FR 19275 (April 4, 2016) (SR–CHX–2016–02).

[4] The Plan Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[5] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in CHX Article 20, Rule 13.

[6] On November 30, 2016, the SEC granted exemptive relief to the Plan Participants to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, dated November 30, 2016; *see also* SR–CHX–2016–21, *supra* note 3.

[7] In addition, the Exchange is proposing an amendment to CHX Article 20, Rule 13(a)(6)(B) to clarify that no CHX Participant, irrespective of whether that member operates a trading center, may execute orders in any Pilot Security in Test Group Three in price increments other than $0.05, unless an exception applies. This proposed amendment makes the rule consistent with the Plan and conforms subparagraph (a)(6)(B) with subparagraph (a)(5)(B).

center'' on the Web sites of the Plan Participants and the Designated Examining Authorities.[8] However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (''OTC'') data.[9] Thus, the Exchange is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.[10] Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Plan Participants anticipate filing an additional proposed rule change in the near future to address Appendix B data publication.

The Exchange has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[11] in general, and furthers the objectives of Section 6(b)(5) of the Act[12] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. The Exchange believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide the Exchange with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.[15] The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.[16] Delaying publication of Exchange's Appendix B data[17] will prevent the publication of partial (*i.e.,* Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[8] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4–657) (''Tick Size Plan Proposal'').

[9] *See* letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (''Citadel letter''); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (''FIF letter'').

[10] The Exchange also is submitting an exemptive request to the SEC in connection with the instant filing.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] *See supra* note 9. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. *See* SR–FINRA–2017–005.

[16] The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. *See* SR–FINRA–2017–006.

[17] The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. *See* SR–BatsBYX–2017–05; SR–BatsBZX–2017–15; SR–BatsEDGA–2017–05; SR–BatsEDGX–2017–13; SR–BX–2017–016; SR–FINRA–2017–005; SR–IEX–2017–07; SR–NASDAQ–2017–024; SR–Phlx–2017–22; SR–NYSE–2017–10; SR–NYSEArca–2017–19; SR–NYSEMKT–2017–11.

[18] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–CHX–2017–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2017–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2017–05, and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05342 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80236; File No. SR–FICC–2017–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Expand the Types of Entities That Are Eligible To Participate in Fixed Income Clearing Corporation as Sponsored Members and Make Other Changes

March 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2017, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change. On March 13, 2017, FICC filed Amendment No. 1 to the proposed rule change, which amended and replaced the original filing in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 thereto, from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Government Securities Division (''GSD'') Rulebook (''Rules'')[4] that would (i) expand the types of entities that are eligible to participate in FICC as Sponsored Members under Rule 3A (Sponsoring Members and Sponsored Members) and (ii) make the following other amendments and clarifications to the Rules:

- Clarify that the ''Sponsoring Member Omnibus Account'' definition in Rule 1 (Definitions) refers to an ''Account'' as defined in Rule 1;
- Amend Section 7 of Rule 3A to reference the application of fails charges to a Sponsoring Member Omnibus Account and to correct certain typographical errors;
- Amend Section 9 of Rule 3A to correct an out-of-date cross-reference to Rule 13 (Funds-Only Settlement);
- Amend Section 10 of Rule 3A to reflect the current Clearing Fund calculation procedures applicable to a Sponsoring Member Omnibus Account and to correct certain out-of-date cross-references to Rule 4 (Clearing Fund and Loss Allocation);
- Amend Section 12 of Rule 3A to reflect the current loss allocation process applicable to Sponsored Member Trades in the event that the Sponsoring Member is insolvent or otherwise in default to FICC and to correct certain out-of-date cross-references to Rule 4 and certain typographical errors;
- Amend Sections 13 and 14 of Rule 3A to correct certain out-of-date cross-references to Rule 21 (Restrictions on Access to Services); and
- Amend Section 15 of Rule 3A to specify the standard with respect to which a Sponsoring Member is deemed by FICC to have knowledge that one of its Sponsored Members is insolvent or is otherwise unable to perform on any of its material contracts, obligations or agreements for purposes of the Sponsoring Member's obligation to inform FICC of such matter.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This filing constitutes Amendment No. 1 (''Amendment'') to Rule Filing SR–FICC–2017–003 (''Rule Filing'') previously filed by FICC on March 1, 2017. This Amendment amends and replaces the Rule Filing in its entirety. FICC submits this Amendment in order to clarify the Sponsored Member eligibility requirement as proposed herein.

The proposed rule change would expand the types of entities that are

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] FICC previously filed SR–FICC–2017–003 on March 1, 2017, which is being amended and replaced in its entirety by this proposed rule change.

[4] Capitalized terms not defined herein are defined in the Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.*

eligible to participate in FICC as Sponsored Members under Rule 3A (Sponsoring Members and Sponsored Members).

This filing also contains proposed rule changes that are not related to the proposed expansion of entity types eligible to be Sponsored Members but would provide specificity, clarity and additional transparency to the Rules.

(i) Background on the Proposed Expansion of Sponsored Member Eligibility

In 2005, the Commission approved FICC rule filing SR–FICC–2004–22,[5] which established a Sponsoring Member-Sponsored Member relationship in the Rules. Under Rule 3A (Sponsoring Members and Sponsored Members), Bank Netting Members that are well-capitalized (as defined under applicable regulations) and have at least $5 billion in equity capital are permitted to sponsor certain institutional firms (Sponsored Members) into GSD membership.

Under Rule 3A, a Sponsoring Member is permitted to submit to FICC for comparison, novation and netting certain types of eligible transactions between itself and its Sponsored Members (Sponsored Member Trades).[6] The Sponsoring Member is required to establish an omnibus account at FICC for all of its Sponsored Members' FICC-cleared activity (Sponsoring Member Omnibus Account),[7] which is separate from the Sponsoring Member's regular netting account. For operational and administrative purposes, FICC interacts solely with the Sponsoring Member as agent for purposes of the day-to-day satisfaction of its Sponsored Members' obligations to FICC, including their securities and funds-only settlement obligations.[8]

Novation of eligible trading activity to FICC provides Sponsoring Members and their Sponsored Members the benefits of FICC's independent risk management and guaranty of completion of settlement of such trading activity. In addition, Sponsoring Members also may be able to offset on their balance sheets their obligations to FICC on Sponsored Member Trades against their obligations to FICC on other eligible FICC-cleared activity, as well as take lesser capital charges than would be required to the extent they engaged in the same trading activity with their Sponsored Members outside of a central counterparty.[9] By potentially alleviating balance sheet and capital constraints on their Sponsoring Members, participation in FICC as Sponsored Members may afford eligible institutional firms increased lending capacity and income.

Currently, eligibility to become a Sponsored Member is limited to an entity that is a registered Investment Company under the Investment Company Act of 1940,[10] is a ''qualified institutional buyer'' as defined in Rule 144A [11] under the Securities Act of 1933,[12] and has at least one Sponsoring Member willing to sponsor the entity into GSD membership.[13]

The proposed rule change would eliminate the requirement that a Sponsored Member be a registered Investment Company under the Investment Company Act of 1940. Nevertheless, in order to ensure that Sponsored Members are financially sophisticated, FICC would retain the current requirement that a Sponsored Member be a ''qualified institutional buyer'' to the extent that its legal entity type falls under one of the enumerated categories of Rule 144A's definition of a ''qualified institutional buyer.'' For institutional firms whose entity types do not clearly fall into one of the enumerated categories in Rule 144A's definition of ''qualified institutional buyer,'' FICC would instead require such Sponsored Members to satisfy the financial requirements that an entity specifically listed in paragraph (a)(1)(i) of Rule 144A must satisfy in order to be a ''qualified institutional buyer'' as specified in that paragraph. Under this alternative requirement, institutional firms whose entity types are not expressly included within the definition of ''qualified institutional buyer'' in Rule 144A (such as non-U.S. sovereign wealth funds) would be eligible to be Sponsored Members, provided they satisfy the financial requirements that an entity specifically listed in paragraph (a)(1)(i) of Rule 144A must satisfy in order to be a ''qualified institutional buyer'' as specified in that paragraph. Because conceptions of financial sophistication may change with time, FICC believes it is appropriate to tie this requirement to the definition of ''qualified institutional buyer'' in Rule 144A, as such definition may be amended from time to time.

FICC believes that expanding eligibility to become a Sponsored Member beyond registered Investment Companies under the Investment Company Act of 1940 is appropriate because FICC's risk management of the Sponsoring Member-Sponsored Member relationship occurs primarily at the Sponsoring Member level,[14] and the proposed expansion of the entity types eligible to participate in FICC as Sponsored Members (and the commensurate potential volume increase in novated activity) would not require any changes to FICC's risk management practices applicable to Sponsoring Members or to FICC's operational practices applicable to the comparison, novation, netting and settlement of Sponsored Member Trades.

FICC also believes that the proposed expansion of entity types eligible to participate in FICC as Sponsored Members would help to safeguard the U.S. financial market by lowering the risk of liquidity drain, protecting against fire sale risk,[15] and decreasing settlement and operational risk.

Expanding the types of institutional firms that are eligible to participate in FICC as Sponsored Members and thereby benefit from FICC's guaranty of completion of settlement of their eligible transactions would mitigate the risk of a large scale exit by such firms from the U.S. financial market in a stress scenario and therefore lower the risk of a liquidity drain in such a scenario. Specifically, to the extent institutional firms would otherwise be

[5] Securities Exchange Act Release No. 51896 (June 21, 2005), 70 FR 36981 (June 27, 2005) (SR–FICC–2004–22).

[6] *See* Rule 1, definition of ''Sponsored Member Trades.'' Rules, *supra* note 4.

[7] *See* Rule 1, definition of ''Sponsoring Member Omnibus Account.'' *Id.*

[8] *See* Rule 3A, Sections 5, 6, 7, 8 and 9. *Id.*

[9] Sponsoring Members interested in such relief should discuss this matter with their accounting and regulatory capital experts.

[10] 15 U.S.C. 80a–1 *et seq.* The Sponsoring Member-Sponsored Member relationship has historically been based on a custodial banking arrangement in which the Sponsored Member Trades novated to FICC reflect investments by the Sponsoring Member of a registered Investment Company Sponsored Member's cash through Repo Transactions. However, a custodial banking relationship between a Sponsored Member and its Sponsoring Member(s) is not required under the Rules.

[11] *See* 17 CFR 230.144A.

[12] 15 U.S.C. 77a *et seq.*

[13] Currently, GSD has one Sponsoring Member and 1422 Sponsored Members.

[14] For example, a Sponsoring Member is responsible under Section 10 of Rule 3A for posting to FICC the Required Fund Deposit for its Sponsoring Member Omnibus Account, which includes the sum of the stand-alone VaR Charges for each of its Sponsored Members' novated activity calculated separately. In addition, while Sponsored Members are principally liable to FICC for their settlement obligations, a Sponsoring Member is also required under Section 2 of Rule 3A to provide a guaranty to FICC for such obligations. This means that in the event one or more Sponsored Members does not satisfy its settlement obligations, FICC is able to invoke the guaranty provided by the Sponsoring Member.

[15] Fire sale risk is the risk of rapid asset sales of securities held by cash lenders when a dealer defaults. This rapid sale has the potential to create a market crisis because cash lenders are likely to sell large amounts of securities in a short period of time, which could dramatically reduce the price of such securities that such lenders are looking to sell.

engaging in the same type of eligible trading activity (*e.g.,* repurchase agreement transactions) outside of a central counterparty, having such activity novated to FICC and subject to FICC's guaranty of completion of settlement would reduce the risk that such institutional firms discontinue such trading activity in a Netting Member default situation.

Similarly, broadening the pool of entities eligible for central clearing at FICC as Sponsored Members would also reduce the potential for market disruption from fire sales. Specifically, in a Netting Member default situation, the more institutional firms participate in FICC as Sponsored Members, the more trading activity with the defaulted Netting Member could be centrally liquidated in an orderly manner by FICC rather than by individual counterparties in potential fire sale conditions.

Moreover, to the extent institutional firms would otherwise be engaging in eligible trading activity (*e.g.,* repurchase agreement transactions) outside of a central counterparty, expanding the pool of entities eligible to participate in FICC as Sponsored Members would also decrease settlement and operational risk in the U.S. financial market in that such trading activity would now be eligible to be netted and subject to guaranteed settlement, novation and independent risk management through FICC.

(ii) Detailed Description of the Proposed Rule Changes Related to the Expansion of Sponsored Member Eligibility

A. Proposed Changes to Rule 3A, Sections 2(d) and 3(a)

Sections 2(d) and 3(a) of Rule 3A currently require that a Sponsored Member be a registered Investment Company under the Investment Company Act of 1940 and also be a ''qualified institutional buyer'' as defined in Rule 144A under the Securities Act of 1933.

FICC is proposing to amend Sections 2(d) and 3(a) of Rule 3A to eliminate the requirement that a Sponsored Member be a registered Investment Company under the Investment Company Act of 1940.

FICC is also proposing to amend Sections 2(d) and 3(a) of Rule 3A to permit institutional firms whose entity types are not expressly included within Rule 144A to be Sponsored Members, provided they satisfy the financial requirements that an entity specifically listed in paragraph (a)(1)(i) of Rule 144A must satisfy in order to be a ''qualified institutional buyer'' as specified in that paragraph.

It should be noted that it is currently and, in connection with the proposed expansion of entity types eligible to participate in FICC as Sponsored Members, would continue to be the responsibility of each Sponsored Member and its Sponsoring Member(s) to evaluate whether entering into a given Sponsored Member Trade is consistent with a Sponsored Member's legal and regulatory requirements, and that FICC has no responsibility or liability in the event that a Sponsoring Member submits data to FICC for a Sponsored Member Trade that is inconsistent with those requirements.

B. Proposed Changes to Rule 3A, Sections 3(c) and 4

To account for the fact that, as proposed, non-U.S. entities that meet the proposed requirements would be permitted to be Sponsored Members, FICC is proposing to amend Section 3(c) of Rule 3A to provide that Sponsored Members that are FFI Members [16] would be required to be FATCA Compliant and to amend Section 4 of Rule 3A to provide that Sponsored Members and their Sponsoring Members would be required to comply with global sanctions laws.[17]

(iii) Other Proposed Rule Changes

This filing also contains proposed rule changes that are unrelated to the proposed expansion of entity types eligible to be Sponsored Members. These proposed rule changes would provide specificity, clarity and additional transparency to the Rules as described below.

A. Proposed Changes to Rule 1 (Definitions)

FICC is proposing to clarify that the ''Sponsoring Member Omnibus Account'' definition in Rule 1 (Definitions) refers to an ''Account'' as defined in Rule 1.

B. Proposed Changes to Rule 3A, Section 7

FICC is proposing to amend Section 7 of Rule 3A to reference the application of fails charges [18] to a Sponsoring Member Omnibus Account in the same manner as such charges are applied to Netting Members pursuant to Rule 11 (Netting System) and to correct certain typographical errors.

With respect to the application of fails charges, in 2009, FICC received Commission approval of a rule filing to impose fails charges on Netting Members, which was an action that had been requested of GSD by the Treasury Markets Practices Group (''TMPG'') [19] in order to encourage market participants to resolve fails promptly.[20] The approved rule changes were included in Section 14 of Rule 11 (Netting System) and were stated to apply to Netting Members. As an account of a Netting Member (acting as a Sponsoring Member), FICC has imposed fails charges, if applicable, on Sponsoring Members for their Sponsoring Member Omnibus Accounts since the implementation of the charges in 2009. In reviewing the Rules in connection with this present filing, FICC believes that the application of the fails charges to a Sponsoring Member's Sponsoring Member Omnibus Account should be made clear in Rule 3A for transparency.

C. Proposed Changes to Rule 3A, Section 9

FICC is proposing to amend Section 9 of Rule 3A to correct an out-of-date cross-reference to Rule 13 (Funds-Only Settlement).

D. Proposed Changes to Rule 3A, Section 10

FICC is proposing to amend Section 10 of Rule 3A to reflect the current Clearing Fund calculation procedures applicable to a Sponsoring Member's Sponsoring Member Omnibus Account. Specifically, FICC is proposing to amend Section 10 of Rule 3A to specify that a Sponsoring Member's Sponsoring Member Omnibus Account Required Fund Deposit would be equal to the sum of the following: (I) The sum of the VaR Charges for all of the Sponsored Members whose activity is represented in the Sponsoring Member Omnibus Account as derived pursuant to Section 1b(a)(i) of Rule 4 (Clearing Fund and Loss Allocation), and (II) all amounts derived pursuant to the provisions of Rule 4 other than pursuant to Section

[16] Pursuant to Rule 1, the term ''FFI Member'' means ''any Person that is treated as a non-U.S. entity for U.S. federal income tax purposes.'' For the avoidance of doubt, the term FFI Member also includes ''any Member that is a U.S. branch of an entity that is treated as a non-U.S. entity for U.S. federal income tax purposes.'' Rules, *supra* note 4.

[17] Although GSD has Members, including certain Bank Netting Members, which are non-U.S. entities, currently, there are no Sponsoring Members that are non-U.S. entities.

Any future Sponsoring Member or Sponsored Member that is an FFI Member will be subject to the same FATCA Compliance screening and global sanctions screening as any other Member that is a non-U.S. entity.

[18] The term ''fails charge'' refers to the charge imposed by FICC on Netting Members for a delivery failure in Treasury Securities or debentures issued by Fannie Mae, Freddie Mac or the Federal Home Loan Banks, pursuant to Section 14 of Rule 11. Rules, *supra* note 4.

[19] The TMPG is a group of market participants that is active in the Treasury securities market and is sponsored by The Federal Reserve Bank of New York.

[20] Securities Exchange Act Release No. 59802 (April 20, 2009), 74 FR 19248 (April 28, 2009) (SR–FICC–2009–03).

1b(a)(i) of Rule 4 computed at the level of the Sponsoring Member Omnibus Account. The proposed rule changes maintain the substance of the calculation of the Required Fund Deposit for a Sponsoring Member's Sponsoring Member Omnibus Account (*i.e.,* the main charges applicable to the individual Sponsored Members in the account are summed and then certain components are applied at the level of the Sponsoring Member Omnibus Account) but update the rules provisions to reflect the current Clearing Fund calculation terminology and delete references to terms that are no longer used in the Rules (such as ''Clearing Fund components related to Fail Net Settlement Positions and Funds-Only Settlement amounts'').

FICC is also proposing to amend Section 10 of Rule 3A to specify that for purposes of calculating the Unadjusted GSD Margin Portfolio Amount applicable to a Sponsoring Member Omnibus Account, FICC would apply the higher of the Required Fund Deposit calculation as of the beginning of the current Business Day and intraday on the current Business Day.

In 2011, FICC received Commission approval to re-calculate each Business Day, at times established by FICC for this purpose, the amount of the VaR Charge applicable to each Margin Portfolio of a Member, based upon the open, intraday positions of such Margin Portfolio, for purposes of establishing whether a Member would be required to make payment of an additional amount (the Member's ''Intraday Supplemental Fund Deposit'') to its Required Fund Deposit.[21] The approved rule changes were included in Section 2a of Rule 4 (Clearing Fund and Loss Allocation). Prior to this approval, Clearing Fund requirements (including with respect to a Sponsoring Member's Sponsoring Member Omnibus Account) were calculated once each Business Day. Since the approval of these rule changes in 2011, FICC has calculated the Unadjusted GSD Margin Portfolio Amount applicable to a Sponsoring Member Omnibus Account based on the higher of the Required Fund Deposit calculation as of the beginning of the current Business Day and intraday on the current Business Day. In reviewing the Rules in connection with this present filing, FICC believes that this calculation procedure for the Unadjusted GSD Margin Portfolio Amount applicable to a Sponsoring Member Omnibus Account should be made clear in Rule 3A for transparency.

FICC is also proposing to amend Section 10 of Rule 3A to correct certain out-of-date cross-references to Rule 4 (Clearing Fund and Loss Allocation).

E. Proposed Changes to Rule 3A, Section 12

FICC is proposing to amend Section 12 of Rule 3A to reflect the current loss allocation process applicable to Sponsored Member Trades in the event that the Sponsoring Member is insolvent or otherwise in default to FICC. Specifically, FICC is proposing to amend Section 12 of Rule 3A to specify that any Remaining Loss incurred by FICC would be allocated to the Tier One Netting Members in accordance with the principles set forth in Section 7(d) of Rule 4 (Clearing Fund and Loss Allocation).

In 2011, FICC received Commission approval for its current loss allocation process set forth in Rule 4, which provides for loss mutualization of any Remaining Loss among all Tier One Netting Members.[22] FICC proposes to update references in Section 12 of Rule 3A to reference the current loss allocation process for Tier One Netting Members.

FICC also proposes to amend Section 12 of Rule 3A to correct certain out-of-date cross-references to Rule 4 (Clearing Fund and Loss Allocation) and to correct certain typographical errors.

F. Proposed Changes to Rule 3A, Sections 13 and 14

FICC is proposing to amend Sections 13 and 14 of Rule 3A to correct certain out-of-date cross-references to Rule 21 (Restrictions on Access to Services).

G. Proposed Changes to Rule 3A, Section 15

FICC is proposing to amend Section 15 of Rule 3A to specify the standard with respect to which a Sponsoring Member is deemed by FICC to have knowledge that one of its Sponsored Members is insolvent or is otherwise unable to perform on any of its material contracts, obligations or agreements for purposes of the Sponsoring Member's obligation to inform FICC of such matter. Specifically, FICC is proposing to specify that if one or more duly authorized representatives of a Sponsoring Member, in its capacity as such, has knowledge that one of its Sponsored Members is insolvent or otherwise unable to perform on any of its material contracts, obligations or agreements, that such knowledge triggers the Sponsoring Member's obligation to inform FICC of such matter.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to (i) ''promote the prompt and accurate clearance and settlement of securities transactions,''[23] and (ii) ''remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.''[24]

By expanding the types of entities that may participate in FICC as Sponsored Members, FICC believes that the proposed rule change would help to safeguard the U.S. financial market by lowering the risk of liquidity drain (through FICC's guaranty of completion of settlement for a greater number of eligible transactions), protecting against fire sale risk (through FICC's ability to centralize and control the liquidation of a greater portion of a failed counterparty's portfolio) and decreasing settlement and operational risk (by making a greater number of transactions eligible to be netted and subject to guaranteed settlement, novation and independent risk management through FICC). By lowering the risk of liquidity drain in the U.S. financial market and protecting against fire sale risk, FICC believes the proposed rule change would ''protect investors and the public interest'' consistent with the requirements of the Act, cited above. By decreasing settlement and operational risk, FICC believes the proposed rule change would also ''promote the prompt and accurate clearance and settlement of securities transactions'' and ''remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions'' consistent with the requirements of the Act, cited above.

By providing specificity, clarity, and additional transparency to the Rules, the proposed rule changes to Rule 1 (Definitions) and Rule 3A (Sponsoring Members and Sponsored Members) that are unrelated to the proposed expansion of entity types eligible to be Sponsored Members would provide Members with a better understanding of the Rules, making errors in the performance of their responsibilities to FICC less likely to occur and thereby ensuring that FICC's clearing and settlement system works efficiently. Therefore, FICC

[21] Securities Exchange Act Release No. 63986 (February 28, 2011), 76 FR 12144 (March 4, 2011) (SR–FICC–2010–09).

[22] *Id.*

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] *Id.*

believes the proposed rule change would ''promote the prompt and accurate clearance and settlement of securities transactions'' by FICC and also ''remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions'' consistent with the requirements of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

FICC believes that the proposed rule changes associated with the expansion of entity types eligible to be Sponsored Members would promote competition by increasing the types of entities that may participate in FICC as Sponsored Members and therefore permit more market participants to utilize FICC's services.

At the same time, participation in FICC as a Sponsored Member would continue to be limited to legal entities that are either ''qualified institutional buyers'' as defined in Rule 144A under the Securities Act of 1933, or that otherwise satisfy the financial requirements that an entity specifically listed in paragraph (a)(1)(i) of Rule 144A must satisfy in order to be a ''qualified institutional buyer'' as specified in that paragraph, and that have at least one Sponsoring Member willing to sponsor them into GSD membership. These limitations may impact institutional firms that are unable to satisfy such eligibility requirements by excluding them from being able to novate their eligible activity to FICC (and avail themselves of the commensurate benefits described in *Section 3(a)(i)—Background on the Proposed Expansion of Sponsored Member Eligibility* above). Nevertheless, FICC believes that any resulting burden on competition would be necessary and appropriate in furtherance of the Act, as permitted by Section 17A(b)(3)(I) of the Act,[25] in light of the fact that such eligibility requirements are designed to allow FICC to ensure the financial sophistication of Sponsored Members and to prudently manage the risk associated with Sponsored Members' participation in FICC. Moreover, FICC would not restrict the ability of institutional firms to enter into eligible transactions with Netting Members (including Sponsoring Members) outside of GSD.

FICC believes that the proposed changes to Rule 1 (Definitions) and Rule 3A (Sponsoring Members and Sponsored Members) that are unrelated to the proposed expansion of entity types eligible to be Sponsored Members would not have an impact, nor impose any burden, on competition because each of such proposed changes would simply provide specificity, clarity and additional transparency within the Rules.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by 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–FICC–2017–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2017–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2017–003 and should be submitted on or before April 7, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–05403 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78q–1(b)(3)(I).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80222; File No. SR–NYSE–2017–09]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List

March 13, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List for equity transactions in stocks with a per share stock price more than $1.00 to (1) revise the fee for Midpoint Passive Liquidity (''MPL'') orders that remove liquidity from the Exchange and are designated with a ''retail'' modifier as defined in Rule 13, and (2) revise the requirements and credits for MPL orders that provide liquidity to the Exchange, including the related credits for Supplemental Liquidity Providers (''SLP''). The Exchange proposes to implement these changes to its Price List effective March 1, 2017. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to (1) revise the fee for MPL orders that remove liquidity from the Exchange and are designated with a ''retail'' modifier as defined in Rule 13, and (2) revise the requirements and credits for MPL orders that provide liquidity to the Exchange, including the related credits for SLPs.

The proposed changes would only apply to credits in transactions in securities priced $1.00 or more.

The Exchange proposes to implement these changes to its Price List effective March 1, 2017.

MPL Orders

An MPL Order is defined in Rule 13 as an undisplayed limit order that automatically executes at the mid-point of the best protected bid (''PBB'') or best protected offer (''PBO''), as such terms are defined in Regulation NMS Rule 600(b)(57) (together, ''PBBO'').[4]

MPL Orders That Remove Liquidity

The Exchange currently does not charge a fee for MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13. The Exchange proposes to charge a $0.00100 fee for MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13.

MPL Orders That Add Liquidity

The Exchange currently provides a credit of $0.00275 per share credit for MPL Orders that provide liquidity from a member organization that has Adding ADV[5] in MPL Orders of at least 0.04% of NYSE consolidated ADV (''CADV''),[6] excluding liquidity added by a Designated Market Maker (''DMM''). The Exchange provides a $0.0015 per share transaction credit for MPL Orders that provide liquidity from a member organization that does not meet the Adding ADV threshold.

The Exchange proposes that member organizations qualifying for the $0.00275 credit have an Adding ADV in MPL orders that is at least 0.140% of NYSE CADV, excluding any liquidity added by a DMM.

The Exchange also proposes a new credit of $0.0025 for member organizations that have Adding ADV in MPL orders that is at least 0.030% of NYSE CADV, excluding any liquidity added by a DMM.

Finally, the Exchange proposes that MPL Orders that provide liquidity from a member organization that does not meet the above Adding ADV thresholds receive a per share transaction credit of $0.0010.

The Exchange proposes the same changes to the credits applicable to SLPs for MPL Orders described above. In addition, the Exchange proposes to conform the Adding ADV requirement in MPL Orders for SLPs to qualify for the proposed $0.00275 credit of at least 0.140% of NYSE CADV, excluding liquidity added by a DMM, in place of the fixed share amount.

* * * * *

[4] *See* Rule 13. *See also* 17 CFR 242.600(b)(57).

[5] ''Adding ADV'' is when a member organization has ADV that adds liquidity to the Exchange during the billing month. Adding ADV excludes any liquidity added by a Designated Market Maker.

[6] NYSE CADV is defined in the Price List as the consolidated average daily volume of NYSE-listed securities.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed increase to the fee for executions of MPL Orders that remove liquidity and that are designated with a ''retail'' modifier as defined in Rule 13, the proposed changes to the credits for MPL Orders that provide liquidity, the proposed additional credit tier, and conforming the Adding ADV requirement and credit for SLPs in MPL Orders are reasonable. MPL Orders provide opportunities for market participants to interact with orders priced at the midpoint of the PBBO, thus providing price improving liquidity to market participants and increasing the quality of order execution on the Exchange's market, which benefits all market participants.

Specifically, the Exchange believes that charging a fee for MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13 is reasonable because the charge is substantially lower than the $0.0030 fee for MPL orders that remove liquidity and are not designated with a Retail Modifier as defined in Rule 13.

The Exchange believes that the proposed additional tier credit for MPL Orders is reasonable because the proposed MPL Order Tier credit of $0.00250 per share that would apply if the member organization has Adding ADV in MPL Orders that is at least 0.030% of NYSE CADV excluding any liquidity added by a DMM would relate to volume that provides liquidity, which would be identical to the type of volume to which the credit would apply.

The new credit is also reasonable because it would be similar or higher than the rates on the NASDAQ Stock Market, LLC (''NASDAQ''). For example, on NASDAQ, firms that

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) & (5).

average 1 million or more shares of midpoint liquidity receive a credit of $0.0010 per share in Tape C securities and $0.0018 in Tape A and B securities to execute against resting midpoint liquidity, which is lower than the proposed $0.0025 per share rate for MPL orders that is at least 0.030% of NYSE CADV, excluding any liquidity added by a DMM.[9]

The proposed change is equitable and not unfairly discriminatory because MPL Orders increase the quality of order execution on the Exchange's market, which benefits all market participants. The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory because all market participants—customers, Floor brokers, DMMs, and SLPs—may use MPL Orders on the Exchange and because all market participants that use MPL Orders may receive credits for MPL Orders, as is currently the case.

The Exchange also believes that the credit of $0.0010 for MPL Orders that provide liquidity from a member organization that does not meet the above Adding ADV thresholds is also reasonable as it would be similar to the $0.0010 credit on NASDAQ for midpoint liquidity in Tape C, or NASDAQ Listed Securities, for firms that adds less than 1 million shares of midpoint liquidity.[10]

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[12] of the Act and subparagraph (f)(2) of Rule 19b–4[13] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2017–09 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–NYSE–2017–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–09, and should be submitted on or before April 7, 2017.

[9] *See* NASDAQ Price List, available at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[10] *See id.*

[11] 15 U.S.C. 78f(b)(8).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05337 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80229; File No. SR–NASDAQ–2017–024]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Data Collection Requirements in Rule 4470

March 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4770 to modify the date of Appendix B Web site data publication pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program (''Plan'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 4770(b) (Compliance with Data Collection Requirements)[3] implements the data collection and Web site publication requirements of the Plan.[4] Commentary .08 to Rule 4770 provides, among other things, that the requirement that the Exchange make certain data publicly available on the Nasdaq Web site pursuant to Appendix B and C to the Plan shall commence at the beginning of the Pilot Period,[5] and that Nasdaq shall make data for the Pre-Pilot Period publicly available on the Nasdaq Web site pursuant to Appendix B and C to the Plan by February 28, 2017.[6]

Nasdaq is proposing amendments to Commentary .08 to Rule 4770 to delay the date by which Pre-Pilot and Pilot Appendix B data is to be made publicly available on Nasdaq's Web site from February 28, 2017, until April 28, 2017. Appendix C data for the Pre-Pilot Period through the month of January 2017 will be published on the Nasdaq Web site on February 28, 2017, and, thereafter, on the original 30-day schedule.[7] As some of the data reporting requirements set forth in Rule 4770 require members to report data to their Designated Examining Authority (''DEA''), which may not be Nasdaq, the Exchange is also proposing to add references in Commentary .08 to reflect the fact that the Exchange or the DEA may be publishing such data.

In the SRO Tick Size Plan Proposal, the Participants stated that the public data will be made available for free ''on a disaggregated basis by trading center'' on the Web sites of the Participants and the Designated Examining Authorities.[8] However, market participants have expressed confidentiality concerns regarding this approach for over-the-counter (''OTC'') data.[9] Thus, Nasdaq is filing the instant proposed rule change to provide additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data related to OTC activity in furtherance of the objectives of the Plan.[10] Pursuant to this amendment, Appendix B data publication will be delayed until April 28, 2017. The Participants anticipate filing additional proposed rule changes to address Appendix B data publication.

Nasdaq has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Rule 4770(b). *See also* Securities Exchange Act Release No. 77456 (March 28, 2016), 81 FR 18925 (April 1, 2016) (SR–NASDAQ–2016–043).

[4] The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. *See* Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 (''SRO Tick Size Plan Proposal''). *See* Securities Exchange Act Release No 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014); *see also* Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015).

[5] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Rule 4770.

[6] On November 30, 2016, the SEC granted exemptive relief to the Participants to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that data would be published within 120 calendar days following the end of the month. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, dated November 30, 2016; *see also* Securities Exchange Act Release No. 79546 (December 14, 2016), 81 FR 92932 (December 20, 2016) (SR–NASDAQ–2016–165).

[7] Since, under Rule 4770(b)(4), Nasdaq is not independently publishing Market Maker profitability data collected pursuant to Item I of Appendix C of the Plan, no corresponding change to the language of Rule 4770(b)(4) relating to the timing of the publication of Appendix C data for the Pilot Period is needed.

[8] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423 (November 7, 2014) (Notice of Filing of Proposed National Market System Plan to Implement a Tick Size Pilot Program on a One-Year Pilot Basis, File No. 4–657) (''Tick Size Plan Proposal'').

[9] *See* letters from Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (''Citadel letter''); and William Hebert, Managing Director, Financial Information Forum, to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (''FIF letter'').

[10] In connection with its filing to implement a similar change in its rules, the Financial Industry Regulatory Authority, Inc. is also submitting an exemptive request to the SEC on behalf of all Plan Participants requesting relief from the relevant requirements of the Plan.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

general to protect investors and the public interest. Nasdaq also believes that the proposal is consistent with Section 6(b)(8) of the Act,[13] which requires that Exchange rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. Nasdaq believes that this proposal is consistent with the Act because it is in furtherance of the objectives of Section VII(A) of the Plan in that it is designed to provide Nasdaq with additional time to assess a means of addressing the confidentiality concerns raised in connection with the publication of Appendix B data, to comply with the Plan's requirements that the data made publicly available will not identify the trading center that generated the data.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change implements the provisions of the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative on February 28, 2017.

The Exchange notes that the proposed rule change is intended to address confidentiality concerns raised in connection with the publication of OTC Appendix B data by permitting the Exchange to delay Web site publication of its Appendix B data from February 28, 2017 to April 28, 2017.[16] The Exchange notes that the delay would provide additional time to assess a means of addressing the confidentiality concerns. The Exchange notes that it expects Participants to file proposed rule changes related to publishing Appendix B data.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to delay publication of its Appendix B data until April 28, 2017. As noted above, commenters continue to raise concerns about the publication of OTC Appendix B data.[17] Delaying publication of Exchange's Appendix B data[18] will prevent the publication of partial (*i.e.,* Exchange-only) Appendix B data required under the Plan. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on February 28, 2017.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–024, and should be submitted on or before April 7, 2017.

[13] 15 U.S.C. 78f(b)(8).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] *See supra* note 9. The Commission notes that FINRA has submitted a proposed rule change to delay the publication of OTC Appendix B data. *See* SR–FINRA–2017–005.

[17] The Commission notes that FINRA has filed a proposed rule change that is intended to mitigate confidentiality concerns raised by commenters regarding the publication of OTC Appendix B data. *See* SR–FINRA–2017–006.

[18] The Commission notes that other Participants have proposed to delay the publication of their Appendix B data until April 28, 2017. *See* SR–BatsBYX–2017–05; SR–BatsBZX–2017–15; SR–BatsEDGA–2017–05; SR–BatsEDGX–2017–13; SR–BX–2017–016; SR–CHX–2017–05; SR–FINRA–2017–005; SR–IEX–2017–07; SR–Phlx–2017–22; SR–NYSE–2017–10; SR–NYSEArca–2017–19; SR–NYSEMKT–2017–11.

[19] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–05344 Filed 3–16–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9922]

Notice of Determinations; Culturally Significant Object Imported for Exhibition Determinations: ''Now Then: Chris Killip and the Making of In Flagrante'' Exhibition

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that an object to be included in the exhibition ''Now Then: Chris Killip and the Making of In Flagrante,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the J. Paul Getty Museum at the Getty Center, Los Angeles, California, from on or about May 23, 2017, until on or about August 13, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

For further information, including an object list, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–05318 Filed 3–16–17; 8:45 am]

BILLING CODE 4710–05–P

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9921]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Inventing Utamaro: A Japanese Masterpiece Rediscovered'' Exhibition

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Inventing Utamaro: A Japanese Masterpiece Rediscovered,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Arthur M. Sackler Gallery, Smithsonian Institution, Washington, District of Columbia, from on or about April 8, 2017, until on or about July 9, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–05314 Filed 3–16–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Dallas County, Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Federal notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FHWA, on behalf of TxDOT, is issuing this notice to advise the public that an EIS will be prepared for a proposed transportation project to construct State Highway (SH) 190, from Interstate Highway (IH) 30 to IH 20, within southeast Dallas County.

FOR FURTHER INFORMATION CONTACT: Travis Owens, P.E., Transportation Engineer, 4777 E. Highway 80, Mesquite, Texas 75150; telephone: (214) 320–6625; email: *travis.owens@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.—5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. TxDOT will prepare an EIS for the proposed SH 190, from IH 30 at the President George Bush Turnpike interchange south to IH 20 within southeast Dallas County. The proposed SH 190 project is listed in the Metropolitan Transportation Plan of the North Central Texas Council of Governments (NCTCOG), Mobility 2040, as a new location six-lane tolled facility.

Previously, a Notice of Intent to prepare an EIS was published on July 1, 2005, in the **Federal Register** and the Texas Register and notification letters were sent to Federal, State and Tribal agencies to inform them of the study and to request information. From 2005–2014, TxDOT conducted planning studies that developed and evaluated several tolled project alternatives along the 11-mile corridor. This effort has included the involvement of the public, local municipalities, and resource agencies, the sharing of information through stakeholder and agency meetings, the creation of a project Web site (*www.theeastbranch.org*), and conducting four public meetings. The new NOI signifies that TxDOT will restart the work preparing the EIS. The EIS may use and rely on the planning studies already prepared.

The project is needed to address north/south system linkage between IH 30 and IH 20 in southeast Dallas County. Currently, the only major transportation facility within a reasonable distance connecting these two interstates is IH 635, which is

inadequate to meet future traffic volumes, resulting in congestion and reduced north/south mobility. In addition, regional population growth continues to increase demand for additional capacity and access in this corridor and the region. The purpose of the project is to provide a facility that would reduce congestion and improve mobility between IH 30 and IH 20 in southeast Dallas County, while contributing to improved system linkage.

The EIS will develop and evaluate a range of Build Alternatives and a No-Build Alternative within the study corridor, generally bounded to the east by the Dallas/Kaufman County Line, and to the west by Bobtown Road in Garland, Collins Road and Clay Road in Sunnyvale, and Clay-Mathis Road and Lawson Road in Mesquite. The EIS will include an analysis of tolled lanes. The EIS will analyze potential impacts from construction and operation of the proposed roadway including, but not limited to, the following: Transportation impacts, air quality and noise impacts; water quality impacts including storm water runoff; impacts to waters of the United States, including wetlands; impacts to floodplains; impacts to historic and archeological resources; socioeconomic impacts, including Environmental Justice and Limited English Proficiency populations; impacts to land use, vegetation, and wildlife, including threatened and endangered species; impacts to or potential displacement of residents and businesses; and impacts to aesthetic and visual resources.

TxDOT will issue a single Final Environmental Impact Statement and Record of Decision document pursuant to Public Law 112–141, 126 Stat. 405, Section 1319(b) unless TxDOT determines statutory criteria or practicability considerations preclude issuance of the combined document pursuant to section 1319.

Anticipated state and federal permits, pending selection of alternatives and field surveys, may include, but are not limited to, the following: United States Army Corps of Engineers (USACE) Section 404 permit; Texas Commission on Environmental Quality (TCEQ) Section 401 Water Quality Certification; TCEQ Texas Pollutant Discharge Elimination System (TPDES) permit.

Public involvement is a critical component of the project development process and will continue throughout the development of the EIS. A draft Project Coordination Plan has been developed in accordance with 23 U.S.C. 139, Efficient Environmental Reviews for Project Decision Making, to identify and document opportunities for project involvement by the public and other agencies. The Project Coordination Plan will promote involvement from stakeholders, agencies, and the public as well as describe the proposed project, the roles of the agencies and the public, the project purpose and need, schedule, level of detail for alternatives analysis, and the proposed process for coordination and communication. The Project Coordination Plan will be available for public review, input, and comments at the public meetings, including scoping meetings, and hearing held in accordance with the National Environmental Policy Act (NEPA), and upon request at the TxDOT Dallas District Office.

In accordance with 23 U.S.C. 139, cooperating agencies, participating agencies, and the public will be given an opportunity for continued input on project development. Agency meetings are ongoing and a public scoping meeting is planned for late spring of 2017. The purpose of the public scoping meeting is to present the project studies completed to date and identify significant and other relevant issues related to the proposed SH 190 corridor as part of the NEPA process. The scoping meeting will provide an opportunity for participating agencies, cooperating agencies, and the public to review and comment on the draft Project Coordination Plan, the project purpose and need, and the range of alternatives developed to date to be considered and evaluated in the EIS.

In addition to the agency and public scoping meetings, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Such comments or questions concerning this proposed action should be directed to TxDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

Issued on: March 13, 2017.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2017–05370 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement: Dallas County, Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice to rescind a Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FHWA, on behalf of TxDOT, is issuing this notice to advise the public that we are rescinding the Notice of Intent (NOI) for the proposed SH 190 project from IH 30 to IH 20 in southeast Dallas County. An NOI to prepare an EIS was published in the **Federal Register** on July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Travis Owens, P.E., Transportation Engineer, 4777 E. Highway 80, Mesquite, Texas, 75150; telephone: (214) 320–6625; email: *travis.owens@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT. FHWA, in cooperation with TxDOT, published an NOI in the **Federal Register** on July 1, 2005. Because so much time has passed since the original NOI, TxDOT is rescinding the old NOI and will publish a new NOI to re-initiate the EIS process. The new NOI should be published in the **Federal Register** either in this edition or in the near future. Comments or questions concerning this proposed action should be directed to TxDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

Issued on: March 13, 2017.

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2017–05367 Filed 3–16–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Action Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of 1 individual whose property and interests in property are blocked.

DATES: OFAC's action described in this notice was effective on March 14, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On March 14, 2017, OFAC blocked the property and interests in property of the following 1 individual pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individual

1. AL-'ANZI, Muhammad Hadi 'Abd-al-Rahman Fayhan Sharban (a.k.a. AL-'ANIZI, Muhammad Hadi 'Abd al-Rahman Fayhan Shariyan; a.k.a. AL-'ANIZI, Muhammad Hadi 'Abd al-Rahman Fayhan Shiryan; a.k.a. AL-'ANIZI, Muhammad Hadi 'Abd-al-Rahman Fihan Shiryan; a.k.a. AL-'ANZI, Muhammad Hadi 'Abd al-Rahman Fayhan Shariyan; a.k.a. AL-'ANZI, Muhammad Hadi 'Abd-al-Rahman Fayhan Sharyan; a.k.a. AL–ANIZI, Muhammad Hadi 'Abd-al-Rahman Fayhan Sharyan; a.k.a. ALENEZI, Mohammad H A F; a.k.a. AL–SHAMMARI, Muhammad; a.k.a. ''AL–KUWAITI, Abu Hudhayfa''; a.k.a. ''HUDAYTH, Abu''; a.k.a. ''HUDHAYFAH, Abu''), Kuwait; DOB 26 May 1986; nationality Kuwait; citizen Kuwait; Gender Male (individual) [SDGT] (Linked To: AL QA'IDA; Linked To: AL–NUSRAH FRONT).

Dated: March 14, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–05388 Filed 3–16–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0801]

Agency Information Collection Under OMB Review: Non-Degenerative Arthritis (Including Inflammatory, Autoimmune, Crystalline and Infectious Arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 17, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0801'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0801'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: (Non-Degenerative Arthritis (including inflammatory, autoimmune, crystalline and infectious arthritis) and Dysbaric Osteonecrosis Disability Benefits Questionnaire (VA Form 21–0960M–3).

OMB Control Number: 2900–0801.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 21–0960M–3 is used to gather necessary information from a claimant's treating physician regarding the results of medical examinations.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Volume 82 FR 9, on January 13, 2017, pages 4461 and 4462.

Affected Public: Individuals or Households.

Estimated Annual Burden: 25,000.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 100,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–05380 Filed 3–16–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0747]

Agency Information Collection Activity: Application for Disability Compensation and Related Compensation Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Form 21–526EZ is used to collect the information needed to process a fully developed claim for disability compensation and related compensation benefits. This form is required as part of

the FDC Program Transformation Initiative.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 16, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0747'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: (Application for Disability Compensation and Related Compensation Benefits (VA Form 21–526EZ)).

OMB Control Number: 2900–0747.

Type of Review: Revision of an approved collection.

Abstract: VA Form 21–526EZ is used to collect the information needed to process a fully developed claim for disability compensation and related compensation benefits. This form is required as part of the FDC Program Transformation Initiative.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,505.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 34,813.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–05383 Filed 3–16–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0697]

Agency Information Collection Activity: Approval of Licensing or Certification Test and Organization or Entity

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of a currently approved collection, and allow 60 days for public comment in response to the notice.

SAAs and VA will use the information to decide whether the licensing and certification tests, and the organizations offering them, should be approved for use under the education programs VA administers. VA did not develop an official form for this information collection since section 3689 of title 38, United States Code permitted VA to delegate the approval functions to the State Approving Agencies; and from the inception of this information collection, VA has given the State Approving Agencies the authority to approve licensing and certification tests and organizations. Consequently, the State Approving Agencies have developed their own forms to gather information they will need per their respective state laws to decide whether the licensing and certification tests and the organizations offering them should be approved. In the case of an organization seeking approval directly from VA, any information VA receives concerning the request for approval is forwarded directly to the appropriate State Approving Agency. Since SAAs have approval authority, education institutions and licensing and certification organizations supply information to the SAAs for approval in a manner specified by the SAA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before MAY 16, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0697'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Approval of Licensing or Certification Test and Organization or Entity.

OMB Control Number: 2900–0697.

Type of Review: Reinstatement with change of a currently approved collection.

Abstract: SAAs and VA will use the information to decide whether the licensing and certification tests, and the organizations offering them, should be approved for use under the education programs VA administers.

Affected Public: Private Sector.

Estimated Annual Burden: 817 hours.

Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: Annually.

Estimated Number of Respondents: 2451.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–05384 Filed 3–16–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Agency Information Collection Activity: Financial Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 16, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Financial Statement.

OMB Control Number: 2900–0047.

Type of Review: Extension of a currently approved collection.

Abstract: The major use of the form is to determine a borrower's financial condition in connection with efforts to reinstate a seriously defaulted, guaranteed, insured, or portfolio loan. In addition, the form is used in determining the financial feasibility of a veteran or service member to obtain a home with the assistance of a Specially Adapted Housing Grant under 38 U.S.C., Chapter 21. Also, VA Form 26–6807 may be used to establish eligibility of homeowners for aid under the Homeowners Assistance Program, Public Law 89–754, which provides assistance by reducing losses incident to the disposal of homes when military installations at which the homeowners were employed or serving are ordered closed in whole or in part. Finally, the form is used in release of liability and substitution of entitlement cases. Under the provisions of 38 U.S.C. 3714, the Department of Veterans Affairs (VA) may release original veteran obligors from personal liability arising from the original guaranty of their home loans, or the making of a direct loan, provided purchasers/assumers meet the necessary requirements, among which is qualifying from a credit standpoint. Substitution of entitlement is authorized by 38 U.S.C. 3702(b)(2) and prospective veteran-assumers must also meet the creditworthiness requirements.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,250 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–05381 Filed 3–16–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0041]

Agency Information Collection Activity: Compliance Inspection Report

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) or 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed *extension,* of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 16, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0041'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed

collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Compliance Inspection Report (VA Form 26–1839).

OMB Control Number: 2900–0041.

Type of Review: Extension of an approved collection.

Abstract: Fee-compliance inspectors complete VA Form 26–1839 during their inspection on properties under construction. The inspections provide a level of protection to Veterans by assuring them and VA that the adaptation are in compliance with the plans and specifications for which a specially adapted housing grant is based.

Affected Public: Individuals or households.

Estimated Annual Burden: 900 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,600.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–05382 Filed 3–16–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Friday,

No. 51 March 17, 2017

Part II

Securities and Exchange Commission

17 CFR Parts 229, 230, 232, et al.
Inline XBRL Filing of Tagged Data; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 232, 239, 249 and 274

[Release Nos. 33–10323; 34–80133; IC–32518; File No. S7–03–17]

RIN 3235–AL59

Inline XBRL Filing of Tagged Data

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: We are proposing to require the use of the Inline XBRL format for the submission of operating company financial statement information and mutual fund risk/return summaries. The proposed amendments are intended to improve the data's quality, benefiting investors, other market participants, and other data users, and to decrease, over time, the cost of preparing the data for submission to the Commission. The proposed amendments would also eliminate the requirement for filers to post Interactive Data Files on their Web sites and terminate the Commission's voluntary program for the submission of financial statement information interactive data that is currently available only to investment companies and certain other entities.

DATES: Comments should be received by May 16, 2017.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*);
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–03–17 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–03–17. This file number should be included on the subject line if email is used. To help us 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/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549 on all official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's Web site. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Mark W. Green, Senior Special Counsel (Regulatory Policy), Division of Corporation Finance, at (202) 551–3430; John Foley, Senior Counsel, or Michael C. Pawluk, Senior Special Counsel, Division of Investment Management, at (202) 551–6792; R. Michael Willis, Assistant Director, Office of Structured Disclosure, Anzhela Knyazeva, Senior Financial Economist, or Hermine Wong, Special Counsel, Division of Economic and Risk Analysis, at (202) 551–6600.

SUPPLEMENTARY INFORMATION: We are proposing amendments to Item 601 [1] of Regulation S–K,[2] Rules 11,[3] 201,[4] 202,[5] 401 [6] and 405 [7] of Regulation S–T,[8] Rules 144,[9] 485 [10] and 497 [11] and Form F–10 [12] under the Securities Act of 1933 (Securities Act),[13] Forms 10–Q,[14] 10–K,[15] 20–F,[16] 40–F [17] and 6–K [18] under the Securities Exchange Act of 1934 (Exchange Act),[19] and Form N–1A [20] under the Securities Act and Investment Company Act of 1940 (Investment Company Act).[21]

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I. Introduction

In 2009 the Commission adopted rules requiring operating companies to provide the information from the financial statements accompanying their registration statements and periodic and current reports in machine-readable format using eXtensible Business Reporting Language (XBRL) by submitting it to the Commission in exhibits to such reports and posting it on their Web sites, if any.[22] That same year, the Commission similarly required open-end management investment companies (''mutual funds'') to provide risk/return summary information from their prospectuses in XBRL format by submitting it to the Commission in

[1] 17 CFR 229.601.
[2] 17 CFR 229.10 *et seq.*
[3] 17 CFR 232.11.
[4] 17 CFR 232.201.
[5] 17 CFR 232.202.
[6] 17 CFR 232.401.
[7] 17 CFR 232.405.
[8] 17 CFR 232.10 *et seq.*
[9] 17 CFR 230.144.
[10] 17 CFR 230.485.
[11] 17 CFR 230.497.
[12] 17 CFR 239.40.
[13] 15 U.S.C. 77a *et seq.*
[14] 17 CFR 249.308a.
[15] 17 CFR 249.310.
[16] 17 CFR 249.220f.
[17] 17 CFR 249.240f.
[18] 17 CFR 249.306.
[19] 15 U.S.C. 78a *et seq.*
[20] 17 CFR 239.15A and 274.11A.
[21] 15 U.S.C. 80a.

[22] 17 CFR 232.405. *See also* Release No. 33–9002 (Jan. 30, 2009) [74 FR 6776] (''2009 Financial Statement Information Adopting Release'') as corrected by Release No. 33–9002A (Apr. 1, 2009) [74 FR 15666].

exhibits and posting it on their Web sites, if any.[23]

XBRL requirements currently apply to operating companies that prepare their financial statements in accordance with U.S. generally accepted accounting principles (U.S. GAAP) or in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB).[24] XBRL requirements also apply to mutual funds pursuant to Form N–1A and related rules under Regulation S–T.[25] Filers subject to these XBRL requirements must submit an Interactive Data File,[26] including information tagged in XBRL, as an exhibit to the Related Official Filing, which is filed in the traditional HyperText Markup Language (HTML) or, less commonly, American Standard Code for Information Interchange (ASCII) format.[27] The 2009 requirements were intended to make financial information and mutual fund risk/return summaries easier for investors to analyze and to assist in automating regulatory filings and business information processing.[28] Since that time, some commenters have expressed concerns regarding the quality of, extent of use of, and cost to create XBRL data,[29] while other commenters have recognized the benefits of XBRL data.[30] In addition, the Commission staff has identified a number of data quality issues associated with financial statement information XBRL data filed by operating companies.[31] The amendments we are proposing today are intended to address some of these issues and concerns by facilitating improvements in the quality and usefulness of XBRL data and, over time, decreasing filing costs by decreasing XBRL preparation costs.

The proposed amendments would require financial statement information and mutual fund risk/return summary information to be provided in the Inline XBRL format.[32] Inline XBRL allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit. Inline XBRL would be both human-readable and machine-readable for purposes of validation, aggregation and analysis. The proposed amendments also would eliminate the requirement for filers to post Interactive Data Files on their Web sites.

II. Background and Economic Baseline

The XBRL requirements were adopted in 2009 to provide financial statement and risk/return summary data in a form that was intended to improve its usefulness to investors.[33] Since the XBRL requirements were adopted, the XBRL technology has continued to evolve.[34] In particular, the Inline XBRL format has seen increased use for various regulatory purposes in several foreign jurisdictions.[35]

In assessing the potential impact of the proposed amendments, we consider as a point of reference the interactive data requirements and XBRL practices as they exist today. This economic baseline includes the current XBRL requirements, information about filers subject to these requirements and current practices related to XBRL filing and use.

A. Overview of Existing XBRL Requirements for Operating Companies and Mutual Funds

Structured information is currently required to be submitted in an Interactive Data File exhibit to certain forms. These forms are prepared in either HTML or ASCII[36] electronic formats.[37] The XBRL requirements for the required information are located in the Interactive Data File provisions of

[23] *See* Release No. 33–9006 (Feb. 11, 2009) [74 FR 7747] (''2009 Risk/Return Summary Adopting Release'') as corrected by Release No. 33–9006A (May 1, 2009) [74 FR 21255]. The risk/return summary is set forth in Items 2, 3, and 4 of Form N–1A.

[24] As used in this release, the phrase ''IFRS as issued by the IASB'' refers to the authoritative text of IFRS.

[25] *See* General Instruction C.3(g) to Form N–1A; Rule 405 of Regulation S–T.

[26] 17 CFR 232.11; 17 CFR 232.405. The term Interactive Data File means the machine-readable computer code that presents information in XBRL electronic format pursuant to Rule 405 of Regulation S–T. The Interactive Data File currently consists of an ''instance document'' and other documents as described in the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) Filer Manual. The instance document contains the XBRL tags for the information contained in the corresponding data in the Related Official Filing to satisfy the content and format requirements in Rule 405. The other documents in the Interactive Data File contain contextual information about the XBRL tags.

[27] 17 CFR 232.11. The term Related Official Filing means the ASCII or HTML format part of the official filing with which an Interactive Data File appears as an exhibit or, in the case of Form N–1A, the ASCII or HTML format part of the official filing that contains the information to which an Interactive Data File corresponds.

[28] *See* 2009 Financial Statement Information Adopting Release, at 6776; 2009 Risk/Return Summary Adopting Release, at 7748.

[29] *See* notes 70 and 78 below.

[30] *See* note 169 below.

[31] *See, e.g.,* Staff Observations of Custom Axis Tags (Mar. 29, 2016), *available at http://www.sec.gov/structureddata/reportspubs/osd_assessment_custom-axis-tags.html;* Staff Observations of Custom Tag Rates (Jul. 7, 2014), *available at http://www.sec.gov/dera/reportspubs/assessment-custom-tag-rates-xbrl.html* (''Staff XBRL Observations 2014''); Staff Observations from the Review of Interactive Data Financial Statements (Dec. 13, 2011), *available at http://www.sec.gov/spotlight/xbrl/staff-review-observations-121311.shtml* (''Staff XBRL Observations 2011'').

[32] Inline XBRL™ and iXBRL™ are trademarks of XBRL International. XBRL® is a registered trademark of XBRL International.

[33] The Commission has recently implemented requirements for the structuring of other types of information using the XBRL format, including swap-based security data repository financial statements and credit rating history information maintained by nationally recognized statistical rating organizations, and proposed requirements for the structuring of certain compensation disclosures, including the disclosure of the relationship between executive compensation and the financial performance of the registrant and the compensation recovery policies of listed registrants. *See, e.g.,* Release No. 34–74244 (Feb. 11, 2015) [80 FR 14563]; Release No. 34–72936 (Aug. 27, 2014) [79 FR 55077]; Release No. 34–74835 (Apr. 29, 2015) [80 FR 26329]; Release No. 33–9861 (Jul. 1, 2015) [80 FR 41143].

The Commission also has implemented requirements for the structuring of information in certain forms using XML, including Form N–CEN (annual report for registered investment companies), Form N–PORT (monthly schedule of portfolio investments), Form N–MFP (monthly schedule of portfolio holdings of money market funds), Form PF (investment advisers to private funds), Form D (Regulation D offerings), Form 1–A (Regulation A offering statement), and Form C (securities-based crowdfunding offerings). *See* Release No. 33–10231 (Oct. 13, 2016) [81 FR 81870], Release No. IC–29132 (Feb. 23, 2010) [75 FR 10059]; Release No. IA–3308 (Oct. 31, 2011) [76 FR 71127]; Release No. 33–8891 (Feb. 6, 2008) [73 FR 10591]; Release No. 33–9974 (Oct. 30, 2015) [80 FR 71387]; Release No. 33–9741 (Mar. 25, 2015) [80 FR 21805].

[34] The XBRL preparation industry has gained significant technological expertise and efficiency. *See, e.g.,* William Sinnett, SEC reporting and the impact of XBRL: 2013 survey, Financial Executives Research Foundation (Nov. 15, 2013) (''FERF Study''); Research shows XBRL filing costs lower than expected, American Institute of CPAs, *available at http://www.aicpa.org/InterestAreas/FRC/AccountingFinancialReporting/XBRL/DownloadableDocuments/XBRL%20Costs%20for%20Small%20Companies.pdf* (retrieved Aug. 30, 2016) (''AICPA Study''). *See also* Section II.B.1 below.

[35] Inline XBRL has been adopted in several foreign jurisdictions and proposed for required use in another. It has also gained support among several XBRL preparation software vendors in the U.S. *See* notes 94 and 95 below. Separately, the EDGAR system has been modified to accept voluntary Inline XBRL submissions. *See* note 58 below and accompanying text.

[36] Based on staff review of Form 10–K filings filed during calendar year 2015, fewer than 1% were filed in the ASCII format. The majority of those were filed by smaller reporting companies and non-accelerated filers. Based on staff review of data on Rule 485(b) and Rule 497 filings filed during calendar year 2015, approximately 15% were filed in the ASCII format.

[37] In a companion release we are issuing today, the Commission is adopting amendments to eliminate the ASCII format for registration statements and periodic and current reports that are subject to the exhibit requirements under Item 601 of Regulation S–K and for Forms F–10 and 20–F. *See* Release No. 33–10322 (Mar. 1, 2017) (''Hyperlinks Adopting Release''). The amendments were proposed in 2016. *See* Release No. 33–10201 (Aug. 31, 2016) [81 FR 62689] (''Hyperlinks Proposing Release'').

Regulation S–K,[38] Forms F–10,[39] 20–F,[40] 40–F,[41] 6–K [42] and N–1A,[43] Rule 405 of Regulation S–T, and the EDGAR [44] Filer Manual.

Operating companies are required to submit financial statements and any applicable financial statement schedules in XBRL as exhibits to certain Exchange Act reports and Securities Act registration statements.[45] In general, operating companies that prepare their financial statements in accordance with U.S. GAAP or in accordance with IFRS as issued by the IASB must submit their financial statements to the Commission in XBRL. Filers that are required to provide information in XBRL must use the taxonomies specified on the Commission's Web site.[46]

Mutual funds are required to submit risk/return summary information in XBRL as exhibits to registration statements and to prospectuses with risk/return summary information that varies from the registration statement.[47] In addition, mutual funds, as well as other investment companies registered under the Investment Company Act, business development companies (''BDCs''),[48] and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S–X [49] are currently allowed to participate in the Commission's Interactive Data Voluntary Program (the ''2005 XBRL Voluntary Program'') with respect to financial statement information.[50]

An operating company generally must submit the Interactive Data File as an exhibit to the Related Official Filing to which it relates.[51] Mutual funds are required to submit the Interactive Data File within 15 business days after (1) the effective date of the registration statement or post-effective amendment that contains the related information,[52] or (2) the filing of a form of prospectus made pursuant to paragraph (c) or (e) of Rule 497.[53] Operating companies and mutual funds may delay submission and posting to the extent provided under a hardship exemption.[54]

For both operating companies and mutual funds, the Interactive Data File submitted to the Commission also must be posted on the filer's Web site, if any, on the earlier of the calendar day that the filer submitted or was required to submit it.[55] Operating companies must keep the Interactive Data File posted for at least 12 months.[56] For mutual funds, the Interactive Data File is required to be posted on the fund's Web site for as long as the registration statement or post-effective amendment to which the Interactive Data File relates remains current.[57]

On June 13, 2016, the Commission issued an exemptive order under the Exchange Act to permit operating companies that comply with certain conditions listed in the order to file structured financial statement data required in their periodic and current reports using Inline XBRL through March 2020.[58] When it issued the order, the Commission stated that permitting companies to use Inline XBRL on a voluntary, time-limited basis could facilitate the development of Inline XBRL preparation and analysis tools, provide investors and companies with the opportunity to evaluate its usefulness and help inform any future Commission rulemaking in this area. As of February 27, 2017, the Commission

[38] *See* Item 601(b)(101) of Regulation S–K [17 CFR 229.601(b)(101)].

[39] *See* Paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10.

[40] *See* Paragraph 101 of the Instructions as to Exhibits of Form 20–F.

[41] *See* Paragraph B.(15) of the General Instructions to Form 40–F.

[42] *See* Paragraph C.(6) of the General Instructions to Form 6–K.

[43] *See* General Instruction C.3(g) to Form N–1A.

[44] EDGAR performs automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required to file forms with the Commission. *See http://www.sec.gov/edgar/aboutedgar.htm.*

[45] Financial statements in XBRL are required as exhibits to Exchange Act reports on Forms 10–Q, 10–K, 20–F, 40–F and, in some cases, 8–K and 6–K. Item 601(b)(101) of Regulation S–K requires an Interactive Data File to be submitted with a Form 8–K only when the Form 8–K contains audited annual financial statements that previously were filed with the Commission but have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle. Item 601(b)(101) further specifies that, in such case, the Interactive Data File is required only as to such revised financial statements regardless of whether the Form 8–K contains other financial statements. Paragraph C.(6) of the General Instructions to Form 6–K requires an Interactive Data File to be submitted with a Form 6–K only when the Form 6–K contains either of the following: audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle; or current interim financial statements included pursuant to the nine-month updating requirement of Item 8.A.5 of Form 20–F. Paragraph C.(6) further specifies that, in either such case, the Interactive Data File would be required only as to such revised financial statements or current interim financial statements regardless of whether the Form 6–K contains other financial statements. Financial statements in XBRL also are required as exhibits to Securities Act registration statements that contain financial statements, such as Form S–1 (except registration statements filed in connection with an initial public offering). Securities Act registration statements that do not contain financial statements, such as a Form S–3 or other form filed by an issuer that incorporates by reference all required financial statement information from its periodic reports, and Exchange Act registration statements are not required to include Interactive Data Files. *See* 2009 Financial Statement Information Adopting Release.

[46] *See* Rule 405(c)(1) of Regulation S–T.

On March 1, 2017, in a companion release, the Commission issued a notice that, for the first time, an IFRS taxonomy had been specified on its Web site for use by foreign private issuers (FPIs) to submit their financial statement information to the Commission in XBRL. *See* Release No. 33–10320 (Mar. 1, 2017).

[47] *See* General Instruction C.3(g) to Form N–1A.

[48] Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act. *See* Section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a–2(a)(48)].

[49] 17 CFR 210.6–01 *et seq.*

[50] *See* Rule 401 of Regulation S–T. In 2005, the Commission began to allow public companies, and later mutual funds, to voluntarily submit XBRL-formatted files as exhibits to periodic reports and Investment Company Act filings. *See* Release No. 33–8529 (Feb. 3, 2005) [70 FR 6556]; Release No. 33–8823 (Jul. 11, 2007) [72 FR 39289]. As a result of rule amendments adopted by the Commission in 2009, the 2005 XBRL Voluntary Program is now only open for participation by investment companies and entities that prepare their financial statements in accordance with Article 6 of Regulation S–X. *See* 2009 Financial Statement Information Adopting Release *and* 2009 Risk/Return Summary Adopting Release.

[51] *See* Rule 405(a) of Regulation S–T.

[52] *See* General Instruction C.3g(i), (iv) to Form N–1A.

[53] *See* General Instruction C.3g(ii), (iv) to Form N–1A.

[54] An operating company may delay the submission and posting of the Interactive Data File to the extent provided under a temporary or a continuing hardship exemption. *See* Rules 201 and 202 of Regulation S–T. A mutual fund filer may delay the submission and posting of the Interactive Data File to the extent provided under a continuing hardship exemption. *See* Rule 202 of Regulation S–T.

[55] *See* Rule 405(g).

[56] *Id.*

[57] *See* Rule 405(g) and General Instruction C.3(g)(iii) to Form N–1A.

If a mutual fund does not submit or post interactive data as required, its ability to file post-effective amendments to its registration statement under Rule 485(b) under the Securities Act is automatically suspended until it submits and posts the interactive data as required. *See* Rule 485(c) under the Securities Act. The Interactive Data File also must be submitted in such a manner that will permit the information for each series and, for any information that does not relate to all of the classes in a filing, each class of the mutual fund to be separately identified. *See* General Instruction C.3(g)(iv) to Form N–1A.

[58] *See* Order Granting Limited and Conditional Exemption under Section 36(a) of the Securities Exchange Act of 1934 from Compliance with Interactive Data File Exhibit Requirement in Forms 6–K, 8–K, 10–Q, 10–K, 20–F and 40–F to Facilitate Inline Filing of Tagged Financial Data, Release No. 34–78041 (Jun. 13, 2016) [81 FR 39741] (''Exemptive Order''). The Exemptive Order does not exempt voluntary filers from the Web site posting requirement.

has received 55 Inline XBRL filings by 35 filers.

B. Current XBRL Practices

1. XBRL Preparation

XBRL preparation to comply with financial statement information and risk/return summary XBRL requirements affects operating company and mutual fund filers. There were approximately 9,200 filers of annual and quarterly reports (Forms 10–K, 10–Q, 20–F and 40–F), including amendments, during calendar year 2015.[59] As of December 2015, there were approximately 11,106 mutual funds that are registered on Form N–1A.[60]

Structured disclosure facilitates the analysis of information by investors, their financial advisors, professional analysts and the Commission and its staff. Structured disclosures include both numeric and narrative-based disclosures that are made machine-readable by having reported disclosure items labeled (tagged) using a markup language, such as XBRL, that can be processed by software for analysis. Structured information can be stored, shared and presented in different systems or platforms. Standardized markup languages, such as XBRL, use sets of data element tags for each required reporting element, referred to as taxonomies. Taxonomies provide common definitions that represent agreed-upon information or reporting standards, such as U.S. GAAP for accounting-based disclosures and, in the case of mutual funds, the risk/return summary information. The resulting standardization allows for aggregation, comparison and large-scale statistical analysis of reported information through significantly more automated means than is possible with HTML. All filers must assign appropriate tags to their reported disclosures based on the taxonomy of the required disclosures as part of the process to create their Interactive Data File.

Currently, filers can prepare their Interactive Data Files to comply with the existing XBRL requirements in several ways. Filers may either tag required disclosures in-house or use an outside service provider. Based on data in a 2013 study, the staff estimates that approximately 63% of operating company filers outsourced at least some part of XBRL preparation for their most recent annual filing, with the remainder preparing XBRL in-house.[61] From the process standpoint, the tagging of required disclosures may involve either standalone or integrated XBRL preparation software. With the standalone approach,[62] filers or filing agents use information initially prepared in word processing software to create a filing document in the traditional HTML or ASCII format. Filers or filing agents then create an XBRL exhibit by copying the information from the filing document and tagging it in XBRL, which requires them to expend incremental resources to create and tag a copy of the data and verify the consistency of tagged data across documents.[63] With the integrated approach, XBRL tagging of required disclosures is a part of the disclosure management process, and integrated disclosure management software[64] is used to generate both the HTML filing and the XBRL exhibit. According to the same study, 71% of operating company filers relied on integrated disclosure management software, as opposed to a standalone XBRL preparation solution.[65] The integrated approach also is prevalent among mutual fund filers. During 2015 and the first half of 2016, at least 80% of mutual fund risk/return summary XBRL submissions were created using integrated solutions.[66]

When filers submit XBRL exhibits during EDGAR filing, the XBRL exhibits are validated and rendered before the attachments are accepted. During EDGAR filing, EDGAR validates XBRL documents that make up an Interactive Data File, producing error and warning messages when issues with the XBRL data are identified, and ''renders'' or creates a human-readable version of XBRL data that can be viewed on the EDGAR Web site.[67] Thus, EDGAR Web site users can view the information in HTML format or they can view a rendered version of the tagged information submitted in the XBRL exhibit by clicking on the ''Interactive Data'' button next to the relevant filing on EDGAR.

In 2009 the Commission estimated the expected direct cost of compliance with XBRL requirements by operating companies.[68] After the adoption of the XBRL rules, several studies and commenters have also provided estimates of the cost of compliance with XBRL requirements.[69] While some

[59] Based on staff analysis of EDGAR filings. Some filers, including investment companies, asset-backed issuers, and filers who have received a hardship exemption, are not subject to financial statement information interactive data requirements. Interactive data requirements for operating companies also pertain to certain registration statements, as well as certain filings on Forms 8–K and 6–K containing specified financial statements. *See* note 45 above.

[60] Based on data obtained from the Investment Company Institute (''ICI'') and reports filed by registrants on Form N–SAR. *See* ICI, 2016 Investment Company Fact Book (56th ed., 2016), at 22, *available at http://www.ici.org/pdf/2016_factbook.pdf* (retrieved Aug. 30, 2016). This count of 11,106 ''mutual funds'' includes 9,520 traditional open-end mutual funds (including funds of funds and money market funds) and 1,586 exchange-traded funds (''ETFs'') registered as open-end investment companies. Unit investment trusts (''UITs'') (including ETFs registered as UITs) and closed-end funds are not subject to the proposed amendments and are therefore excluded from this count.

[61] *See* FERF Study, at 15.

[62] *See* FERF Study, at 6. Standalone XBRL software typically creates XBRL filings using financial statements and footnotes which have been prepared using other software.

[63] As noted by some industry observers, the creation of two documents that contain the same financial statement information may be unnecessarily costly and/or inefficient. *See* note 155 below.

[64] Disclosure management software typically integrates document drafting and XBRL tagging. It may also integrate conversion into the HTML format compatible with EDGAR and direct filing of both traditional and XBRL reports with the Commission. *See* FERF Study, at 6.

[65] *See* FERF Study, at 6.

[66] Based on indications of the vendor software used to produce the EDGAR filing attachments, when available.

[67] *See also http://www.sec.gov/structureddata/edgarvalandrender.*

[68] *See* 2009 Financial Statement Information Adopting Release, at 6804 (estimating direct costs of preparing and submitting interactive data-formatted financial statements, excluding the cost of Web site posting, at $39,510–$81,220 ($12,450–$20,340) for the first submission (each subsequent submission) with block-text footnotes and schedules and $29,700–$59,150 ($20,075–$36,940) for the first submission (each subsequent submission) with detailed tagging of footnotes and schedules, and the cost of Web site posting at $1,000 per year).

[69] *See* FERF Study, at 17 and 19 (estimating the cost of outside services to prepare and review the most recent annual XBRL filing as approximately $21,000 ($10,000) for the average (median) large accelerated filer, $15,000 ($10,000) for the average (median) accelerated filer, $19,000 ($10,000) for the average (median) non-accelerated filer, and $10,000 ($2,000) for the average (median) smaller reporting company and estimating the number of hours to prepare and review XBRL reports as 49 (32) preparation hours and 16 (28) review hours for the average (median) large accelerated filer, 42 (20) preparation hours and 10 (23) review hours for the average (median) accelerated filer, 44 (24) preparation hours and 16 (22) review hours for the average (median) non-accelerated filer, and 23 (24) preparation hours and 8 (11) review hours for the average (median) smaller reporting company filer).

See also AICPA Study. XBRL US and the AICPA surveyed 14 XBRL filing agents providing XBRL tagging and filing services to 1,299 small public companies (32% of small publicly listed companies). According to this survey, 69% of small public companies, defined for purposes of the survey as having up to $75 million in market capitalization, paid $10,000 or less on an annual basis for fully outsourced creation and filing of their XBRL exhibits; 18% had annual costs of between $10,000 and $20,000 for full-service outsourced solutions; and 8% paid more than $25,000 per year. Higher fees tended to be associated with complexities in financial statements and with rush charges imposed in the event of last-minute changes to the filings. The exact time frame of the survey is not specified.

See also Letter from Data Transparency Coalition (Oct. 29, 2015), *available at http://www.sec.gov/comments/disclosure-effectiveness/disclosure*

Continued

observers have expressed concern about the costs associated with XBRL requirements generally, particularly for smaller filers,[70] other observers have disagreed with the claim that the XBRL requirements impose high costs and emphasized the decrease in costs over time as filers and filing agents have gained experience and widely adopted the XBRL technology, the variety of filing agents that assist with XBRL preparation, and the potential benefits associated with better availability of information about smaller companies from the standpoint of access to capital.[71] According to a 2013 survey, the median filer required 25 hours for the preparation and 15 hours for the review of XBRL and between $8,000 and $10,000 for the services of outside professionals for its most recent annual filing.[72] According to another survey, the median small filer paid $10,000 or less on an annual basis for fully outsourced creation and filing of its XBRL exhibits.[73]

The 2009 Risk/Return Summary Adopting Release estimated the expected direct cost of compliance with the mutual fund risk/return summary XBRL requirements.[74] We have not received comments or further data that would lead us to update cost estimates for XBRL requirements pertaining to risk/return summary information.

To facilitate compliance with XBRL requirements, the staff has taken steps to provide guidance and tools to assist with XBRL filing.[75]

2. XBRL Data Use

There is a wide range of users of XBRL data, including investors, financial analysts, economic research firms, data aggregators, academic researchers, and Commission staff. Investors, other market participants, and other data users access XBRL data in various ways. XBRL data for individual filings is available on EDGAR and on each filer's respective Web site. Downloads of XBRL data also are available from the Commission through Really Simple Syndication (RSS) feeds. The Commission combines, organizes and posts for bulk download XBRL data extracted from operating company submissions to facilitate investor analysis and comparisons of public company information.[76] A number of businesses have created open-source software products, which freely provide XBRL data to investors. Other businesses offer investors additional analytical software and data feeds for a small license fee. Data aggregators (*i.e.,* entities that, in general, collect, package and resell data) have incorporated XBRL data into their products to varying degrees. Various third-party data providers extract or preview information contained in XBRL exhibits, offering XBRL analytics tools or using XBRL data to supplement other reported data based on filer disclosures.[77]

The Commission staff uses XBRL data to support risk assessment, rulemaking and enforcement activities. Machine-readable financial market data, including XBRL-formatted data, enhances the Commission's rulemaking and market monitoring activities by allowing staff to efficiently analyze large quantities of information. For example, the Commission staff uses financial statement information XBRL data in the Corporate Issuer Risk Assessment (CIRA) program, which provides a comprehensive overview of the financial reporting environment of filers

effectiveness-55.pdf (''Data Coalition Letter 1'') (estimating a median small filer's costs of XBRL compliance to be $8,000 based on the AICPA Study); Letter from Committee on Securities Law of the Business Law Section of the Maryland State Bar Association (Jul. 21, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-257.pdf* (''Maryland State Bar Letter'') (citing one registrant's cost of XBRL exhibits for fiscal year 2014 as $27,000).

[70] *See* FERF Study, at 1 (finding, in a 2013 survey of executives and SEC reporting professionals from 442 unique companies, including members of FEI and other reporting companies, that ''the cost/benefit proposition of the XBRL mandate'' was among companies' top concerns about XBRL compliance). *See also* Letter from the ABA Business Law Section (Feb. 15, 2016), *available at http://www.sec.gov/comments/disclosure-effectiveness/disclosureeffectiveness-69.pdf* (''ABA Letter''); Advisory Committee on Small and Emerging Companies (ACSEC) Recommendations Regarding Disclosure and Other Requirements for Smaller Public Companies (Mar. 21, 2013), *available at http://www.sec.gov/info/smallbus/acsec/acsec-recommendation-032113-smaller-public-co-ltr.pdf* (''ACSEC Recommendations 2013'') (recommending that ''the Commission revise its rules to provide an exemption for smaller reporting companies from the requirement to submit financial information in XBRL format for periodic reports and other public filings'' in light of the disproportionate cost and time burden that compliance with financial statement information XBRL requirements imposes on smaller filers); ACSEC Recommendations about Expanding Simplified Disclosure for Smaller Issuers (Sep. 23, 2015), *available at http://www.sec.gov/info/smallbus/acsec/acsec-recommendations-expanding-simplified-disclosure-for-smaller-issuers.pdf* (''ACSEC Recommendations 2015'') (recommending that ''the Commission exempt smaller reporting companies from XBRL tagging''); Recommendations of the Investor Advisory Committee Regarding the SEC and the Need for the Cost Effective Retrieval of Information by Investors (Jul. 25, 2013), *available at http://www.sec.gov/spotlight/investor-advisory-committee-2012/data-tagging-resolution-72513.pdf* (''IAC Recommendations'') (recommending that ''the SEC take steps designed to reduce the costs of providing tagged data, particularly for smaller issuers and investors''); Letter from Center for Capital Markets Competitiveness (Jul. 20, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-173.pdf* (recommending that smaller reporting companies be exempted from XBRL tagging); Maryland State Bar Letter (stating that XBRL imposes a burden on small registrants); Letter from Prologis (Jul. 21,2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-303.pdf* (stating that XBRL preparation imposes an internal time burden of approximately one week per quarter in addition to the cost of services of an outside firm).

[71] *See* AICPA Study; Data Coalition Letter 1. *See also* Trevor S. Harris and Suzanne Morsfield, ''An Evaluation of the Current State and Future of XBRL and Interactive Data for Investors and Analysts''—''White Paper Number Three,'' Columbia Business School Center for Excellence in Accounting and Security Analysis (December 2012), *available at http://www4.gsb.columbia.edu/filemgr?&file_id=7313146* (''Columbia White Paper''), footnote 34 (finding that, based on FEI's FERF survey data for 2011 and 2012, XBRL implementation was either not as costly as anticipated, or had become significantly less costly over time for most filers). *See also* Mohini Singh and Sandra Peters (2016) Data and Technology: Transforming the Financial Information Landscape, CFA Institute, Codes, Standards and Position Papers, Vol. 2016, Issue 7 (June 2016), *available at http://www.cfainstitute.org/learning/products/publications/ccb/Pages/ccb.v2016.n7.1.aspx* (''Singh'') (retrieved Sep. 20, 2016), at 48 (stating that ''SMEs [small and medium-sized enterprises] should balance the cost of tagging against the cost of capital'' and that ''XBRL filings make the financial information of SMEs more accessible to investors and lead to a reduction in the cost of capital'').

[72] *See* FERF Study, at 18–19.

[73] *See* AICPA Study.

[74] *See* 2009 Risk/Return Summary Adopting Release, at 7769 (estimating direct costs of preparing and submitting interactive data-formatted risk/return summary information, excluding the cost of Web site posting, at $23,200 ($3,100) for the first submission (each subsequent submission) and the cost of Web site posting at $250).

[75] *See, e.g.,* Office of Structured Disclosure Staff Interpretations and FAQs Related to Interactive Data Disclosure, *available at http://www.sec.gov/structureddata/FAQs* (''OSD FAQs''). The Commission also makes available to the public certain tools to assist with filing. For example, the Previewer can be used by a filer to see how XBRL submissions would appear on the SEC's Web site before submission via EDGAR and rendering by the EDGAR Renderer. The Previewer displays any error and warning messages that EDGAR would display. *See http://www.sec.gov/structureddata/edgarvalandrender. See also http://www.sec.gov/structureddata/interactive-data-test-suite.*

[76] *See http://www.sec.gov/dera/data/financial-statement-data-sets.html.*

[77] *See, e.g.,* a discussion of XBRL analytics tools, *available at http://xbrl.us/use/howto/, http://xbrl.us/home/category/productsservices/service/data-aggregation/. See also* Mitchell R. Wenger, Rick Elam, and Kelly L. Williams (2013) A tour of five XBRL tools, *Journal of Accountancy* (Apr. 1, 2013), *available at http://www.journalofaccountancy.com/issues/2013/apr/20126677.html;* Letter from XBRL US (Nov. 30, 2015), *available at http://www.sec.gov/comments/s7-20-15/s72015-29.pdf* (''XBRL US Letter 1'') (suggesting that investment firms often obtain their data through third-party providers, many of which use the XBRL version of public company data); Letter from XBRL US (Oct. 6, 2016), *available at http://www.sec.gov/comments/s7-15-16/s71516-16.pdf* (stating that XBRL improves productivity by allowing analysts to spend less time on data collection and enabling deeper analysis); Letter from Data Coalition (Jul. 21, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-299.pdf* (''Data Coalition Letter 2'') (discussing the availability of tools for XBRL data users). *See also* note 33.

and assists the staff in detecting anomalous patterns in financial statements that may warrant additional inquiry.

However, some commenters have indicated that XBRL data use has been limited, in part due to concerns regarding data quality for operating companies.[78] Errors may appear in information submitted in XBRL that affect the quality of the data and its potential use by the public and the Commission staff. For example, Commission staff has identified several recurring issues with financial statement information XBRL data, including errors related to the characterization of a number as negative when it is positive, incorrect scaling of a number (*e.g.,* in billions rather than in millions), unnecessary taxonomy extensions (''custom tags''), incomplete tagging (*e.g.,* a failure to tag numbers in parentheses) and missing calculations that show relationships between data (*e.g.,* how subtracting cost of revenue from revenue equals gross profit).[79] Staff has provided guidance [80] to improve the quality of XBRL data. Some of these data quality issues seem to have been mitigated over time [81] while others are recurring.

Compared to financial statements of operating companies, mutual fund risk/return summaries have fewer instances in which numeric data is embedded into text, and data is generally more standardized. As discussed above,[82] risk/return summary filers also rely to a considerable degree on the integrated approach to XBRL preparation. These factors may suggest that there are fewer data quality issues with risk/return summary XBRL data. However, we presently lack sufficient data or other information to assess the quality of risk/return summary XBRL data.

While these data quality issues may have multiple potential causes, we believe that some of these errors may result from the submission of XBRL tagged information as an exhibit separate from the Related Official Filing. This requirement creates an additional opportunity for reporting errors for those companies that first prepare their required disclosures in the HTML or ASCII format before creating a separate XBRL exhibit, often via an incremental set of reporting processes and controls. In particular, tagging information from the Related Official Filing in a separate XBRL exhibit increases the likelihood of inconsistently entering the information.[83] Furthermore, since the separate XBRL exhibit is subsequently rendered for viewing by readers, although filers are not required to make the rendered version of XBRL data look exactly the same as the Related Official Filing,[84] filers commonly add unnecessary tags aimed at managing the appearance of the rendered XBRL data that may contribute to data quality issues.[85]

The 2005 XBRL Voluntary Program for financial statement information interactive data is currently only available to investment companies and entities that prepare their financial statements in accordance with Article 6 of Regulation S–X. Based on an analysis of EDGAR filings, we estimate that six mutual funds and other permitted participants made such submissions during calendar years 2008–2010, with no submissions in 2011–2015.[86]

III. Proposed Amendments and Anticipated Economic Effects

A. Overview of Inline XBRL

In the 2009 Financial Statement Information Adopting Release, the Commission stated that it ''may consider proposing rules to require a filing format that integrates HTML with XBRL or eliminate financial statement reporting in ASCII or HTML format.'' [87] The 2009 Risk/Return Summary Adopting Release stated, in the context of the possibility of embedding interactive data in HTML filings, that it was necessary to monitor interactive data reporting before attempting further integration of the interactive data format.[88] We believe that current XBRL

[78] *See, e.g.,* Data Coalition Letter 1; Letter from Center for Capital Markets Competitiveness (Nov. 30, 2015), *available at http://www.sec.gov/comments/s7-20-15/s72015-14.pdf;* CFA Institute Member Survey: XBRL (December 2011), *available at http://www.cfainstitute.org/ethics/Documents/Research%20Topics%20and%20Positions%20Documents/xbrl_member_survey_report_2011.pdf* (retrieved Aug. 30, 2016) (''CFA Survey'') (finding that, among respondents aware of XBRL, fewer than 20% used information through an XBRL instance document reader/viewer and fewer than 10% extracted or imported XBRL data directly into financial analysis models); Columbia White Paper; ACSEC Recommendations 2013; Final Report of the 2012 SEC Government-Business Forum on Small Business Capital Formation, *available at http://www.sec.gov/info/smallbus/gbfor31.pdf;* Letter from Corporate Governance Coalition for Investor Value (Jul. 20, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-188.pdf;* Letter from Lark Research, Inc. (Jul. 24, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-317.pdf*; Letter from Investor Advisory Committee (Jun. 15, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-22.pdf* (''IAC Letter'') (stating that, as part of the staff's Disclosure Effectiveness Initiative, the Commission should take steps to increase the quality of the data that is filed with the Commission).

[79] *See* note 31 above.

[80] *See* Sample Letter Sent to Public Companies Regarding XBRL Requirement to Include Calculation Relationships (July 2014), *available at http://www.sec.gov/divisions/corpfin/guidance/xbrl-calculation-0714.htm* (''CFO Letter''). *See also* OSD FAQs.

[81] *See, e.g.,* Staff XBRL Observations 2014 (observing a steady decline in custom tag use by large accelerated filers during the phase-in period and thereafter, based on an assessment of XBRL exhibits submitted from 2009 through October 2013). *See also* Hui Du, Miklos A. Vasarhelyi, and Xiaochuan Zheng (2013) XBRL mandate: thousands of filing errors and so what? *Journal of Information Systems,* Volume 27, Issue 1, pp. 61–78 (suggesting that filers and software vendors have learned over time, which resulted in a reduced rate of XBRL errors); Ariel J. Markelevich, 2016, The quality and usability of XBRL filings in the US, working paper (Jun. 21, 2016), *available at http://ssrn.com/abstract_id=2798732* (retrieved Aug. 30, 2016) (''Markelevich'') (finding declines in several types of XBRL errors other than incorrect signs and declines in custom tag rates during 2012–2015 and also finding a higher incidence of errors among smaller filers); SEC Filers Decreased Errors by 64 Percent by Using Data Quality Committee Validation Rules (May 31, 2016), *available at http://xbrl.us/news/dqc-20160531/* (retrieved Aug. 30, 2016) (analyzing the effects on XBRL data quality of guidance and validation rules of XBRL US Data Quality Committee that took effect took effect January 1, 2016 and finding that several types of errors, including incorrect signs, improper value relationships between elements, and incorrect dates, declined during the first quarter of 2016).

[82] *See* Section II.B.1 above.

[83] *See, e.g.,* XBRL US Letter 1; Letter from XBRL US (Apr. 14, 2016), *available at http://www.sec.gov/comments/s7-27-15/s72715-34.pdf* (''XBRL US Letter 2''); Letter from XBRL US (Jul. 21, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-278.pdf* (''XBRL US Letter 3'') (referencing the translation risk associated with the preparation of two documents); Data Coalition Letter 2 (stating that Inline XBRL ''reduces the danger that the registrant will file a correct number in a document but misplace a decimal point or flip a negative sign in the corresponding structured data''). *See also* note 155 below.

[84] *See* Regulation S–T Compliance and Disclosure Interpretations, Question 130.08 (May 29, 2009), *available at http://www.sec.gov/divisions/corpfin/guidance/regs-tinterp.htm* (indicating that an Interactive Data File need not appear identical to the traditional format financial statements when displayed by a viewer on the Commission's Web site).

[85] *See* Staff XBRL Observations 2014; Staff XBRL Observations 2011. *See also* Inline XBRL—saving cost and effort for company reporting, XBRL UK White Paper, *available at http://www.xbrl.org.uk/resources/whitepapers/inlineXBRL-benefits-v1.pdf* (retrieved Aug. 30, 2016) (''XBRL White Paper''), at 5; Company reporting in the UK—an XBRL success story, XBRL UK White Paper, *available at http://www.xbrl.org.uk/resources/whitepapers/UKcompanyReporting-XBRL-v1.pdf* (retrieved Aug. 30, 2016) (''XBRL UK Success Story White Paper''), at 2 and 7.

[86] Two filers submitted Voluntary Program XBRL exhibits (EX100) in 2015, but those filings seem to have been made in error.

[87] *See* 2009 Financial Statement Information Adopting Release, at 6783. When the Commission proposed the XBRL requirements for financial statement information, it similarly stated that ''we may consider proposing rules to require a filing format that integrates ASCII or HTML with XBRL.'' *See* Release No. 33–8924 (May 30, 2008) [73 FR 32793], at 32800.

[88] *See* 2009 Risk/Return Summary Adopting Release, at 7755. When the Commission proposed the XBRL requirements for risk/return summary information, it similarly stated that ''we may consider proposing rules to require a filing format that integrates ASCII or HTML with XBRL.'' *See*

Continued

embedding technology now is sufficiently developed to propose requiring its use in Commission filings. In particular, the Inline XBRL technology [89] contains a standardized set of requirements for embedding XBRL data into an HTML version of a filing, which eliminates the need to copy and tag the required information with XBRL in a separate exhibit.[90] The Inline XBRL technology is freely licensed and made available by XBRL International, a consortium of over 600 organizations representing many aspects of the financial reporting supply chain community worldwide.[91]

With Inline XBRL, similar to existing practices, filers or filing agents would need to tag the required disclosures using the applicable taxonomy. However, the tagging of information would be performed within the HTML document instead of a separate XBRL exhibit.[92] Inline XBRL also would give the preparer full control over the presentation of filer disclosures because the XBRL data would be displayed within the HTML filing in a browser.[93] Inline XBRL thus yields a single document that is both human-readable and enables the automated extraction and analysis of embedded XBRL data by the user's XBRL extraction software.

The Inline XBRL technology is currently used in several other jurisdictions for a variety of regulatory purposes and has been proposed for required use in another.[94] As a result, some filers that are subject to Inline XBRL reporting requirements in other countries, as well as vendors with customers in these same countries, may already have Inline XBRL capabilities,[95] although their experience with Inline XBRL may be based on information unrelated to financial statements or mutual fund risk/return summaries. We request comment and input from filing agents, software vendors, investors, other market participants, and other data users about their current ability to accommodate Inline XBRL.[96]

B. Proposed Amendments

1. Inline XBRL Requirements

a. Use of Inline XBRL Format

We propose to require the use of Inline XBRL for operating company financial information and mutual fund risk/return summaries by amending the rules that specify certain content and format requirements for the Interactive Data File. Currently, the requirement to submit and post information in XBRL applies through the exhibit requirements of Item 601(b)(101) of Regulation S–K [97] and Forms F–10,[98] 20–F,[99] 40–F [100] and 6–K [101] with regard to financial statement information. Similar requirements for mutual funds to submit and post risk/return summary information in XBRL apply through the exhibit requirements of Form N–1A [102] and Rule 497.[103] These exhibit requirements specify when information in the Related Official Filing triggers the requirement to submit and post an Interactive Data File in the manner provided by Rule 405 of Regulation S–T.[104] Rule 405 sets forth the basic content, format, submission and posting requirements for the Interactive Data File, such as the requirement to submit the Interactive Data File as an exhibit to the Related Official Filing.[105] Rule 405 also requires that an Interactive Data File be submitted in accordance with the EDGAR Filer Manual.[106] The EDGAR Filer Manual contains additional formatting and submission requirements for the Interactive Data File.

The amendments we are proposing today would revise Rule 405 to require filers to submit the Interactive Data File using Inline XBRL. The proposed amendments would require filers, on a phased in basis, to embed a part of the Interactive Data File within an HTML document using Inline XBRL and to include the rest in an exhibit to that document. The portion filed as an exhibit to the form would contain contextual information about the XBRL tags embedded in the filing. The information as tagged would continue to be required to satisfy all other requirements of Rule 405, including the technical requirements in the EDGAR Filer Manual.[107]

We note that Inline XBRL is not compatible with the ASCII format. Thus, filers that currently prepare the Related Official Filing in the ASCII format

Release No. 33–8929 (Jun. 10, 2008) [73 FR 35441], at 35447.

[89] *See http://specifications.xbrl.org/spec-group-index-inline-xbrl.html* (retrieved Aug. 30, 2016).

[90] *See http://specifications.xbrl.org/presentation.html* (retrieved Aug. 30, 2016).

[91] *See http://www.xbrl.org/the-consortium/about/* (retrieved Aug. 30, 2016).

[92] *See* note 159 below.

[93] In an Inline XBRL document, data values are nested within Inline XBRL elements which are themselves nested within HTML or XHTML elements (''Markup Elements''). The browser ignores the Inline XBRL elements and displays the data values as though they were textual content of the Markup Elements, enabling presentation in a human-readable format. *See* Inline XBRL Part 0: Primer 1.1, *available at http://www.xbrl.org/WGN/inlineXBRL-part0/WGN-2015-12-09/inlineXBRL-part0-WGN-2015-12-09.html* (retrieved Aug. 30, 2016).

[94] For example, in the United Kingdom, the ''accounts and computations'' part of a ''Company Tax Return'' must be submitted to HM Revenue and Customs using Inline XBRL (*http://www.gov.uk/government/publications/xbrl-tagging-when-what-and-how-to-tag,* retrieved Aug. 30, 2016). *See also* XBRL UK Success Story White Paper. Other examples can be found in regulations permitting or requiring the use of Inline XBRL in Australia (*http://asic.gov.au/about-asic/media-centre/find-a-media-release/2015-releases/15-104mr-asic-introduces-format-for-improved-communication-of-financial-information/,* retrieved Aug. 30, 2016); Ireland (*http://www.revenue.ie/en/online/ros/ixbrl/index.html,* retrieved Aug. 30, 2016); Denmark and Japan (*http://www.xbrl.org/the-standard/why/who-else-uses-xbrl/,* retrieved Aug. 30, 2016). We note that the specific disclosure regimes in these countries may differ from that in the United States.

According to one commenter, Inline XBRL is used in the UK by approximately 2 million companies for reporting tax information to HMRC Tax Service Online. The commenter notes that ''[a]ccording to the HMRC's former Strategy Architect for the Company Tax online service, an estimated 90% of filings are at zero cost to the issuer because most companies (continue to) use packaged tax and accounting software to which the vendors added inline XBRL production capability as an alternative to printed output'' while ''[t]he remaining 10% of companies outsource their inline XBRL conversion to accounting firms with estimated annual costs ranging from as low as $135 to as high as $4200.'' *See* XBRL US Letter 2.

The European Securities and Markets Authority recently proposed to require issuers in the European Union to prepare their annual financial reports containing IFRS financial statements in the Inline XBRL format using the IFRS taxonomy from January 1, 2020. *See* ESMA proposes new digital format for issuers' financial reporting, *available at http://www.esma.europa.eu/press-news/esma-news/esma-proposes-new-digital-format-issuers%E2%80%99-financial-reporting* (retrieved Jan. 31, 2017); ESMA Feedback Statement on the Consultation Paper on the Regulatory Technical Standard on the European Single Electronic Format (ESEF), Dec. 21, 2016, *available at http://www.esma.europa.eu/sites/default/files/library/2016-1668_esma_feedback_statement_on_the_rts_on_esef_0.pdf* (retrieved Jan. 31, 2017).

[95] In the United States, some XBRL filing agents and software vendors have stated on their Web sites, in press releases or in user documentation that they have or will have in the future the capability to generate Inline XBRL filings.

[96] *See* Section III.B.5 below.

[97] The exhibit requirements of Item 601(b)(101) relate to Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, 8–K, 10–Q and 10–K.

[98] Paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10.

[99] Paragraph 101 of the Instructions as to Exhibits of Form 20–F.

[100] Paragraph B.(15) of the General Instructions to Form 40–F.

[101] Paragraph C.(6) of the General Instructions to Form 6–K.

[102] *See* General Instruction C.3(g) to Form N–1A.

[103] *See* Rule 497(c) and (e).

[104] The exhibit provisions that specify when an Interactive Data File is required for financial information also specify when it is optional and when it is prohibited.

[105] *See* Rule 405(a)(2) for the exhibit requirement.

[106] *See* Rule 405(a)(3).

[107] Information presented in multiple locations within the financial statements must be tagged in all those locations.

would need to switch to HTML unless they already have done so to comply with the amendments adopted in the Hyperlinks Adopting Release. We do not expect this to affect many filers, as the vast majority currently file in HTML.[108] While the filers that use ASCII that would be affected by the proposal to require HTML are primarily small entities and may incur a disproportionately greater burden,[109] we expect the impact on smaller filers to be partly mitigated by the proposed phase-in. We further expect that the average costs of switching to HTML would not be large because the cost of software with built-in HTML features is minimal. Overall, given the modest costs involved, we do not expect that the proposed amendments would have significant competitive effects for filers. We also note the advantages of HTML for the presentation of information from the standpoint of filers and users. Unlike ASCII documents, HTML documents can include graphics, varied fonts and other visual displays that filers use when they create Internet presentations or material for distribution to shareholders and other investors.[110] In prior rulemakings, the Commission has noted the possibility of HTML eventually replacing ASCII.[111] Furthermore, as discussed above, the Commission has adopted amendments to eliminate the ASCII format for registration statements and periodic and current reports that are subject to the exhibit requirements under Item 601 of Regulation S–K and for Forms F–10 and 20–F.[112] These amendments should further reduce the portion of the cost of operating company ASCII filers switching to HTML that is incremental to the proposed rule.

b. Timing of Submission of Interactive Data File

We are not proposing changes to the timing of the submission of the Interactive Data File for operating company financial statement information. Operating company filers would continue to be generally required to submit the Interactive Data File with the filing.[113]

In contrast, for mutual funds, we are proposing changes to the General Instructions to Form N–1A that would change the timing requirements for the submission of the Interactive Data File. First, we are proposing to permit mutual funds to submit Interactive Data Files concurrently with certain post-effective amendments filed pursuant to paragraph (b) of Rule 485 under the Securities Act.[114] Second, we are proposing to eliminate the current 15 business day filing period accorded to all mutual fund filings containing risk/return summaries, including initial registration statements, post-effective amendments, and forms of prospectuses filed pursuant to paragraphs (c) and (e) of Rule 497. In the case of initial registration statements and post-effective amendments, the Interactive Data File would be required to be submitted no later than the effective date of those filings. In the case of forms of prospectuses filed pursuant to Rule 497, the Interactive Data File would be required to be submitted concurrently with the filing.

Currently, an Interactive Data File for a Form N–1A filing, whether the filing is an initial registration statement or a post-effective amendment thereto, must be submitted as an amendment to the registration statement to which the Interactive Data File relates.[115] That amendment with the Interactive Data File also must be submitted after the registration statement or post-effective amendment that contains the related information becomes effective but not later than 15 business days after the effective date of that registration statement or post-effective amendment.[116] As we noted in the 2009 Risk/Return Summary Adopting Release, the period of 15 business days was intended both to provide funds with adequate time to prepare the exhibit and to make the interactive data available promptly.[117] We understand that questions have been raised as to whether this 15 business day filing period remains necessary in light of the development of, and resulting efficiencies from, integrated solutions in the XBRL preparation process in use today and the proposed implementation of Inline XBRL.

Mutual funds also are required to submit an Interactive Data File for any form of prospectus filed pursuant to Rule 497(c) or (e) under the Securities Act that includes information provided in response to Items 2, 3, or 4 of Form N–1A that varies from the registration statement.[118] In the case of those filings, however, mutual funds are permitted to file the Interactive Data File concurrently with the filing or up to 15 business days subsequent to the filing.[119]

To help facilitate efficiencies in the mutual fund post-effective amendment filing process, we are proposing to amend the General Instructions to Form N–1A to permit mutual funds to submit Interactive Data Files concurrently with post-effective amendments filed pursuant to paragraphs (b)(1)(i),[120]

[108] *See* note 36 above.

[109] Some commenters on the Hyperlinks Proposing Release expressed concern about the cost of switching from ASCII to HTML but have not provided specific estimates. *See, e.g.,* Letter from Corporate Governance Coalition for Investor Value (Oct. 27, 2016), *available at http://www.sec.gov/comments/s7-15-16/s71516-34.pdf;* Letter from Center for Capital Markets Competitiveness (Oct. 27, 2016), *available at http://www.sec.gov/comments/s7-15-16/s71516-33.pdf.*

[110] Plain text submissions may not include certain characters that are not in the standard ASCII character set, such as certain foreign characters and special characters for currencies, as well as characters associated with document style and format that may be introduced by standard word processing software. Submissions must not exceed 80 characters per line. Additionally, the conversion of tabular, columnar or footnote material created in standard word processing software into ASCII may pose formatting challenges and require some information to be formatted manually. *See* EDGAR Filer Manual, Volume II, Section 5.2.1.2, *available at http://www.sec.gov/info/edgar/edmanuals.htm. See also http://www.sec.gov/info/edgar/quick-reference/create-ascii-files.pdf.*

[111] *See* Release No. 33–7855 (Apr. 24, 2000) [65 FR 24787], at 24789 and Release No. 33–7684 (May 17, 1999) [64 FR 27888], at 27889 (stating that ''we expect that HTML will eventually replace ASCII for most filings'').

[112] *See* Hyperlinks Adopting Release.

[113] An operating company may submit its first Interactive Data File as an amendment to the filing. *See* Rule 405(a) of Regulation S–T.

[114] A post-effective amendment filed under Rule 485(b) may become effective immediately upon filing, or at a later date designated on the facing sheet of the amendment of generally up to 30 days after the date on which the amendment is filed. A post-effective amendment may only be filed under Rule 485(b) if it is filed for one or more specified purposes, including to make non-material changes to the registration statement.

[115] General Instruction C.3(g)(i) to Form N–1A.

[116] *Id.* Filings on Form N–1A, which contain mutual fund registration statements (or amendments thereto), are often subject to revision prior to effectiveness. For example, initial registration statements and post-effective amendments filed under Rule 485(a) are subject to Commission staff review, and revisions to the registration statement may be made in connection with the staff review process.

[117] *See* 2009 Risk/Return Summary Adopting Release, footnote 97 and accompanying and following text. For example, mutual funds may require additional time after making the related filing to prepare and file in a subsequent amendment the Interactive Data File due to the staff comment process or otherwise.

[118] *See* General Instruction C.3(g)(ii) to Form N–1A.

[119] *Id.*

[120] Subparagraph (i) of Rule 485(b)(1) permits a post-effective amendment filing for the purpose of bringing the financial statements up to date under Section 10(a)(3) of the Securities Act or Rules 3–12 or 3–18 of Regulation S–X. 17 CFR 210.3–12 and 210.3–18.

(ii),[121] (v),[122] or (vii) [123] of Rule 485 under the Securities Act.[124] We are proposing this change in recognition of the fact that, in our experience, post-effective amendments filed pursuant to these paragraphs of Rule 485 generally are not subject to further revision.[125]

With respect to all filings by mutual funds containing risk/return summaries (initial registration statements, post-effective amendments, and forms of prospectuses pursuant to Rule 497), we are proposing to eliminate the current 15 business day period during which mutual funds must submit Interactive Data Files. Inline XBRL involves embedding XBRL data directly into the filing. We believe that most mutual fund risk/return summary XBRL submissions today are created using integrated solutions.[126] Therefore, in order to improve the timeliness of the availability of risk/return summary XBRL information, we are proposing that Interactive Date Files be submitted to the Commission as follows:

- For post-effective amendments filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of Rule 485, Interactive Data Files must be filed either concurrently with the filing or in a subsequent amendment that is filed on or before the date that the post-effective amendment that contains the related information becomes effective; [127]
- For initial registration statements and post-effective amendments filed other than pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of Rule 485, Interactive Data Files must be filed in a subsequent amendment filed on or before the date the registration statement or post-effective amendment that contains the related information becomes effective; [128] and
- For any form of prospectus filed pursuant to Rule 497(c) or (e), mutual funds would be required to submit the Interactive Data File concurrently with the filing.[129]

c. Phase-in of Inline XBRL Requirements

We propose to phase in the Inline XBRL requirements for operating companies in annual increments based on the category of filer status. Large accelerated filers that prepare their financial statements in accordance with U.S. GAAP would be required to comply with Inline XBRL requirements for financial statement information in the second year after the rule is effective, followed by accelerated filers that prepare their financial statements in accordance with U.S. GAAP in the third year and all other operating company filers that are required to submit Interactive Data Files in the fourth year.[130] This phase-in approach is broadly consistent with the approach in the 2009 Financial Statement Information Adopting Release and is intended to ease the cost of transition for smaller filers and those filers that use IFRS as issued by the IASB. Given that any fixed cost of initial transition would disproportionately burden smaller filers, this approach would give such filers time to develop related expertise, as well as the opportunity to benefit from the experience of larger filers with Inline XBRL. The proposed phase-in might also provide filing agents and software vendors whose main customers are smaller filers with additional time to adopt the Inline XBRL technology and develop related expertise. Filers would be permitted to file using Inline XBRL prior to the compliance date for each category of filers; otherwise, prior to the applicable compliance date, filers that do not file using Inline XBRL would continue to be required to submit the entire Interactive Data File as an exhibit, as they do currently.[131]

Similarly, we propose a phase-in for mutual funds based on net asset size. Specifically, for larger entities (*i.e.,* mutual funds that together with other investment companies in the same ''group of related investment companies'' [132] have net assets of $1 billion or more as of the end of the most recent fiscal year) we are proposing a compliance date of one year after the effective date to comply with the new reporting requirements. For smaller entities (*i.e.,* mutual funds that together with other investment companies in the same ''group of related investment companies'' have net assets of less than $1 billion as of the end of the most recent fiscal year), we are proposing to provide for an additional year to comply with the new reporting requirements.[133] Mutual funds would be permitted to file using Inline XBRL prior to the compliance date for each category of filers; otherwise, prior to their applicable compliance date, filers that do not file using Inline XBRL would continue to be required to submit their Interactive Data File as an exhibit to their filing, as they do currently and under the current timing requirements.

d. Categories of Filers Subject to Inline XBRL Requirements

The proposed Inline XBRL requirements for financial statement information would apply to all operating company filers, including smaller reporting companies (SRCs),[134] emerging growth companies (EGCs) [135] and FPIs,[136] that currently are required to submit financial statement information in XBRL. Similarly, the proposed Inline XBRL requirements for risk/return summary information would apply to all mutual fund filers that currently are required to submit risk/

[121] Subparagraph (ii) of Rule 485(b)(1) permits a post-effective amendment filing for the purpose of complying with an undertaking to file an amendment containing financial statements, which may be unaudited, within four to six months after the effective date of the registrant's registration statement under the Securities Act.

[122] Subparagraph (v) of Rule 485(b)(1) permits a post-effective amendment filing for the purpose of making any non-material changes which the registrant deems appropriate.

[123] Subparagraph (vii) of Rule 485(b)(1) permits a post-effective amendment filing for any other purpose which the Commission shall approve.

[124] *See* proposed General Instruction C.3(g)(i)(B) to Form N–1A.

[125] With the exception of post-effective amendments filed pursuant to Rule 485(b)(1)(iii), a post-effective amendment filed under Rule 485(b)(1) may become effective immediately upon filing.

[126] *See* note 66 above and accompanying text (noting that during 2015 and the first half of 2016, at least 80% of mutual fund risk/return summary XBRL submissions were created using integrated solutions).

[127] *See* proposed General Instruction C.3(g)(i)(B) to Form N–1A.

[128] *See* proposed General Instruction C.3(g)(i)(A) to Form N–1A.

[129] *See* proposed General Instruction C.3(g)(ii) to Form N–1A.

[130] *See* proposed Rule 405(f)(1)(i).

[131] *See* proposed Rule 405(f)(2).

[132] For these purposes, we expect that the threshold would be based on the definition of a ''group of related investment companies,'' as such term is defined in Rule 0–10 under the Investment Company Act. Rule 0–10 defines the term as applied to management investment companies as two or more management companies (including series thereof) that: (i) Hold themselves out to investors as related companies for purposes of investment and investor services; and (ii) either: (A) Have a common investment adviser or have investment advisers that are affiliated persons of each other; or (B) have a common administrator. 17 CFR 270.0–10(a)(1). We believe that this broad definition would encompass most types of fund complexes and therefore is an appropriate definition for compliance date purposes.

[133] When the risk/return summary information XBRL requirements were adopted on February 11, 2009, all filers had approximately two years to comply (until January 1, 2011). We do not believe that a similarly extended period would be necessary for larger filers to comply with the proposed Inline XBRL requirements due to the incremental nature of the changes required for the transition to Inline XBRL compared to the initial introduction of XBRL. However, we believe that smaller mutual fund filers may on the margin benefit from the additional time to comply with the Inline XBRL requirements.

[134] Rule 405 under the Securities Act [17 CFR 230.405], Rule 12b–2 of the Exchange Act [17 CFR 240.12b–2] and Item 10(f) of the Regulation S–K [17 CFR 229.10(f)].

[135] Section 2(a)(19) of the Securities Act [15 U.S.C. 77b(a)(19)] and Section 3(a)(80) of the Exchange Act [15 U.S.C. 78c(a)(80)].

[136] Rule 3b–4(c) [17 CFR 240.3b–4(c)].

return summary information in XBRL. At this time, we are not proposing changes to the categories of filers subject to XBRL requirements or the scope of information that is subject to XBRL requirements.[137]

In formulating the current proposals, we considered exempting SRCs from the Inline XBRL requirements.[138] As discussed below,[139] we do not expect Inline XBRL to significantly affect the overall costs of compliance with XBRL requirements. We expect that while filers may incur a small initial transition cost, filers also may realize reductions in ongoing costs of compliance with XBRL requirements due to the elimination of the effort associated with the creation of a separate exhibit. In addition, exempting smaller filers could result in a reduction of the aggregate data quality benefits, which would affect the usefulness of the information for investors, analysts, other users and the Commission.[140]

2. Elimination of Web Site Posting Requirement

The amendments we are proposing also would eliminate the existing requirement to post the Interactive Data File on the filer's Web site for both operating companies and mutual funds.[141] In the 2009 Financial Statement Information Adopting Release, the Commission stated that it thought that the Web site availability of the interactive data would encourage its widespread dissemination, make it easier and faster for investors to collect information on a particular filer, enable search engines and other data aggregators to more quickly and cheaply aggregate the data and make them available to investors and potentially increase the reliability of data availability to the public.[142] However, the Commission also noted that this benefit could be limited since investors seeking to aggregate machine-readable XBRL data across companies, manually or through an automated process, may find XBRL exhibits posted on filers' Web sites less useful.[143]

Since the adoption of the Web site posting requirement, industry commenters have observed very limited use of XBRL data from corporate Web sites.[144] Based on our experience, we do not believe that users of XBRL data generally seek the information directly from filers' Web sites; rather, they obtain the data from the Commission's EDGAR system or third-party aggregators. We believe that access to XBRL data for purposes of aggregation and processing, whether by data aggregators or individual users, is most efficiently achieved when such machine-readable data is consistently organized (*e.g.,* with respect to directory structure) and made available at a single source. We further believe that, based on our experience since we adopted the Web site posting requirement in 2009, potential data users can obtain sufficiently reliable access to XBRL data through EDGAR and do not need the backup of a Web site posting on a filer's Web site to access the XBRL data. Thus, we do not expect data users to incur significant costs from the elimination of the requirement to post the XBRL data on filers' Web sites. We expect filers to recognize a modest benefit from the elimination of this requirement, as discussed in greater detail below.[145]

3. Termination of the 2005 XBRL Voluntary Program

Finally, we propose to terminate the 2005 XBRL Voluntary Program for financial statement information interactive data.[146] Subsequent to the adoption of the interactive data requirements for financial statement information for operating companies in 2009, the only filers that remain eligible for the program are registered investment companies, business development companies, and entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X. The 2005 XBRL Voluntary Program is used very infrequently and thus, we do not believe that its continued existence would provide significant benefits.

4. Proposed Technical Amendments

We are proposing to make certain technical, conforming changes to the rules for hardship exemptions, current public information under Rule 144(c)(1) of the Securities Act and form eligibility, consistent with the proposed changes in format to the Interactive Data File and elimination of the Web site posting requirement. We propose to delete the definition of ''promptly'' from Rule 11 because it was only used in Rule 406T, which has expired, and references to Forms S-2 and F-2 because the forms have been eliminated.

5. Request for Comment

We request and encourage any interested person to submit comments regarding the proposed amendments, specific issues discussed in this release and other matters that may have an effect on the proposed amendments. We request comment from the point of view of filers, filing agents, and software vendors as well as investors, other market participants, data aggregators, and other data users. With regard to any comments, we note that such comments are of particular assistance to us if accompanied by supporting data and analysis of the issues addressed in those

[137] When the Commission adopted the financial statement information XBRL requirements in 2009, after considering public comments, the Commission stated that a partial or complete exemption would detract from the long-term completeness and uniformity of XBRL financial information and would be inconsistent with the Commission's goal of making financial information easier for investors to analyze while assisting in automating regulatory filings and business information processing. We continue to believe that to be the case. *See* note 169 below. We recognize, however, that some commenters have expressed concerns about the cost of XBRL for smaller filers. *See* note 70 above. As part of our recent concept release on modernizing certain business and financial disclosure requirements in Regulation S–K, we solicited comment about whether we should eliminate or reduce any of the XBRL tagging requirements for SRCs. *See* Release No. 33–10064 (Apr. 13, 2016) [81 FR 23915] (''Regulation S–K Concept Release'').

[138] The Commission has recently proposed to amend the SRC definition. Under the proposed amendments, registrants with a public float of less than $250 million and registrants with a public float of zero and annual revenues of less than $100 million would qualify as SRCs. *See* Release No. 33–10107 (Jun. 27, 2016) [81 FR 43130], at 43134 and 43139.

[139] *See* Section III.C.2 below.

[140] *See* Section III.C.1 below. Inline XBRL may offer greater benefits to smaller filers since they tend to have more XBRL data errors. *See* Markelevich.

[141] *See* Rule 405(g) and General Instruction C.3(g) to Form N–1A.

[142] *See* 2009 Financial Statement Information Adopting Release, at 6791–6792. Similarly, in adopting the Web site posting requirement for risk/return summary information, the Commission stated that Web site availability of the interactive data would encourage its widespread dissemination, contributing to lower access costs for users. *See* 2009 Risk/Return Summary Adopting Release, footnote 263.

[143] *See* 2009 Financial Statement Information Adopting Release, at 6807. *See also* 2009 Risk/Return Summary Adopting Release, footnote 263 (''We believe the benefits will stem primarily from the requirement to submit interactive data to the Commission and the Commission's disseminating that data.'').

[144] *See, e.g.,* Columbia White Paper, at 21 (suggesting that none of the data users the authors surveyed reported accessing XBRL files from filers' Web sites).

We have not received comments or information about the extent of use by investors of XBRL risk/return summary information on mutual fund Web sites after the adoption of the risk/return summary information XBRL requirements. Some of the commenters on the 2008 proposal stated that the Web site posting requirement for risk/return summary XBRL data was unnecessary. *See, e.g.,* Letter from T. Rowe Price Associates, Inc. (Aug. 1, 2008), *available at http://www.sec.gov/comments/s7-12-08/s71208-15.pdf*; Letter from Investment Company Institute (Aug. 1, 2008), *available at http://www.sec.gov/comments/s7-12-08/s71208-13.pdf*; Letter from L. A. Schnase (Jul. 25, 2008), *available at http://www.sec.gov/comments/s7-12-08/s71208-7.pdf* (Schnase Letter). *See also* 2009 Risk/Return Summary Adopting Release, at 7755.

[145] *See* Section III.C.1 below.

[146] *See* Rule 401 of Regulation S-T.

comments. Commenters are urged to be as specific as possible.

1. Should operating companies be required to submit financial statement information using Inline XBRL, as proposed? Why or why not?

2. Should mutual funds be required to submit risk/return summary information using Inline XBRL, as proposed? Why or why not? In this regard, do mutual funds present different issues and considerations from operating companies? If so, how?

3. The Inline XBRL Viewer is now freely available as an open source application.[147] What future enhancements to the Inline Viewer would help to improve data quality or facilitate the implementation of Inline XBRL?

4. Would requiring the submission of information in Inline XBRL affect the quality and use of XBRL interactive data? If so, in what way?

5. Is the Inline XBRL technology sufficiently developed to require its use in Commission filings?

6. To what extent can filing agents and software vendors currently provide filers with the Inline XBRL functionality? For those filing agents and vendors that cannot currently provide this functionality, can it be readily developed in the future?

7. Are vendors likely to develop and make commercially available software applications or Internet products that would extract and/or analyze XBRL data from submissions in Inline XBRL?

8. Should any category of filers that is presently subject to financial statement information XBRL requirements, such as SRCs or EGCs, be exempt from the Inline XBRL requirements? Why or why not? If we were to exempt any such filers from the Inline XBRL requirements, should they be permitted to voluntarily submit their interactive data in the Inline XBRL format? What are the costs to investors, other market participants, and other data users, for instance, due to lower data quality, associated with exempting such filers from the Inline XBRL requirements?

9. Should we adopt a phase-in schedule for the implementation of Inline XBRL for operating company financial statement information, as proposed? Why or why not? Would the proposed phase-in schedule for the submission of financial statement information in Inline XBRL allow sufficient time for vendors and filers to develop and efficiently apply the Inline XBRL technology? If not, what schedule would better provide for this? Are there other factors, besides filer size and accounting principles used, that we should consider for purposes of a phase-in schedule for operating companies?

10. Would the proposed Inline XBRL requirements impose significant costs on ASCII filers? Why or why not?

11. In the case of post-effective amendment filings made pursuant to paragraphs (b)(1)(i), (ii),(v), or (vii) of Rule 485 under the Securities Act, should we, as proposed, permit mutual funds to submit interactive data information concurrently with the related filing? Why or why not? For example, is there a risk that investors may be confused by interactive data information that is filed before effectiveness of the related filing? Should we permit concurrent submission with filings made pursuant to other paragraphs of Rule 485? Conversely, should we not permit concurrent submission with filings made pursuant to one or more of paragraphs (b)(1)(i), (ii), (v), or (vii)? Should we also permit mutual funds to submit interactive data information concurrently with the related filing in the case of initial registration statements and post-effective amendments made pursuant to other paragraphs of Rule 485? Why or why not? Should we instead maintain the current requirement that Interactive Data Files be submitted in a subsequent amendment to the initial registration statement or any post-effective amendment? Why or why not?

12. We are proposing to eliminate the 15 business day filing period currently accorded to all mutual fund filings containing risk/return summaries, including initial registration statements, post-effective amendments, and forms of prospectuses filed pursuant to paragraphs (c) and (e) of Rule 497. Should we instead maintain some filing period after the related filing is made? Why or why not? If we maintain a filing period after the related filing is made, is the current period of 15 business days an appropriate time period for mutual funds to submit the interactive data, or should the time period be shorter or longer (*e.g.,* 1 day, 5 days, 10 days, 20 days, 30 days)? Are there costs or other burdens that may be incurred by filers if the current 15 business day filing period is eliminated?

13. We are proposing that for post-effective amendments filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of Rule 485, Interactive Data Files must be submitted either concurrently with the filing or in a subsequent amendment that is filed on or before the date that the post-effective amendment that contains the related information becomes effective. Should we instead require that the Interactive Data Files be filed concurrently with the filing? Why or why not? Are there instances in which mutual fund filers would prefer to submit the Interactive Data File in a subsequent amendment? For example, in post-effective amendment filings designating a future effective date, would filers be more likely to submit the Interactive Data File concurrently with the filing or in a subsequent amendment? Should we extend the proposed filing requirements described above to filings made pursuant to other paragraphs of Rule 485? Instead, should different filing requirements extend to filings made pursuant to one or more of paragraphs (b)(1)(i), (ii), (v), or (vii)?

14. Would the proposed phase-in schedule for the submission of risk/return summary information in Inline XBRL allow sufficient time for vendors and filers to develop and efficiently apply the Inline XBRL technology? Is a threshold of $1 billion based on the net assets of mutual funds together with other investment companies in the same ''group of related investment companies'' as of the end of the most recent fiscal year appropriate? Should the threshold include aggregation of net assets with other investment companies in the same ''group of related investment companies''? Why or why not? In lieu of ''group of related investment companies,'' should aggregation be based on a different set of related companies? For example, should aggregate assets be based on ''family of investment companies,'' as such term defined in instruction 1(a) to Item 17 of Form N–1A or ''fund complex'' as defined in instruction 1(b) to Item 17 of Form N–1A? Should we require administrator-sponsored funds to aggregate assets for purposes of this threshold regardless of whether the individual funds (or series thereof) do not hold themselves out to investors as related companies for purposes of investment and investor services? Why or why not?

15. Does the proposed phase-in schedule provide sufficient time for compliance for larger mutual fund filers? If not, what length of time would be appropriate for compliance? Is our 12-month extension of the compliance period for smaller entities appropriate? If not, what length of time would be appropriate for the extension of the compliance period for smaller entities?

16. To what extent do investors and other users of risk/return summary information find tagged risk/return summary information useful for analytical purposes? Is tagged risk/return summary information that is

[147] *See http://arelle.org/2016/03/08/edgar-update/* (retrieved Sep. 20, 2016).

narrative, rather than numerical, useful as an analytical tool?

17. Are any other amendments necessary or appropriate to require the submission of financial statement and risk/return summary information in Inline XBRL? If so, what are they?

18. Should we eliminate the requirement to post financial statement information in XBRL on corporate filer Web sites, as proposed? Would operating company filers benefit from the elimination of the XBRL Web site posting requirement? To what extent do operating company investors access financial statement information XBRL data on filer Web sites? Would eliminating the requirement impede their efforts to access the information? Why or why not?

19. Should we eliminate the XBRL Web site posting requirement for risk/return summary information, as proposed? Would mutual fund filers benefit from the elimination of the XBRL Web site posting requirement? To what extent do mutual fund investors access risk/return summary XBRL data on mutual fund Web sites? Please provide any related data. Would eliminating the Web site posting requirement impede mutual fund investor efforts to access the information? Why or why not?

20. In what ways might the Commission enhance the access to Inline XBRL data submitted by filers?

21. Should the Commission terminate the 2005 XBRL Voluntary Program, as proposed? Why or why not?

22. Should the Commission consider rulemaking to require other types of information to be submitted in the Inline XBRL format? If so, what other types of information would be suitable for the Inline XBRL format and why? Are there other means of embedding structured data into the human-readable format of filings that we should consider?

C. Potential Economic Effects of the Proposed Amendments

We are mindful of the costs imposed by and the benefits obtained from our rules. Securities Act Section 2(b),[148] Exchange Act Section 3(f)[149] and Investment Company Act Section 2(c)[150] require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. Additionally, Exchange Act Section 23(a)(2) requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition and not to adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.[151]

The proposed amendments aim to increase the efficiency and lower the cost of compliance with the existing XBRL requirements applicable to operating companies and mutual funds through process improvements associated with Inline XBRL, thereby potentially improving the quality of XBRL data available to users. The discussion below addresses the potential economic effects of the proposed amendments, including their likely costs and benefits as well as the likely effects of the proposed amendments on efficiency, competition and capital formation, relative to the economic baseline, which is comprised of XBRL practices in existence today.[152]

At the outset, we note that, where possible, we have attempted to quantify the costs and benefits expected to result from the proposed amendments to the XBRL requirements. However, in some cases we have been unable to quantify the economic effects because we lack the information necessary to provide a reasonable estimate. For example, it is difficult to assess the extent to which the transition to Inline XBRL would result in an initial cost of switching, future savings of XBRL preparation cost and time or potential decreases in the incidence of XBRL data errors. Similarly, it is difficult to quantify the extent to which Inline XBRL would enhance the quality of XBRL data and, if so, whether it would increase XBRL data use. We encourage commenters to provide data that may be relevant for quantifying these impacts.

As operating company filers begin to use Inline XBRL on a voluntary basis pursuant to our recently issued Exemptive Order,[153] we expect to be able to obtain additional information about the effects of Inline XBRL on the quality of XBRL data submitted by filers as well as any reduction in preparation time or costs. We encourage such voluntary filers to provide us information and data from their experiences.

Voluntary transition to Inline XBRL could accelerate the economic effects of Inline XBRL and allow filers that are able to file in Inline XBRL or that rely on service providers that already have or are close to developing Inline XBRL capability to realize the benefits of Inline XBRL sooner. The expertise gained by software vendors and filing agents from a voluntary transition to Inline XBRL may facilitate the transition to Inline XBRL by subsequent adopters. Filer demand for Inline XBRL filing under the voluntary program pursuant to the Exemptive Order may also lead filing agents and software vendors to accelerate the development of Inline XBRL filing solutions and accumulate associated expertise, which could potentially lower initial costs per filer should the proposal for mandatory Inline XBRL filing be adopted.

1. Benefits

We believe that filing information with Inline XBRL has the potential to provide a number of benefits to both filers and users of this information. In particular, we believe that the use of Inline XBRL may reduce the time and effort associated with preparing XBRL filings, simplify the review process for filers, and improve the quality of structured data and, by improving data quality, increase the use of XBRL data by investors, other market participants, and other data users.[154]

Embedding XBRL data in an HTML document rather than tagging a copy of the data to create a separate XBRL exhibit should increase the efficiency and effectiveness of the filing preparation process and, by saving time and effort spent on the filing process, may, over time, reduce the cost of compliance with existing XBRL requirements. Commenters and other sources have noted these potential benefits of Inline XBRL both in the operating company context[155] and in

[148] 15 U.S.C. 77b(b).

[149] 15 U.S.C. 78c(f).

[150] 15 U.S.C. 80a–2(c).

[151] 15 U.S.C. 78w(a)(2).

[152] *See* Section II.B above.

[153] *See* note 58 above.

[154] *See* Letter from CFA Institute (Oct. 6, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-375.pdf*; IAC Recommendations (recommending consideration of the use of Inline XBRL to promote standardization and facilitate recovery of data filed with the Commission); IAC Letter (recommending accelerated development and implementation of Inline XBRL); Letter from California State Teachers' Retirement System (Jul. 21, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-226.pdf* (stating that the development and implementation of technology such as Inline XBRL should be accelerated ''to provide needed information in a format where investors can drill-down and contrast peer information through robust technology''). *See also* notes 155 and 162 below.

[155] *See* XBRL US Letter 1 (stating that ''In-line XBRL would reduce filing costs for US companies because they would be required to file only one document—not two . . . [and] would also eliminate the translation risk companies bear preparing two documents reporting the same information''); XBRL US Letter 2 (stating that the current process of submitting both an HTML and XBRL version of

Continued

the mutual fund context.[156] Inline XBRL eliminates the need to create a separate XBRL instance document, which can reduce the incidence of those re-keying errors that are associated with the presence of separate documents.[157] Inline XBRL also makes it possible for filers or filing agents to view XBRL meta data[158] within the HTML document, which can facilitate the review of XBRL data and better equip filers to detect XBRL errors. Further, filers or filing agents can use tools like the open source Inline XBRL Viewer to review the Interactive Data File and more efficiently filter and identify errors. Thus, by facilitating the preparation and review of XBRL data, Inline XBRL can decrease the overall time and cost required by filers to comply with the existing XBRL requirements.

We expect the benefit of savings in ongoing XBRL preparation and filing costs due to Inline XBRL to be smaller for filers that presently rely on the integrated XBRL preparation approach, which generally involves fewer re-keying issues. To the extent that the integrated XBRL preparation approach is more prevalent among mutual fund filers than operating companies, such filers may realize smaller benefits. However, filers that use the integrated XBRL preparation approach may nonetheless realize incremental time savings and/or efficiencies in the filing process from Inline XBRL.[159] Additionally, those filers that currently choose XBRL tags so that the data looks similar to the HTML document when rendered by software into a human-readable presentation would have less of an incentive to do so because Inline XBRL would embed XBRL tags into the HTML document. This may result in higher-quality tagged data at a lower cost.

While we are currently unable to quantify these potential gains in the effectiveness and efficiency of the filing preparation process and the resulting reductions in the ongoing cost of compliance with the XBRL requirements, we believe that the experience of operating company filers using Inline XBRL under the voluntary program pursuant to the Exemptive Order may help provide useful information and data that will help inform any final decision on the proposed rules.[160] We are also requesting comment on the anticipated effects of adopting Inline XBRL on the efficiency of the XBRL filing process.[161]

The use of Inline XBRL may also improve XBRL data quality.[162] When XBRL is embedded directly into the HTML document, the filer prepares and reviews a single document, rather than separate documents—as is the case with the current reporting requirement—which should enable a reduction in data errors, particularly for those filers that currently use the standalone XBRL preparation approach.[163] Further, filers or filing agents can use review tools like the open source Inline XBRL Viewer to more readily filter and identify errors. To the extent that Inline XBRL technology can reduce the rate of XBRL errors that are not detected by filers with the current XBRL filing practices and technology, Inline XBRL could incrementally improve XBRL data quality and thus potentially benefit data users.[164] Additionally, since Inline XBRL filers would have less of an incentive to create custom XBRL tags solely to mimic the appearance of an HTML filing, Inline XBRL could increase the ability of investors, other market participants, and other data users to compare information across filers for those filers that currently

financial statement information results in companies filing duplicated data and that the burden on reporting entities can be further reduced by leveraging Inline XBRL technology, which combines an HTML and an XBRL file into a single document); XBRL US Letter 3 (stating that ''the disclosure process overall will be further streamlined now that the SEC allows the use of inline XBRL, which eliminates the need to create duplicate versions of the filing''); Letter from XBRL US to Members of the U.S. House of Representatives (Feb. 3, 2016), *available at http://xbrl.us/wp-content/uploads/2016/02/XBRL-US-Letter-to-U-S-House-of-Representatives-2-3-16.pdf* (stating that ''[I]nline XBRL will enable companies to streamline their current process significantly, further reducing the cost of disclosure . . . and would also improve the efficiency and effectiveness of the current SEC reporting program''); Data Coalition Letter 2 (stating that Inline XBRL ''reduces the danger that the registrant will file a correct number in a document but misplace a decimal point or flip a negative sign in the corresponding structured data'' and that Inline XBRL is a ''significant step toward better quality and predictability''); Letter from Pfizer (Dec. 7, 2015), *available at http://www.sec.gov/comments/s7-20-15/s72015-44.pdf* (observing that duplication due to the current requirement that both the HTML and XBRL document be filed is not beneficial to investors or registrants and recommending that the Commission avoid imposing certain of the existing machine-readable filing requirements that result in unnecessary duplication); ABA Letter (referencing ''unnecessary duplication'' in the current data tagging framework). *See also* XBRL White Paper, at 4 (discussing the ease of assessing XBRL tags in an Inline XBRL document); Kamile Asli Basoglu, Clinton E. (Skip) White, Jr. (2015) Inline XBRL versus XBRL for SEC Reporting, *Journal of Emerging Technologies in Accounting,* Volume 12, Issue 1, pp. 189-199 (discussing the technical advantages of Inline XBRL).

[156] While we are not aware of comment letters or data from other sources specifically addressing Inline XBRL in the context of mutual fund risk/return summary information after the adoption of the risk/return summary information XBRL requirements in 2009, we note that, in the context of the 2008 risk/return summary information proposal, one commenter stated that ''XBRL tags can be embedded seamlessly in the body of the official traditional filing—or the entire filing can be formatted in XBRL—so that funds will not have to create and bear potential liability for stand-alone submissions containing only XBRL data taken out of context, or have to grapple with portions of their information being required in 2 or 3 different formats'' and that many of the added costs of the XBRL requirement for risk/return summary information ''stem from the fact that the tagged data will appear in a separately created document, rather than embedded seamlessly into the traditional Related Official Filing.'' The commenter also acknowledged that, at the time, ''there may be technological obstacles to embedded tagging.'' *See* Schnase Letter. Another commenter stated that ''[w]ith respect to the integration of XBRL tagging with HTML, this technology has not yet been fully developed and it would be premature to propose such.'' *See* Letter from Data Communiqué (Jul. 31, 2008), *available at http://www.sec.gov/comments/s7-12-08/s71208-11.pdf.* As discussed above, we believe that current XBRL embedding technology now is sufficiently developed to propose requiring its use in submitting information to the Commission.

[157] *See* Section III.A above.

[158] Such meta data include, for example, definitions, reporting period information, data type and related references.

[159] Software vendors and filing agents that currently use the integrated XBRL preparation approach, combining the processes of creating interactive data tags and an HTML document, cannot presently take full advantage of the resulting efficiency because of current requirements. At present, filing agents and/or filers that use integrated XBRL solutions must expend the effort, albeit minimal, to split out the interactive data and save it to a separate instance document for filing.

[160] We recognize that the experience of operating companies that elect to file in Inline XBRL pursuant to the Exemptive Order may not be fully representative of all operating company filers or of mutual fund filers.

[161] *See* Section III.C.5 below.

[162] *See* Columbia White Paper, at 42 and footnote 48 (arguing that one way to help improve the quality of XBRL data, as well as to make the data more useful and accessible to users, is ''for issuers to move to 'Inline XBRL' which ensures that XBRL and HTML data are the same, and which can ease the preparation burden for filers''). *See also* IAC Recommendations (suggesting that the use of Inline XBRL be considered as one of the means to promote standardization and facilitate recovery of data by investors).

[163] *See* note 83 above.

[164] Existing format requirements for Interactive Data Files include the element accuracy requirement, which provides that each data element (*i.e.,* all text, line item names, monetary values, percentages, numbers, dates and other labels) contained in the Interactive Data File must reflect the same information in the corresponding data in the Related Official Filing. *See* Rule 405(c)(1)(i) of Regulation S–T.

We also note that the incremental effects of Inline XBRL on the reduction in XBRL errors would be smaller if other initiatives result in a reduction in XBRL data errors. For example, the XBRL US Data Quality Committee has published validation rules to help public companies detect inconsistencies or errors in their XBRL-formatted financial data, such as incorrect negative values, improper relationships between elements and incorrect dates associated with certain data. *See http://xbrl.us/data-quality/rules-guidance/. See also* XBRL US Letter 3 (stating that the ''XBRL US Data Quality Committee is developing a Framework for Element Selection and Extension Use to help issuers make decisions that will improve the consistency of reported data''). *See also* note 80 above.

engage in such tagging practices.[165] Due to greater standardization of presentation of mutual fund risk/return summary XBRL information, we do not expect the latter benefit of Inline XBRL to extend to mutual fund risk/return summaries.

To the extent that Inline XBRL might improve data quality, it may contribute to wider use of XBRL data by investors, other market participants, and other data users and may enhance the benefits that are associated with XBRL more generally for filers that presently submit interactive data using the XBRL format. In the 2009 Financial Statement Information Adopting Release, the Commission stated that requiring filers to submit their financial statement information in XBRL would enable investors, analysts and the Commission staff to capture and analyze that information more quickly and at a lower cost; enable investors and others to search and analyze the financial information dynamically; and facilitate comparison of financial and business performance across filers, reporting periods and industries.[166] The 2009 Financial Statement Information Adopting Release also referenced potential gains in the efficiency of capital formation and allocation, suggesting that, if interactive data, through increased availability or reduced cost of collecting and analyzing corporate financial data, were to reduce the information barriers faced by investors, which make it costly for companies to find appropriate sources of finance, it would lower the cost of capital and increase the efficiency of capital formation, particularly for smaller public companies.[167] Similarly, in the 2009 Risk/Return Summary Adopting Release, we noted that requiring mutual funds to file their risk/return summary information using the interactive data format would enable investors, third-party information providers and the Commission staff to capture and analyze that information more quickly and at a lower cost than is possible using the same information provided in a static format, facilitate comparisons of mutual fund costs, performance and other information across classes of securities and across funds and help investors make more well-informed investment decisions.[168] Thus, to the extent that Inline XBRL contributes to an increase in XBRL data quality and XBRL data use by investors, other market participants, and other data users, it could potentially increase the informational efficiency of prices and the efficiency of capital formation and allocation and potentially decrease the cost of capital.

Based on our experience with XBRL so far, we believe that the XBRL requirements are providing these benefits,[169] including to smaller filers. The realization of these benefits of XBRL is conditional on the quality and use of interactive data. Thus, to the extent that Inline XBRL results in an improvement in XBRL data quality and in increased use of XBRL data, we expect that these benefits would be enhanced. We note, however, that because the proposed Inline XBRL requirements would not modify the scope and substance of existing XBRL requirements or the categories of filers subject to the requirements, both the improvement in data quality due to Inline XBRL and the associated economic benefits that are incremental to Inline XBRL likely would be smaller than the benefits of the XBRL requirements more generally. To the extent that risk/return summary XBRL data might be associated with fewer data quality issues, the data quality benefits incremental to Inline XBRL might be smaller for risk/return summary information than for financial statement information.

While we lack the ability to quantify the incremental contribution of Inline XBRL to potential increases in the use of XBRL data and the broader benefits of XBRL, we anticipate that the contribution would depend on several factors, including the extent of XBRL data quality improvements following the transition to Inline XBRL, changes in the extent of reliance by investors, other market participants, and other data users on XBRL data and technological innovation in XBRL preparation and analytics solutions.

[165] *See* notes 84, 85 and 93 and accompanying text above. Inline XBRL filers may still use custom tags to represent certain company-specific data.

[166] *See* 2009 Financial Statement Information Adopting Release, at 6777.

[167] *See* 2009 Financial Statement Information Adopting Release, at 6807–6808.

[168] *See* 2009 Risk/Return Summary Adopting Release, at 7766–7768.

[169] For academic research on the benefits of XBRL, *see, e.g.,* Yi Dong, Oliver Zhen Li, Yupeng Lin, and Chenkai Ni (2016) Does information processing cost affect firm-specific information acquisition? Evidence from XBRL adoption, *Journal of Financial and Quantitative Analysis,* Volume 51, Issue 2, pp. 435–462; Chunhui Liu, Tawei Wang, and Lee J. Yao (2014) XBRL's impact on analyst forecast behavior: An empirical study, *Journal of Accounting and Public Policy,* Volume 33, Issue 1, pp. 69–82; Kosal Ly (2012) Extensible Business Reporting Language for Financial Reporting (XBRL–FR) and financial analysts' activity: early evidence, *Academy of Accounting and Financial Studies Journal,* Volume 16, Issue 2, pp. 25–44; Yu Cong, Jia Hao, and Lin Zou (2014) The impact of XBRL reporting on market efficiency, *Journal of Information Systems,* Volume 28, Issue 2, pp. 181–207; Lizhong Hao and Mark J. Kohlbeck (2013) The market impact of mandatory interactive data: Evidence from bank regulatory XBRL filings, *Journal of Emerging Technologies in Accounting,* Volume 10, Issue 1, pp. 41–62; Ariel Markelevich, Tracey Riley, and Lewis Shaw (2015) Towards harmonizing reporting standards and communication of international financial information: The status and the role of IFRS and XBRL, *Journal of Knowledge Globalization* Volume 8, Issue 2; Elizabeth Blankespoor (2012) The impact of investor information processing costs on firm disclosure choice: evidence from the XBRL mandate, working paper, *available at http://fisher.osu.edu/supplements/10/11702/Job%20Market%20Paper_Blakespoor_12-4-11(2).pdf* (retrieved Aug. 30, 2016); Jeff Zeyun Chen, Hyun A. Hong, Jeong-Bon Kim, and Ji Woo Ryou (2016) Information processing costs and corporate tax aggressiveness: Evidence from the SEC's XBRL mandate, working paper, *available at http://ssrn.com/abstract_id=2754427* (retrieved Aug. 30, 2016) (relating the reduction in information processing costs associated with XBRL to a decrease in tax avoidance). *But see* Elizabeth Blankespoor, Brian P. Miller, and Hal White (2014) Initial evidence on the market impact of the XBRL mandate, *Review of Accounting Studies,* Volume 19, Issue 4, pp. 1468–1503. *See also* Singh (discussing the benefits of structured disclosure for filers, investors, and other data users; stating that ''costs (or savings) and benefits realized are largely dependent on how financial executives view XBRL mandates: narrowly, as a simple compliance requirement, or more broadly, as a business reporting supply chain standardization opportunity to streamline and cost effectively enhance a broad range of compliance processes . . . SMEs [small and medium-sized enterprises] should balance the cost of tagging against the cost of capital. XBRL filings make the financial information of SMEs more accessible to investors and lead to a reduction in the cost of capital'') and Arif Perdana, Alastair Robb, and Fiona Rohde (2015) An integrative review and synthesis of XBRL research in academic journals, *Journal of Information Systems,* Volume 29, Issue 1, pp. 115–153 (surveying academic research on XBRL).

Several commenters also have addressed the benefits of XBRL. *See, e.g.,* XBRL US Letter 3 (stating that ''[t]he benefits of standardized financials for companies—regardless of size—are significant in terms of faster delivery of comparable data to market and greater usability,'' and ''[d]ata providers can process XBRL-formatted data much more quickly and inexpensively than traditional data types''); Data Coalition Letter 2 (stating that ''[f]or structured data to be most effective for regulators and investors, it is important to have a complete data set for all reporting entities''); Letter from Merrill Corporation (Jul. 19, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-153.pdf* (stating that the tagging requirement should be the same for all registrants); Letter from New York State Society of CPAs (Jul. 19, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-150.pdf* (stating that, if any companies are exempt from using XBRL, their reports would not be readily comparable to other reports, thereby leading investors to assign a greater risk profile to these companies); Letter from Morningstar (Jul. 20, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-179.pdf;* Letter from CFA Institute (Mar. 2, 2016), *available at http://www.sec.gov/comments/s7-20-15/s72015-50.pdf* (stating that the expanded use of XBRL is an opportunity to leverage data, enhance analysis, and facilitate company comparisons); Letter from AFSCME (Jul. 21, 2016), *available at http://www.sec.gov/comments/s7-06-16/s70616-269.pdf* (stating that ''data-tagging facilitates more accurate, less costly extraction and use of information, creating more usable disclosure'').

Inline XBRL also could enhance how users view XBRL data related to Commission disclosures. With Inline XBRL, the EDGAR system would enable users to view information about the reported XBRL data embedded in Inline XBRL filings on the Commission's Web site, using any recent standard Internet browser, without the need to access a separate document. With this feature, when a user views a filing submitted with Inline XBRL on EDGAR, the user would be able to see tags and the related meta data while viewing the HTML filing. The software enabling this feature has been made freely available in an effort to facilitate the creation of cost effective Inline XBRL viewers and analytical products.[170] The aggregate benefit to data users associated with Inline XBRL would depend on the current level of XBRL data use,[171] the potential increase in XBRL data use following the transition to Inline XBRL and the data quality gains associated with Inline XBRL.

The proposed elimination of the Web site posting requirement is expected to yield cost savings. For purposes of the Paperwork Reduction Act, we estimate that the elimination of the Web site posting requirement would result in the average reduction in the annual internal burden of approximately four hours per filer for operating companies and approximately one hour per filing for mutual funds.[172]

2. Costs

The proposed requirement to adopt Inline XBRL would result in costs for filers, XBRL preparation software vendors, filing agents and data users.

a. Filers

We expect that changes to the XBRL requirements would affect filers.[173] The proposed Inline XBRL requirements could result in an initial increase in compliance costs for filers associated with the transition to Inline XBRL technology. Filers could switch to Inline XBRL either by using Inline XBRL enabled preparation software that they develop or license or by obtaining Inline XBRL preparation services from a third-party service provider (filing agent). Filers that prepare XBRL filings in-house would need to replace or update their XBRL preparation software with versions that include Inline XBRL features and capabilities. Filers that rely on filing agents for XBRL preparation may also incur an incremental cost of Inline XBRL upgrades (to the extent that the cost incurred by filing agents is passed on to filers).[174] Filers also may incur an internal cost to train their personnel to use Inline XBRL and to comply with the Inline XBRL requirements.

Filers that use software that is already enabled for Inline XBRL or that can readily be modified to accommodate the Inline XBRL format and filers that use filing agents that use such software, are expected to incur a minimal initial cost.[175] We expect the cost to be lower for filers and filing agents that presently rely on integrated XBRL filing solutions, which can more easily accommodate the use of Inline XBRL. With such software solutions, filing in Inline XBRL could require only a very minor adjustment to the filing process, similar to choosing the format in which the file would be saved out of several available formats. Due to greater reliance of mutual fund filers on integrated XBRL filing solutions and a higher level of automation of the XBRL preparation process, we expect the majority of mutual fund filers to incur a minimal initial economic cost of adopting Inline XBRL.[176] Although we recognize the likelihood of somewhat greater initial costs being incurred by filers that do not use such software or such filing agents, we believe that, as a general matter, the initial economic cost due to the transition to Inline XBRL technology would be small. In particular, we expect this to be the case because the rules we are proposing today do not modify the substance of the XBRL requirements, and thus, do not affect the process of selecting tags from the taxonomy for the required disclosures (the disclosure mapping process that precedes the creation of the XBRL submission and accounts for the overwhelming majority of the XBRL preparation time and cost). The creation of the Inline XBRL document would occur after the mapping of company disclosures to the taxonomy is completed and would consist largely of a software function, which could include a broad range of file formats (*e.g.,* HTML, PDF, XBRL, Inline XBRL, etc.).

Filers that currently prepare the Related Official Filing in the ASCII format may incur additional costs unless they already have switched to HTML to comply with the amendments adopted in the Hyperlinks Adopting Release. In particular, those filers would need to switch to the HTML format because Inline XBRL cannot be used with ASCII filings. We expect that the majority of filers would not be affected by this change.[177] We do not expect the costs of switching to HTML to be significant given that the cost of software with built-in HTML features is minimal, although we recognize that any fixed costs would have a greater effect on smaller entities. Overall, given the minimal costs involved, we expect that this requirement would not have significant competitive effects for filers.

While we expect that filers would continue to incur ongoing costs of compliance with the XBRL requirements,[178] we do not expect these ongoing costs to increase due to Inline XBRL. Overall, for most filers, we anticipate that the transition to Inline XBRL might, over time, somewhat reduce the ongoing cost of compliance with the XBRL requirements due to the removal of the requirement to create a separate instance document.

We note that some filers may incur an increased burden if their filings contain a major technical error in the XBRL data. In particular, currently, when there is a major technical error with XBRL data submitted in an exhibit, the EDGAR validation system causes the exhibit to be removed from the submission, but the submission as a whole is not suspended.[179] With Inline XBRL, the EDGAR validation system would suspend an Inline XBRL filing that contains a major technical error in embedded XBRL data, which would require the filing to be revised before it could be accepted by EDGAR. Based on staff observations, very few XBRL exhibits are suspended, in part, because filers and filing agents routinely use tools the Commission makes available to submit test filings to help identify and correct technical errors prior to EDGAR filing. Similar tools to submit test filings would be available to Inline XBRL filers. Because we expect that Inline XBRL filers would utilize available tools to submit test filings to identify and correct any technical errors prior to

[170] *See http://www.sec.gov/structureddata/edgarvalandrender.*

[171] *See* note 78 above.

[172] *See* Section V.B.1 below.

[173] *See* Section II.B.1 above for estimates of the number of filers.

[174] We expect this cost to be lower if there is more competition among filing agents and software vendors that offer Inline XBRL capabilities.

[175] *See* note 95 above.

[176] *See* Section II.B.1 above.

[177] *See* note 36 above. Smaller filers are more likely to file in ASCII, based on staff analysis of EDGAR filings by operating company filers.

[178] *See* 2009 Financial Statement Information Adopting Release, at 6800–6802, 6804–6806; 2009 Risk/Return Summary Adopting Release, at 7763–7766, 7768–7770.

[179] During filing and validation, the EDGAR Renderer creates error and warning messages when issues with the XBRL data are identified. Certain errors would result in the XBRL exhibits being ''stripped'' from a filing, although the rest of the filing is accepted in EDGAR. For information about the effect of error and warning messages displayed during EDGAR filing, see Question A.3 of OSD FAQs.

EDGAR filing, we believe that such suspensions should be similarly rare for Inline XBRL filers.

Since Inline XBRL would involve embedding tags into the filing itself and since most funds already use integrated XBRL preparation solutions, as discussed above, we propose to eliminate the 15 business day filing period and require that risk/return summary information in XBRL be submitted on or before the date the registration statement or post-effective amendment to it under Rule 485 containing the related information becomes effective. We also propose to eliminate the 15 business day filing period currently provided to mutual funds to file the required XBRL exhibit after the filing of the related form of prospectus under Rule 497(c) or (e). The increased timeliness of the availability of risk/return summary information from such filings in the XBRL format is expected to benefit investors, other market participants, and other data users by reducing the time required to obtain risk/return summary information in a structured format that can facilitate analysis and comparisons across funds.

At the same time, we recognize that more timely availability of free risk/return summary information in XBRL may reduce demand for some subscription products and services of mutual fund data aggregators, to the extent that their value added is reduced by the timely availability of free XBRL information. We further recognize that eliminating the 15-day period would eliminate the flexibility with respect to the timing of the preparation and review of XBRL data that is presently afforded to mutual fund filers, most of which currently submit XBRL data after the post-effective amendment or form of prospectus to which it relates, and potentially increase ongoing XBRL compliance costs for mutual fund filers and their filing agents (that may pass these costs on to filers). We lack data to quantify the anticipated cost increase, but expect that any such increase would be partially mitigated by the relatively high degree of integration and automation in mutual fund XBRL preparation, the technological improvements in XBRL preparation since the effectiveness of the 2009 requirements, and the efficiencies due to embedding tags into the filing. However, we solicit comment from filers, filing agents, and data users on the anticipated economic costs and benefits of this proposed change.

For post-effective amendments to registration statements under Rule 485(b)(1)(i), (ii), (v), or (vii),[180] we propose to permit filers to submit XBRL concurrently with the filing. The proposed change would eliminate the requirement to make a second filing that solely contains the required XBRL exhibit for such post-effective amendments. The proposed change would enable filers to fully realize efficiency gains in XBRL preparation due to embedding XBRL into the filing and potentially decrease overall preparation and filing costs associated with the submission of a second post-effective amendment.

We do not anticipate any change in filer costs relative to the baseline with respect to officer certifications or auditor assurance.[181]

The termination of the 2005 XBRL Voluntary Program could potentially adversely affect participating filers, to the extent that they presently benefit from the availability of their financial statement information in XBRL. The effects on participating filers would likely be mitigated by the cost savings from no longer preparing and submitting interactive data. Given close to zero participation in the program, we expect the aggregate economic effects of terminating the program on filers to be negligible.

b. XBRL Preparation Software Vendors and Filing Agents

Changes to the XBRL format may affect XBRL preparation software vendors and filing agents.[182] XBRL preparation software vendors and filing agents that adopt Inline XBRL technology may have to expend resources to upgrade or replace software to accommodate the Inline XBRL format and may also have to train staff in the Inline XBRL technology and compliance requirements. These additional costs may be relatively greater for software vendors and filing agents that do not already use Inline XBRL enabled software or software that can be readily upgraded to enable Inline XBRL submissions or processing.[183] Some of the initial cost of switching to Inline XBRL could be mitigated by the availability of the royalty-free Inline XBRL specification and transformation registry, which defines how the values of facts that appear in HTML documents are converted to the required data types for XBRL.[184] Because Inline XBRL already is used in several other countries for various regulatory purposes, it is also possible that the transition costs associated with adopting Inline XBRL for Commission filings may be lower for some software vendors or filing agents to the extent that the expertise gained from Inline XBRL filings in other jurisdictions can be used to facilitate the transition of Commission filings to Inline XBRL.[185] We note that some of these costs may be passed on to filers.

Requiring the use of Inline XBRL may also have effects on competition in the market for XBRL preparation and filing services. Initially, XBRL preparation software vendors and filing agents that do not currently have or cannot readily implement Inline XBRL capabilities would be at a competitive disadvantage

[180] As discussed above, in our experience, filings under Rule 485(b)(1)(i), (ii), (v), or (vii) and Rule 497(c) or (e) generally are not subject to revision after filing. The remaining filings containing risk/return summary information, including registration statements on Form N–1A and post-effective amendments under Rule 485(a) and other paragraphs of Rule 485(b) may be subject to revision after filing and prior to effectiveness.

[181] Currently, the financial statement information Interactive Data File is excluded from the officer certification requirements under Rules 13a–14(f) and 15d–14(f) of the Exchange Act [17 CFR 240.13a–14 and 240.15d–14]. Furthermore, auditors are not required to apply AS 2710 (*Other Information in Documents Containing Audited Financial Statements*), AS 4101 (*Responsibilities Regarding Filings Under Federal Securities Statutes*), or AS 4105 (*Reviews of Interim Financial Information*) (prior to December 31, 2016, AU Sections 550, 711 and 722, respectively) to the Interactive Data File submitted with a company's reports or registration statements. In addition, filers are not required to obtain assurance on their Interactive Data File or involve third parties, such as auditors or consultants, in the creation of their Interactive Data File. *See* 2009 Financial Statement Information Adopting Release, at 6796–6797. However, the Commission has previously stated that XBRL is part of an issuer's disclosure controls and procedures. *See* 2009 Financial Statement Information Adopting Release, at 6797. As our proposal to require the submission of interactive data in the Inline XBRL format relates only to the manner of submitting the Interactive Data File and not the data that comprises the file, at this time we do not propose to change these positions pertaining to the exclusion of the Interactive Data File from the officer certification and assurance requirements.

Risk/return summary information Interactive Data File requirements do not require mutual funds to involve third parties, such as auditors or consultants, in the creation of the interactive data provided as an exhibit to a mutual fund's Form N–1A filing, including assurance. With respect to registration statements, SAS 37 (currently AS 4101) was issued in April 1981 to address the auditor's responsibilities in connection with filings under the federal securities statutes. With respect to existing risk/return summary information Interactive Data File requirements, an auditor is not required to apply AS 4101 to the Interactive Data File. *See* 2009 Risk/Return Summary Adopting Release, at 7760–7761 and footnote 183.

[182] *See, e.g.,* FERF Study for a discussion of XBRL preparation vendors.

[183] *See* note 95 above.

[184] *See* note 89 above.

[185] *See, e.g.,* XBRL White Paper at 9 (indicating that, in the UK context, Inline XBRL is an established and growing means of reporting in XBRL, with a large number of software vendors providing applications for preparing or processing Inline XBRL reports and a range of accounting firms having strong experience in its use). *See also* note 94 above.

relative to XBRL preparation software vendors and filing agents that currently have these capabilities. The fixed component of the initial cost of any software upgrades and training could contribute to a relative competitive disadvantage for smaller software vendors and filing agents with fewer customers compared to larger software vendors and filing agents. Additionally, to the extent that software vendors and filing agents that have experience with Inline XBRL in other jurisdictions can implement the Inline XBRL capability for Commission filings at a lower cost, these vendors and filing agents would be at a relative competitive advantage to software vendors and filing agents without such experience. We note that the phase-in periods associated with the rule could give software vendors and filing agents additional time to develop and update software, which could potentially mitigate some of these competitive effects. Ultimately, the net effect on competition is unclear but is expected to evolve over time, depending on the speed and cost of switching to Inline XBRL by XBRL preparation software vendors and filing agents and the rate of entry, if any, of new software vendors and filing agents that can readily implement Inline XBRL.

The termination of the 2005 XBRL Voluntary Program could potentially adversely affect filing agents and software vendors, to the extent that participating filers use their XBRL preparation services or products. Given close to zero participation in the program, however, we expect the aggregate economic effects of terminating the program on filing agents and software vendors to be negligible.

c. Data Users

With the transition to Inline XBRL, data users, such as investors, analysts, other market participants, filers, data aggregators, and others, may incur costs to modify their software or algorithms to be able to extract the XBRL data.[186] We believe, however, that such costs would be minimal because the proposed amendments do not affect the taxonomy or the scope of the information required to be tagged. Additionally, the software enabling users to view information about the reported XBRL data contained in embedded tags and to extract XBRL data has been made freely available to the public in an effort to facilitate the creation of cost effective Inline XBRL viewers and analytical products.[187] The availability of this open-source software should decrease potential costs for data users.

While the Inline XBRL document may be smaller than the combined size of the separate XBRL instance and HTML documents, the Inline XBRL document may be larger than a standalone XBRL instance document or HTML document, which may slightly increase processing times for some data users that previously only processed either HTML documents or XBRL instance documents. Thus, depending on how data users currently access XBRL data,[188] some users may be affected by the increase in the size of files with XBRL data, such as through increased processing times, after the transition to Inline XBRL. However, in light of the advanced state of existing computing technology and internet connectivity speeds, we do not expect this effect to be a significant limitation for most users.

The elimination of the Web site posting requirement could impose costs on some data users by reducing their access to XBRL data about individual filers. However, industry commenters have observed very limited use of financial statement information XBRL data from corporate Web sites.[189] Based on our experience, we believe that data users can efficiently and reliably access XBRL data through EDGAR for purposes of aggregation and processing. Thus, we do not expect data users to incur significant costs from the elimination of the requirement to post the XBRL data on the Web site. We have not received comments or data from other sources regarding the incidence of use of XBRL data posted on mutual fund Web sites. We solicit comment below on this issue.[190]

The termination of the 2005 XBRL Voluntary Program could potentially adversely affect data users, to the extent that they presently benefit from the availability of participating filers' financial statement information in XBRL. The aggregate economic effects on data users, however, would likely be negligible given close to zero participation in the program.

3. Compliance Dates

The proposed amendments include a phase-in schedule for the mandatory use of Inline XBRL for financial statement information and risk/return summary information. Thus, the costs and benefits of Inline XBRL would be deferred for some categories of filers.

To the extent that the initial cost of adopting Inline XBRL has a fixed component that is independent of filer size, it would have a relatively greater effect on smaller filers. In light of this, under the phase-in schedules we are proposing, smaller filers would be given additional time to adopt Inline XBRL, which would defer the initial cost for small filers and partly mitigate the associated competitive effects. We further anticipate that late adopters would incur a lower switching cost in absolute terms than early adopters.[191] In particular, as time elapses after the initial group of filers adopts Inline XBRL, we expect XBRL filing agents and XBRL preparation software vendors to accumulate Inline XBRL expertise and refine technological solutions offered to filers. Furthermore, if the market for Inline XBRL preparation services and software becomes more competitive over time, the switching cost incurred by subsequent filers may be reduced.

As discussed above, the proposed amendments would permit filers to use Inline XBRL prior to the compliance date for their respective category. A high rate of such early transition to Inline XBRL would accelerate the economic impact of Inline XBRL.

Until all filers adopt Inline XBRL, data users would have to maintain the capability to extract data in both the Inline XBRL and the traditional XBRL formats, which may be incrementally costlier than using a single format (*e.g.,* if all filers were required to use Inline XBRL at the same time and if early switching to Inline XBRL were not allowed). Given the very limited scope of modifications to the XBRL data extraction algorithm that data users are likely to incur from switching to Inline XBRL and the public availability of open-source tools to facilitate Inline XBRL data use, we expect this potential cost to be minimal.

4. Alternatives

One alternative would be to require Inline XBRL for all filers as of the same date. Faster transition to Inline XBRL on

[186] For example, XBRL extraction algorithms may need to be adjusted to download files from a different URL, to use different filenames, and to parse XBRL information from a different file format.

[187] *See http://www.sec.gov/structureddata/edgarvalandrender* and *http://arelle.org/download/*.

[188] Currently, EDGAR users may extract machine-readable XBRL information from the ZIP archive with the XBRL exhibits submitted by the filer, from a separate XML document with XBRL data, or from the combined ''complete submission file'' (which contains the contents of the EDGAR header, all HTML and XBRL data submitted by the filer, and HTML and other files produced by EDGAR Rendering). *See also* note 67 above.

[189] *See* note 144 above.

[190] *See* Sections III.B.5 and III.C.5.

[191] *See also* 2009 Financial Statement Information Adopting Release, at 6785 (discussing the effects on early versus late adopters).

a wide scale could accelerate the realization of efficiency and data quality gains and shorten the time period during which data users would need to maintain the capability to process XBRL data in both formats. However, compared to the proposed amendments, this alternative would accelerate initial compliance costs for smaller filers.

As another alternative, we could apply a different phase-in schedule for operating company or mutual fund filers, based on filer status, size [192] or other criteria. The tradeoff between the costs and benefits of an alternative phase-in schedule would depend on the number of affected filers, the net effect of Inline XBRL on the cost of compliance with XBRL requirements and on the quality of XBRL data for different categories of affected filers, the timing of the phase-in and the number of early adopters.

Inline XBRL requirements for financial statement information would apply to all operating company filers, including SRCs,[193] EGCs,[194] and FPIs,[195] that currently are required to submit financial statement information in XBRL. Similarly, Inline XBRL requirements for risk/return summary information would apply to all mutual fund filers that currently are required to submit risk/return summary information in XBRL.

As an alternative, we could exempt one or more of these categories of filers from the Inline XBRL requirement or create a new category of exempt filers (based on assets, revenues or other criteria). To the extent that some filers that are currently subject to XBRL requirements would not be required to adopt Inline XBRL under these alternatives, the alternatives would likely result in smaller economic costs and benefits compared to the amendments we are proposing today.

Compared to the proposed amendments, the alternative of exempting smaller filers from the Inline XBRL requirements rather than deferring their compliance date would place those smaller filers that do not have the Inline XBRL capability at a smaller competitive disadvantage to larger filers, to the extent that smaller filers are more likely to be affected by the initial fixed cost of switching to Inline XBRL. However, compared to the proposed amendments, the alternative of exempting such filers from submitting their financial information in Inline XBRL could undermine the data quality benefits expected from Inline XBRL and diminish the ability of investors, analysts and the Commission to evaluate the information submitted by the exempted filers.[196]

Additionally, compared to the proposed amendments, the alternative of exempting FPIs from the Inline XBRL requirements could place those filers at a relative competitive advantage to domestic filers, particularly, smaller domestic filers, to the extent that exempt filers would not incur the cost of switching to Inline XBRL. It also would deprive investors and users of structured data of the associated benefits of Inline XBRL.

The proposed amendments would eliminate the existing 15 business day filing period for mutual funds to submit risk/return summary information in XBRL after the effectiveness of the registration statement or post-effective amendment or the filing of a form of prospectus pursuant to Rule 497(c) or (e). The proposed amendments also would permit mutual fund filers to submit Interactive Data Files concurrently with post-effective amendments to registration statements filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of Rule 485. As an alternative, we could preserve the 15 business day filing period after the effective date of the post-effective amendments but allow filers to submit XBRL concurrently with the filing of these post-effective amendments. Under such an alternative, some funds could avail themselves of the efficiencies in XBRL preparation afforded by the embedding of XBRL data directly into the filing and eliminate an additional post-effective amendment containing only the XBRL exhibit, while other funds that benefit from the flexibility and the additional time to prepare and review XBRL data would continue to be able to take advantage of the 15 business day filing period. However, given the high degree of automation and integration in existing mutual fund XBRL preparation practices, the cost savings for filers (and filing agents, which may pass these cost savings onto filers) under this alternative compared to the proposed amendments would likely be small. Importantly, under this alternative, data users would not be able to derive the same benefit of improved timeliness of the availability of XBRL data that they would under the proposed amendments.

As another alternative, we could adopt a different filing period after the effective date of the registration statement or post-effective amendment to it under Rule 485 or the filing date of the form of prospectus under Rule 497, such as 1 day, 5 days, 10 days, 20 days, or 30 days. Similar to the discussion above, such alternatives would present a tradeoff between the flexibility accorded to filers by way of a longer filing period and the timeliness of the availability of risk/return summary information in XBRL to data users.

As another alternative, we could require filers to submit Interactive Data Files concurrently with any mutual fund filing containing a risk/return summary, including initial registration statements or post-effective amendments under other paragraphs of Rule 485. Under such an alternative, in the event of revisions to the registration statement or post-effective amendment prior to effectiveness, filers would need to revise and review the associated XBRL data multiple times, resulting in potentially higher XBRL preparation costs. Such an alternative may also result in the availability of XBRL information for registration statements and post-effective amendments that have not been declared effective, which may introduce investor confusion.

The proposed Inline XBRL amendments would be mandatory. An alternative would be to allow but not require the use of Inline XBRL. Compared to the proposed amendments, a fully voluntary Inline XBRL program would lower costs for those filers and filing agents that do not find Inline XBRL to be cost efficient. However, a voluntary program would also reduce potential data quality benefits compared to mandatory Inline XBRL to the extent that Inline XBRL use would be more widespread under a mandatory rule than a voluntary one. It also would potentially impose an incremental cost on data users associated with maintaining indefinitely the capability

[192] For example, the XBRL requirements for financial statement information adopted in 2009 initially applied to domestic and foreign large accelerated U.S. GAAP filers with a worldwide public common equity float above $5 billion as of the end of the second fiscal quarter of their most recently completed fiscal year, beginning with their first quarterly report on Form 10–Q, or annual report on Form 20–F or Form 40–F, that contained financial statements for fiscal periods ending on or after June 15, 2009. *See* 2009 Financial Statement Information Adopting Release, at 6781–6782 and Rule 405(f)(1).

[193] Based on staff analysis of EDGAR filings, we estimate that SRCs filed approximately 3,000 Forms 10–K, excluding amendments and co-registrants, during calendar year 2015. *See* note 59 above.

[194] Based on staff analysis of EDGAR filings, we estimate that approximately 1,600 filers have identified themselves as EGCs in filings with the Commission during calendar year 2015. The estimate excludes EGCs that did not identify themselves as EGCs in filings made during that year. *See* note 59 above.

[195] Based on staff analysis of EDGAR filings, we estimate that there were approximately 800 filers of Forms 20–F and 40–F during calendar year 2015. The estimate excludes FPIs that filed only domestic forms. *See* note 59 above.

[196] *See* note 140 above.

to process data in the XBRL and Inline XBRL formats.

5. Request for Comment

We request comment on all aspects of our economic analysis, including the potential costs and benefits of the proposed amendments and whether the rules, if adopted, would promote efficiency, competition and capital formation or have an impact on investor protection. In particular, we invite filers, software vendors, filing agents, data users, government agencies and other commenters that have experience with Inline XBRL to provide information on the costs and benefits of adopting and implementing Inline XBRL for different categories of XBRL filers and data users. Commenters are requested to provide empirical data, estimation methodologies and other factual support for their views, in particular, on the estimates of costs and benefits. Our specific questions follow below.

23. Would Inline XBRL requirements affect data quality and the use of XBRL data by investors, other market participants, and other data users? Please explain.

24. What are the likely effects of changes to XBRL data quality due to Inline XBRL on the availability of information about filers and informational efficiency? What are the likely effects of Inline XBRL, if any, on capital formation?

25. How would Inline XBRL affect the efficiency of the XBRL filing process for different categories of filers, relative to the current XBRL requirements?

26. What are the likely effects of the proposed Inline XBRL requirements on the cost of compliance with XBRL requirements for different categories of filers, relative to the current XBRL requirements? What would be the initial cost to filers, if any, to switch to using Inline XBRL? Would this cost be likely to affect competition among filers? What would be the ongoing cost, if any, of using Inline XBRL as compared to the ongoing cost of the current XBRL requirements?

27. What cost, if any, would ASCII filers incur from switching to HTML?

28. What are the likely cost savings for filers from the elimination of the Web site posting requirement?

29. For filing agents and software vendors that do not currently have the Inline XBRL capability, what would be the cost to switch to Inline XBRL and how would it affect the price of XBRL preparation services or software? How would the proposed Inline XBRL requirements affect competition in the market for XBRL preparation services and XBRL preparation and analysis software?

30. Does XBRL preparation for mutual funds differ from the XBRL preparation practices of operating companies? Are most funds using integrated XBRL preparation solutions? Does the use of risk/return summary XBRL data differ from the use of financial statement information XBRL data?

31. How would the economic effects of the proposed Inline XBRL requirements for mutual fund risk/return summary information differ from the economic effects of the Inline XBRL requirements for financial statement information?

32. What would the impact of the proposed elimination of the 15 business day period for the submission of risk/return summary information in XBRL be on filers, filing agents, and data users?

33. What other economic effects are likely to be associated with the proposed Inline XBRL requirements?

V. Paperwork Reduction Act

A. Background

The proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[197] They would amend the collections of information ''Interactive Data'' (OMB Control No. 3235–0645) and ''Mutual Fund Interactive Data'' (OMB Control No. 3235–0642). These collections of information require filers to submit specified information to the Commission as an exhibit to their current and periodic reports and registration statements and post it on their Web sites, if any, in interactive data format. The information required is referred to as an ''Interactive Data File.'' The proposed amendments would require filers, on a phased in basis, to embed part of the Interactive Data File within an HTML document using Inline XBRL and include the rest in an exhibit to that document. The amendments also would eliminate the Web site posting requirement. Compliance with the amendments would be mandatory according to the phase-in schedule but filers that have not yet been phased in could comply voluntarily. Responses to the collections of information would not be kept confidential by the Commission and there is no mandatory retention period for the collections of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid Office of Management and Budget (''OMB'') control number.

B. Reporting and Cost Burden Estimates

1. Registration Statement and Periodic Reporting

Form S–1 (OMB Control No. 3235–0065), Form S–3 (OMB Control No. 3235–0073), Form S–4 (OMB Control No. 3235–0324) and Form S–11 (OMB Control No. 3235–0067) prescribe information that a filer must disclose to register certain offers and sales of securities under the Securities Act. Form F–1 (OMB Control No. 3235–0258), Form F–3 (OMB Control No. 3235–0256), Form F–4 (OMB Control No. 3235–0325) and Form F–10 (OMB Control No. 3235–0380) prescribe information that a foreign private issuer must disclose to register certain offers and sales of securities under the Securities Act. Form 10–K (OMB Control No. 3235–0063) prescribes information that a filer must disclose annually to the market about its business. Form 10–Q (OMB Control No. 3235–0070) prescribes information that a filer must disclose quarterly to the market about its business. Form 10 (OMB No. 3235–0064) prescribes information that a filer must disclose when registering a class of securities pursuant to the Exchange Act. Form 8–K (OMB No. 3235–0060) prescribes information an issuer must disclose to the market upon the occurrence of certain specified events and enables an issuer to disclose other information voluntarily. Form 20–F (OMB Control No. 3235–0288) and Form 40–F (OMB No. 3235–0381) are used by a foreign private issuer both to register a class of securities under the Exchange Act as well as to provide its annual report required under the Exchange Act. Form 6–K (OMB No. 3235–0116) prescribes information that a foreign private issuer must disclose regarding certain specified changes to its business and securities pursuant to the Exchange Act and enables an issuer to disclose other information voluntarily. The information required by the Interactive Data collection of information corresponds to specified financial information required by these forms.

Form N–1A (OMB Control No. 3235–0307) is used by mutual funds to register under the Investment Company Act and to offer their securities under the Securities Act. The information required by the Mutual Fund Interactive Data collection of information corresponds to specified risk/return summary information now required by Form N–1A and is required to appear in exhibits to registration statements on

[197] 44 U.S.C. 3501 *et seq.*

Form N–1A and Rule 497 submissions and on fund Web sites. Although the Mutual Fund Interactive Data filing requirements are included in Form N–1A, the Commission has separately reflected the burden for these requirements in the burden estimate for Mutual Fund Interactive Data and not in the burden for Form N–1A.

We estimate that the proposed Inline XBRL requirement for financial statement information would result in an initial increase in the existing internal burden of XBRL requirements (56 hours per response) by eight hours to switch to Inline XBRL. This increase in burden would be borne only for the initial response that uses Inline XBRL. We further estimate that reductions in review time would result in a decrease of two hours per response in the existing internal burden, beginning with the initial response and continuing on an ongoing basis.[198] We also estimate that the average filer would incur a small increase in external cost of $5 per response (from $6,170 to $6,175) on an ongoing basis, beginning in the first year of compliance for its phase-in category. Based on the number of filers that we expect to be phased in during each of the first three years under the requirements,[199] the number of filings that we expect those filers to make that would require interactive data[200] and the internal burden hour and external cost estimates per response discussed above, we estimate that, over the first three years of the Inline XBRL requirements, switching to the Inline XBRL format would decrease the aggregate average yearly burden of financial statement information XBRL requirements by 20,900 hours of in-house personnel time[201] and increase the aggregate average yearly cost of services of outside professionals by $109,663.[202]

The elimination of the Web site posting requirement also is expected to reduce the paperwork burden. We previously estimated that operating companies would incur an average of approximately four burden hours per filer per year to post interactive data to their Web sites. Based on our estimate of 8,601 filers, we estimate that the elimination of the Web site posting requirement would decrease the aggregate average yearly burden on operating company filers by 34,404 hours.[203]

We previously estimated the aggregate average yearly burden of the existing XBRL requirements for operating companies as 2,167,480 hours of in-house personnel time[204] and $238,809,850 in the cost of services of outside professionals.[205] We estimate that in the first three years under the proposed amendments, the aggregate average yearly burden of XBRL requirements for operating companies would be 2,112,176 hours of in-house personnel time[206] and $238,919,513 in the cost of services of outside professionals, which represents a decrease of 55,304 hours of in-house personnel time[207] and an increase of $109,663 in the cost of services of outside professionals[208] or a decrease of 6.43 hours of in-house personnel time per filer[209] and an increase of $12.75 in the cost of services of outside professionals per filer.[210]

With respect to mutual fund risk/return summaries, we previously estimated that each mutual fund would submit one Interactive Data File as an exhibit to a registration statement or a post-effective amendment thereto, and that 36% of mutual funds would submit an additional Interactive Data File as an exhibit to a filing pursuant to Rule 485(b) or Rule 497. We also previously estimated that tagging and submitting mutual fund risk/return data in XBRL format requires 11 hours per response and posting interactive data to the fund Web site requires one additional hour per response. In addition, we previously estimated an external cost burden of $890 for the cost of goods and services purchased to comply with the current Interactive Data requirements, such as for software and/or the services of consultants and filing agents. The cost burden does not include the cost of the hour burden described above.

We estimate that the proposed Inline XBRL requirement for mutual fund risk/return summary information would result in an initial increase in internal burden by two hours to switch to Inline XBRL. This increase in burden would be borne only for the initial response that uses Inline XBRL. We further estimate that there would be a reduction in review time that would result in a decrease in internal burden of approximately 0.5 hours per response, beginning with the initial response and

[198] Thus, for the initial response using Inline XBRL, we estimate that filers would experience a net increase in hour burden of 6 hours (8 hours − 2 hours = 6 hours).

[199] Based on staff analysis of Form 10–K filings during calendar year 2015, approximately 26% were filed by large accelerated filers and approximately 18% by accelerated filers. For purposes of this estimate, we assume that these percentages are representative of the percentages of filers in different phase-in categories.

[200] We estimate that in order to comply with the Interactive Data collection requirements, approximately 8,601 respondents per year would each submit an average of approximately 4.5 responses per year for an estimated total of 38,705 responses.

[201] The first response is estimated to incur a net additional burden of six hours per response and the remaining responses are estimated to incur a net decrease in burden of two hours per response. The calculation below considers the aggregate average yearly change in internal burden incurred by each of the three categories of filers during the first three years of the proposed Inline XBRL requirements. Filers that are phased in during year two are assumed to incur no change in burden during year one. Filers that are phased in during year three are assumed to incur no change in burden during years one and two.

Filers phased in during year one: 8,601 x 26%. Average yearly change in internal burden per filer: $[6 + (3.5 + 4.5 + 4.5) \times (-2)]/3 = -6.33$ hours. Aggregate average yearly change in internal burden for filers phased in during year one: $8{,}601 \times 26\% \times (-6.33 \text{ hours}) = -14{,}156$ hours.

Filers phased in during year two: $8{,}601 \times 18\%$. Average yearly change in internal burden per filer: $[0 + 6 + (3.5 + 4.5) \times (-2)]/3 = -3.33$ hours. Aggregate average yearly change in internal burden for filers phased in during year two: $8{,}601 \times 18\% \times (-3.33 \text{ hours}) = -5{,}155$ hours.

Filers phased in during year three: $8{,}601 \times 56\%$. Average yearly change in internal burden per filer: $[0 + 0 + 6 + 3.5 \times (-2)]/3 = -0.33$ hours. Aggregate average yearly change in internal burden for filers phased in during year three: $8{,}601 \times 56\% \times (-0.33 \text{ hours}) = -1{,}589$ hours.

Aggregate average yearly change in internal burden: $-14{,}156 - 5{,}155 - 1{,}589 = -20{,}900$ hours.

[202] Filers are estimated to incur an additional $5 per response beginning with the first year of compliance for their phase-in category. The calculation below considers the aggregate average yearly change in external cost incurred by each of the three categories of filers during the first three years after the effectiveness of the proposed Inline XBRL requirements. Filers that are phased in during year two are assumed to incur no change in external cost during year one. Filers that are phased in during year three are assumed to incur no change in external cost during years one and two.

Filers phased in during year one: $8{,}601 \times 26\%$. Average yearly change in external cost per filer: $[\$5 \times 3 \times 4.5]/3 = \$22.5$. Aggregate average yearly change in external cost for filers phased in during year one: $8{,}601 \times 26\% \times \$22.5 = \$50{,}316$.

Filers phased in during year two: 8,601 x 18%. Average yearly change in external cost per filer: $[\$0 + \$5 \times 2 \times 4.5]/3 = \$15$. Aggregate average yearly change in external cost for filers phased in during year two: $8{,}601 \times 18\% \times \$15 = \$23{,}223$.

Filers phased in during year three: 8,601 x 56%. Average yearly change in external cost per filer: $[\$0 + \$0 + \$5 \times 4.5]/3 = \$7.5$ Aggregate average yearly change in external cost for filers phased in during year three: $8{,}601 \times 56\% \times \$7.5 = \$36{,}124$.

Aggregate average yearly change in external cost: $\$50{,}316 + \$23{,}223 + \$36{,}124 = \$109{,}663$.

[203] $8{,}601 \times (-4) = -34{,}404$ hours.

[204] $8{,}601 \times 4.5 = 38{,}705$ responses. 38,705 responses × 56 hours per response = 2,167,480 hours.

[205] $8{,}601 \times 4.5 = 38{,}705$ responses. 38,705 responses × $6,170 per response = $238,809,850.

[206] 2,167,480 − 55,304 = 2,112,176 hours. *See* note 204 above and note 207 below.

[207] −20,900 − 34,404 = −55,304 hours. *See* notes 201 and 203 above.

[208] $238,809,850 + $109,663 = $238,919,513. *See* notes 202 and 205 above.

[209] −55,304 hours/8,601 filers = −6.43 hours per filer. *See* note 207 above.

[210] $109,663/8,601 filers = $12.75 per filer. *See* note 202 above.

continuing on an ongoing basis.[211] Considering the phase-in of the requirement would occur over a two-year period and examining the impact on the aggregate average yearly burden of different filer categories,[212] we estimate that the aggregate average yearly internal burden of risk/return summary information XBRL requirements would increase by 1,538 hours of in-house personnel time,[213] based on the estimate of 11,106 mutual funds.[214] We also estimate that the average mutual fund would incur an increase in software costs of $10 per mutual fund on an ongoing annual basis, beginning in the first year of compliance for its phase-in category with the proposed Inline XBRL requirement. Based on the estimate of 11,106 mutual funds,[215] we estimate that the proposed Inline XBRL requirement would result in an increase of $86,281 in the aggregate average yearly cost of services of outside professionals.[216]

In addition, the elimination of the Web site posting requirement is expected to reduce the paperwork burden. We previously estimated that mutual funds incur an average of approximately one burden hour per response to post interactive data to their Web sites, in addition to the burden of tagging and submitting interactive data to the Commission. Based on our estimate of 15,104 responses, we estimate that the elimination of the web posting requirement would decrease the aggregate average yearly burden on mutual funds by 15,104 hours of in-house personnel time.[217]

We previously estimated that the existing XBRL requirements require mutual funds to expend 172,320 hours of in-house personnel time and $9,397,510 in the cost of services of outside professionals, based on the estimate of 10,559 funds.[218] Based on the estimate of 11,106 funds, the existing XBRL requirements for mutual funds would require 181,248 hours of in-house personnel time[219] and $9,884,340 in the cost of services of outside professionals.[220] We estimate that in the first three years of the Inline XBRL requirements, based on the estimate of 11,106 funds, the use of Inline XBRL and the elimination of the Web site posting requirement would change the aggregate average yearly burden of XBRL requirements for mutual funds to 167,682 hours of in-house personnel time[221] and $9,970,621 in the cost of services of outside professionals,[222] which would represent a decrease of 13,566 hours of in-house personnel time[223] and an increase of $86,281 in the cost of services of outside professionals[224] or a decrease of 1.22 hours of in-house personnel time per fund[225] and an increase of $7.77 in the cost of services of outside professionals per fund.[226]

We are submitting these revised burden estimates to OMB for review in accordance with the PRA and its implementing regulations at this time.[227]

2. Regulation S–K and Regulation S–T

Regulation S–K (OMB Control No. 3235–0071) specifies information that must be provided in filings under both the Securities Act and the Exchange Act. Regulation S–T (OMB Control No. 3235–0424) specifies the requirements that govern the electronic submission of documents. The proposed amendments to these items would revise rules under Regulations S–K and S–T. Any changes in the paperwork burden arising from these amendments, however, would be reflected in the Interactive Data collection of information and the Mutual Fund Interactive Data collection of information. The rules in Regulations S–K and S–T do not impose any separate burden. We assign one burden hour each to Regulations S–K and S–T for administrative convenience to reflect the fact that these regulations do not impose any direct burden on filers.[228]

C. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission solicits comments to: (1) Evaluate whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the collection of information; (3) determine whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) evaluate whether there are ways to minimize the burden of the collection of information on those who are required

[211] Thus, for the initial response using Inline XBRL, we estimate that mutual funds would experience a net increase in hour burden of 1.5 hours (2.0 hours − 0.5 hours = 1.5 hours).

[212] *See* note 132 above and accompanying text. Based on staff analysis of data obtained from Morningstar Direct, as of June 2016, we estimate that a $1 billion asset threshold for groups of related investment companies would provide an extended compliance period to approximately 2/3, or approximately 67%, of all mutual funds affected by the proposed Inline XBRL requirement (*i.e.,* approximately 7,441 of 11,106 affected mutual funds).

[213] *See id; see also* note 60 above and accompanying text. The calculation below considers the aggregate average yearly change in burden incurred by each of the two categories of funds during the first three years of the proposed Inline XBRL requirements. Funds that are phased in during year two are assumed to incur no change in burden in year one.

Funds phased in during year one: 33% × 11,106 funds = 3,665 funds. Aggregate average yearly change in internal burden for funds phased in during year one: 3,665 funds × {[1.5 + (0.36 + 1.36 + 1.36) × (−0.5)]/3} hours per fund = −49 hours.

Funds phased in during year two: 67% × 11,106 funds = 7,441 funds. Aggregate average yearly change in internal burden for funds phased in during year two: 7,441 funds × {[0 + 1.5 + (0.36 + 1.36) × (−0.5)]/3} hours per fund = 1,587 hours.

Aggregate average yearly change in burden: −49 + 1,587 = 1,538 hours.

[214] *See* note 60 above and accompanying text.

[215] *Id.*

[216] Funds are estimated to incur an additional $10 per year beginning with the first year of compliance for their phase-in category. The calculation below considers the aggregate average yearly change in external cost incurred by each of the two categories of funds during the first three years of the proposed Inline XBRL requirements. Funds that are phased in during the second year are assumed to incur no change in external cost in the first year after the effectiveness of the proposed Inline XBRL requirements.

Funds phased in during year one: 33% × 11,106 funds = 3,665 funds. Average yearly change in external cost per fund: [$10 + $10 + $10]/3 = $10 per fund. Aggregate average yearly change in external cost for all funds phased in during year one: 3,665 funds × $10 per fund = $36,650.

Funds phased in during year two: 67% × 11,106 funds = 7,441 funds. Average yearly change in external cost per fund: [$0 + $10 + $10]/3 = $6.67 per fund. Aggregate average yearly change in external cost for all funds phased in during year two: 7,441 funds × $6.67 per fund = $49,631.

Aggregate average yearly change in external cost: $36,650 + $49,631 = $86,281.

[217] 11,106 funds × 1.36 responses = 15,104 responses. 15,104 responses × (−1) hour = −15,104 hours.

[218] Currently, approved burden estimates include 11 hours per response to comply with the tagging and submission of XBRL data, one hour per response to comply with the Web site posting requirement, and $890 per fund in the cost of services of outside professionals.

10,559 funds × 1.36 responses per fund = 14,360 responses. 14,360 responses × (11 + 1) hours per response = 172,320 hours.

10,559 funds × $890 per fund = $9,397,510.

[219] 11,106 funds × 1.36 responses per fund = 15,104 responses. 15,104 responses × (11 + 1) hours per response = 181,248 hours.

[220] 11,106 funds × $890 per fund = $9,884,340.

[221] 181,248 − 13,566 = 167,682 hours. *See* notes 219 above and 223 below.

[222] $9,884,340 + $86,281 = $9,970,621. *See* notes 216 and 220 above.

[223] 1,538 − 15,104 = −13,566 hours. *See* notes 213 and 217 above.

[224] *See* note 216 above.

[225] −13,566 hours/11,106 funds = −1.22 hours per fund. *See* note 223 above.

[226] $86,281/11,106 funds = $7.77 per fund. *See* note 216 above.

[227] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[228] For purposes of the PRA, we estimate that no funds participate in the 2005 XBRL Voluntary Program each year. This information collection, therefore, imposes no hour burden. The proposed termination of the program would therefore not result in changes in burden, except the elimination of one hour associated with this information collection for administrative purposes.

to respond, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090, with reference to File No. S7–03–17. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–03–17, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is assured of having its full effect if OMB receives it within 30 days of publication.

V. Initial Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (''RFA'') [229] requires the Commission, in promulgating rules under Section 553 of the Administrative Procedure Act,[230] to consider the impact of those rules on small entities. The Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with Section 603 of the RFA.[231] This IRFA relates to the proposed amendments to Item 601 of Regulation S–K, Rules 11, 201, 202, 401 and 405 of Regulation S–T, Rules 144, 485 and 497 under the Securities Act, Forms S–3, S–8, F–3 and F–10 under the Securities Act, Forms 10–Q, 10–K, 20–F, 40–F and 6–K under the Exchange Act and Form N–1A under the Investment Company Act.

A. Reasons for, and Objectives of, the Action

The primary reason for, and objective of, the proposed amendments is to improve the usefulness and quality of, and, over time, to decrease the cost of preparing for submission, certain information filers are required to submit to the Commission in interactive data form.

B. Legal Basis

We are proposing the amendments under Sections 7, 10, and 19(a) of the Securities Act,[232] Sections 3, 12, 13, 15(d), 23(a), and 35A of the Exchange Act,[233] and Sections 8, 24, 30, and 38 of the Investment Company Act.[234]

C. Small Entities Subject to the Proposed Amendments

For purposes of the RFA, under our rules, an entity, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year.[235] We estimate that there are approximately 841 [236] filers other than investment companies that may be considered small entities and are required to file reports with the Commission under the Exchange Act. All of these filers would become subject to the proposed rules by the end of the phase-in.

In addition, for purposes of the RFA, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[237] We estimate that approximately 78 mutual funds registered on Form N–1A meet this definition.[238]

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

All filers subject to the proposed amendments currently are required to file an Interactive Data File entirely as an exhibit to their Commission filings. Under the proposed amendments, these filers would be required to embed part of the Interactive Data File within an HTML document using Inline XBRL and include the rest in an exhibit to that document. The proposed requirement to adopt Inline XBRL might result in a minimal initial switching cost for filers but, as discussed in Section III.C.1 above, overall, for most filers, we anticipate that the use of Inline XBRL might, over time, reduce the ongoing cost of compliance with the XBRL requirements due to the removal of the requirement to include the entire Interactive Data File within an exhibit. We also expect that the proposed elimination of the requirement to post the Interactive Data File on filers' Web sites would reduce their compliance costs.

The proposed Inline XBRL requirement is expected to result in an initial cost of transition for filers when the requirement is implemented. Filer costs may include obtaining Inline XBRL preparation software or service capabilities from their own or third-party sources. Filers that already use their own or third-party Inline XBRL enabled filing solutions or filing solutions that can readily be modified to accommodate the Inline XBRL format are expected to incur a minimal initial cost.[239] Although we recognize the likelihood of somewhat greater initial costs being incurred by filers that do not use such filing solutions, we believe that the initial cost to transition to Inline XBRL for those filers would still be small. In particular, we expect the cost to be minimal because the rules we are proposing today consist primarily of an electronic format change. The proposed amendments do not modify the substance of the XBRL requirements, and thus, do not affect the disclosure mapping process that precedes the creation of the XBRL submission and accounts for the overwhelming majority of the XBRL preparation burden.

Filers that currently prepare the Related Official Filing in the ASCII format would incur additional costs unless they already have switched to HTML to comply with the amendments adopted in the Hyperlinks Adopting Release. In particular, those filers would need to switch to the HTML format because Inline XBRL cannot be used with ASCII filings. Although this may impose a cost on some filers, we expect that the majority of filers would not be affected by this change.[240] We acknowledge that the burden may be disproportionate for smaller entities. However, even if there is a disproportionate impact, we do not expect the costs of switching to HTML to be significant because the software tools to prepare and file documents in HTML are widely used and available at a minimal cost.

E. Duplicative, Overlapping or Conflicting Federal Rules

The Commission believes that there are no federal rules that duplicate, overlap or conflict with the proposed amendments.

[229] 5 U.S.C. 601 *et seq.*

[230] 5 U.S.C. 553.

[231] 5 U.S.C. 603.

[232] 15 U.S.C. 77g, 77j, and 77s(a).

[233] 15 U.S.C. 78c, 78*l*, 78m, 78o(d), 78w(a), and 78*ll*.

[234] 15 U.S.C. 80a–8, 80a–24, 80a–29, and 80a–37.

[235] 17 CFR 240.0–10(a).

[236] The estimate is based on staff analysis of XBRL data submitted with EDGAR filings of Forms 10–K, 20–F and 40–F with fiscal periods ending between January 31, 2015–January 31, 2016.

[237] 17 CFR 270.0–10.

[238] This estimate is based on staff analysis of publicly available data as of December 2015.

[239] *See* note 95 above.

[240] *See* note 36 above.

F. Significant Alternatives

The RFA directs us to consider significant alternatives that would accomplish the stated objectives of our amendments, while minimizing any significant adverse impact on small entities. Specifically, we considered the following alternatives: (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 for small entities under the rule; (3) using performance rather than design standards; and (4) exempting small entities from coverage of all or part of the proposed amendments.

The proposed amendments include different compliance schedules based on filer size and use of accounting principles. Small entities would not be subject to the proposed requirements until year three of the phase-in (for operating companies) and until year two (for mutual funds). This different compliance timetable would enable these filers to defer the burden of any additional cost, learn from filers that comply earlier and take advantage of any increases in the quality or decreases in the price of Inline XBRL preparation services or software that arise from expertise or competition that develops prior to their phase-in.

The elimination of the Web site posting requirement would consolidate and simplify the compliance and reporting requirements for all companies with respect to their interactive data. We do not believe that further clarification, consolidation, or simplification for small entities would be appropriate because we believe a phased in mandatory conversion to Inline XBRL is necessary to realize the data quality benefits of Inline XBRL.

We are not proposing a partial or complete exemption from the proposed requirements or the use of performance rather than design standards because we believe that long-term uniformity in interactive data submissions facilitates automated analysis across filers and that the use of Inline XBRL may reduce the time and effort required to prepare XBRL filings, simplify the review process for filers, improve the quality of structured data and, by improving data quality, increase the use of XBRL data by investors, other market participants, and other data users. We also note that the proposed amendments to eliminate the Web site posting requirement are expected to decrease the burden on all filers, including small entities.

We solicit comment, however, on whether additional differing compliance, reporting or timetable requirements; further clarification, consolidation, or simplification; a partial or complete exemption; or the use of performance rather than design standards would be consistent with our stated objective to improve the usefulness and quality of, and to decrease the cost of preparing for submission, the information that filers are required to submit to the Commission in interactive data form.

G. General Request for Comment

We encourage comments with respect to any aspect of this initial regulatory flexibility analysis. In particular, we request comments regarding:

- The number of small entities that may be affected by the proposed amendments;
- The existence or nature of the potential impact of the proposed amendments on small entities discussed in the analysis; and
- How to quantify the impact of the proposed amendments.

Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposals are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

VI. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) [241] the Commission must advise the OMB as to whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

If a rule is ''major'', its effectiveness will generally be delayed for 60 days pending Congressional review.

We request comment on whether our proposed amendments would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on

- The potential annual effect on the economy;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

We request those submitting comments to provide empirical data and other factual support for their views to the extent possible.

VII. Statutory Basis and Text of Proposed Rule and Form Amendments

The amendments contained in this document are being proposed under the authority set forth in Sections 7, 10, and 19(a) of the Securities Act, Sections 3, 12, 13, 15(d), 23(a), and 35A of the Exchange Act and Sections 8, 24, 30, and 38 of the Investment Company Act.

List of Subjects

17 CFR Part 229

Reporting and recordkeeping requirements, Securities.

17 CFR Part 230

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Reporting and recordkeeping requirements, Securities.

17 CFR Parts 239 and 249

Reporting and recordkeeping requirements, Securities.

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons stated in the preamble, the Commission is proposing to amend title 17, chapter II of the Code of the Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78o, 78u–5, 78w, 78*ll,* 78 mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309; and Sec. 84001, Pub. L. 114–94, 129 Stat.1312.

■ 2. Amend § 229.601 by revising paragraph (b)(101) to read as follows:

[241] 5 U.S.C. 801 *et seq.*

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) * * *

(101) *Interactive Data File.* Where a registrant prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, an Interactive Data File (§ 232.11 of this chapter) is:

(i) *Required to be submitted.* Required to be submitted to the Commission in the manner provided by § 232.405 of this chapter if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 to 210.6–10.), except that an Interactive Data File:

(A) First is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable;

(B) Is required for a registration statement under the Securities Act only if the registration statement contains a price or price range; and

(C) Is required for a Form 8–K (§ 249.308 of this chapter) only when the Form 8–K contains audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle, and, in such case, the Interactive Data File would be required only as to such revised financial statements regardless whether the Form 8–K contains other financial statements.

(ii) *Permitted to be submitted.* Permitted to be submitted to the Commission in the manner provided by § 232.405 of this chapter if the:

(A) Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 to 210.6–10.); and

(B) Interactive Data File is not required to be submitted to the Commission under paragraph (b)(101)(i) of this section.

Instruction to paragraphs (b)(101)(i) and (ii): When an Interactive Data File is submitted as provided by § 232.405(a)(3)(i) of this chapter, the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

(iii) *Not permitted to be submitted.* Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 to 210.6–10).

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 3. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 4. Amend § 230.144 by revising paragraph (c)(1)(ii) and paragraphs 1.b and 2 of Note to § 230.144(c) to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(c) * * *

(1) * * *

(ii) Submitted electronically every Interactive Data File (§ 232.11 of this chapter) required to be submitted pursuant to § 232.405 of this chapter, during the 12 months preceding such sale (or for such shorter period that the issuer was required to submit such files); or

* * * * *

Note to § 230.144(c):

* * * * *

1. * * *

b. Submitted electronically every Interactive Data File (§ 232.11 of this chapter) required to be submitted pursuant to § 232.405 of this chapter, during the preceding 12 months (or for such shorter period that the issuer was required to submit such files); or

2. A written statement from the issuer that it has complied with such reporting or submission requirements.

* * * * *

■ 5. Amend § 230.485 by revising paragraph (c)(3) to read as follows:

§ 230.485 Effective date of post–effective amendments filed by certain registered investment companies.

* * * * *

(c) * * *

(3) A registrant's ability to file a post–effective amendment, other than an amendment filed solely for purposes of submitting an Interactive Data File, under paragraph (b) of this section is automatically suspended if a registrant fails to submit any Interactive Data File as required by General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter). A suspension under this paragraph (c)(3) shall become effective at such time as the registrant fails to submit an Interactive Data File as required by General Instruction C.3.(g) of Form N–1A. Any such suspension, so long as it is in effect, shall apply to any post–effective amendment that is filed after the suspension becomes effective, but shall not apply to any post–effective amendment that was filed before the suspension became effective. Any suspension shall apply only to the ability to file a post–effective amendment pursuant to paragraph (b) of this section and shall not otherwise affect any post–effective amendment. Any suspension under this paragraph (c)(3) shall terminate as soon as a registrant has submitted the Interactive Data File as required by General Instruction C.3.(g) of Form N–1A.

* * * * *

■ 6. Amend § 230.497 by revising the last sentence of paragraphs (c) and (e) to read as follows:

§ 230.497 Filing of investment company prospectuses—number of copies.

* * * * *

(c) * * * Investment companies filing on Form N–1A must, if applicable pursuant to General Instruction C.3.(g) of Form N–1A, submit an Interactive Data File (§ 232.11 of this chapter).

* * * * *

(e) * * * Investment companies filing on Form N–1A must, if applicable pursuant to General Instruction C.3.(g) of Form N–1A, submit an Interactive Data File (§ 232.11 of this chapter).

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 7. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 8. Amend § 232.11 by revising the definition of ''Interactive Data File'', removing the definition of ''Promptly'' and revising the definition of ''Related Official Filing'' to read as follows:

§ 232.11 232.11 Definition of terms used in part 232.

* * * * *

Interactive Data File. The term *Interactive Data File* means the

machine-readable computer code that presents information in eXtensible Business Reporting Language (XBRL) electronic format pursuant to § 232.405 and as specified by the EDGAR Filer Manual. When a filing is submitted using Inline XBRL as provided by § 232.405(a)(3), a portion of the Interactive Data File is embedded into a form with the remainder submitted as an exhibit to the form.

* * * * *

Related Official Filing. The term *Related Official Filing* means the ASCII or HTML format part of the official filing with which all or part of an Interactive Data File appears as an exhibit or, in the case of a filing on Form N–1A (§§ 239.15A and 274.11A of this chapter), the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

* * * * *

■ 9. Amend § 232.201 by revising Note 1 to paragraph (b), paragraph (c) and Note to paragraph (c) to read as follows:

§ 232.201 Temporary hardship exemption.

* * * * *

Note 1 to paragraph (b): Failure to submit the confirming electronic copy of a paper filing made in reliance on the temporary hardship exemption, as required in paragraph (b) of this section, will result in ineligibility to use Forms S–3, S–8, F–3 and SF–3 (*see* §§ 239.13, 239.16b 239.33 and 239.45 of this chapter, respectively), restrict incorporation by reference into an electronic filing of the document submitted in paper (*see* § 232.303), and toll certain time periods associated with tender offers (*see* § 240.13e–4(f)(12) of this chapter and § 240.14e–1(e) of this chapter).

* * * * *

(c) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an Interactive Data File (§ 232.11) as required pursuant to § 232.405, the electronic filer still can timely satisfy the requirement to submit the Interactive Data File in the following manner:

(1) Substitute for the Interactive Data File a document that sets forth the following legend:

IN ACCORDANCE WITH THE TEMPORARY HARDSHIP EXEMPTION PROVIDED BY RULE 201 OF REGULATION S–T, THE DATE BY WHICH THE INTERACTIVE DATA FILE IS REQUIRED TO BE SUBMITTED HAS BEEN EXTENDED BY SIX BUSINESS DAYS; and

(2) Submit the required Interactive Data File no later than six business days after the Interactive Data File originally was required to be submitted.

Note to paragraph (c): Electronic filers unable to submit the Interactive Data File under the circumstances specified by paragraph (c) of this section, must comply with the provisions of this section and cannot use Form 12b–25 (§ 249.322 of this chapter) as a notification of late filing. Failure to submit the Interactive Data File as required by the end of the six-business-day period specified by paragraph (c) of this section will result in ineligibility to use Forms S–3, S–8 and F–3 (§§ 239.13, 239.16b, and 239.33 of this chapter, respectively) and constitute a failure to have filed all required reports for purposes of the current public information requirements of § 230.144(c)(1) of this chapter.

* * * * *

■ 10. Amend § 232.202 by:

■ a. Revising the introductory text of paragraph (a);

■ b. Revising paragraphs (a)(2), (b)(2), (b)(3), (c)(1) and (c)(2);

■ c. Removing paragraph (c)(3); and

■ d. Revising paragraphs (d)(1) and (d)(2) and Notes 3 and 4 to § 232.202.

The revisions read as follows:

§ 232.202 Continuing hardship exemption.

(a) An electronic filer may apply in writing for a continuing hardship exemption if all or part of a filing, group of filings or submission, other than a Form ID (§§ 239.63, 249.446, 269.7, and 274.402 of this chapter), a Form D (§ 239.500 of this chapter), or an Asset Data File (§ 232.11), otherwise to be filed or submitted in electronic format cannot be so filed or submitted, as applicable, without undue burden or expense. Such written application shall be made at least ten business days before the required due date of the filing(s) or submission(s) or the proposed filing or submission date, as appropriate, or within such shorter period as may be permitted. The written application shall contain the information set forth in paragraph (b) of this section.

* * * * *

(2) If the Commission, or the staff acting pursuant to delegated authority, denies the application for a continuing hardship exemption, the electronic filer shall file or submit the required document or Interactive Data File in electronic format, as applicable, on the required due date or the proposed filing or submission date, or such other date as may be permitted.

* * * * *

(b) * * *

(2) The burden and expense involved to employ alternative means to make the electronic submission; and/or

(3) The reasons for not submitting electronically the document, group of documents or Interactive Data File, as well as the justification for the requested time period.

(c) * * *

(1) Electronic filing of a document or group of documents, not electronic submission of an Interactive Data File, then the electronic filer shall submit the document or group of documents for which the continuing hardship exemption is granted in paper format on the required due date specified in the applicable form, rule or regulation, or the proposed filing date, as appropriate and the following legend shall be placed in capital letters at the top of the cover page of the paper format document(s):

IN ACCORDANCE WITH RULE 202 OF REGULATION S–T, THIS (specify document) IS BEING FILED IN PAPER PURSUANT TO A CONTINUING HARDSHIP EXEMPTION.

(2) Electronic submission of an Interactive Data File, then the electronic filer shall substitute for the Interactive Data File a document that sets forth one of the following legends, as appropriate:

* * * * *

(d) * * *

(1) Electronic filing of a document or group of documents, not electronic submission of an Interactive Data File, then the grant may be conditioned upon the filing of the document or group of documents that is the subject of the exemption in electronic format upon the expiration of the period for which the exemption is granted. The electronic format version shall contain the following statement in capital letters at the top of the first page of the document:

THIS DOCUMENT IS A COPY OF THE (specify document) FILED ON (date) PURSUANT TO A RULE 202(d) CONTINUING HARDSHIP EXEMPTION.

(2) Electronic submission of an Interactive Data File, then the grant may be conditioned upon the electronic submission of the Interactive Data File that is the subject of the exemption upon the expiration of the period for which the exemption is granted.

* * * * *

Note 3 to § 232.202: Failure to submit a required confirming electronic copy of a paper filing made in reliance on a continuing hardship exemption granted pursuant to paragraph (d) of this section will result in ineligibility to use Forms S–3, S–8 and F–3 (*see,* §§ 239.13, 239.16b and 239.33 of this chapter, respectively), restrict incorporation by reference into an electronic filing of the document submitted in paper (*see* § 232.303), and toll certain time periods associated with tender offers (*see* § 240.13e–4(f)(12) of this chapter and § 240.14e–1(e) of this chapter).

Note 4 to § 232.202: Failure to submit the Interactive Data File as required by § 232.405 by the end of the continuing hardship

exemption if granted for a limited period of time, will result in ineligibility to use Forms S–3, S–8, and F–3 (§§ 239.13, 239.16b and 239.33 of this chapter, respectively), constitute a failure to have filed all required reports for purposes of the current public information requirements of § 230.144(c)(1) of this chapter, and, pursuant to § 230.485(c)(3) of this chapter, suspend the ability to file post-effective amendments under § 230.485 of this chapter.

§ 232.401 [Removed and reserved].

■ 11. Remove and reserve § 232.401.
■ 12. Amend § 232.405 by:
■ a. Revising the section heading;
■ b. Removing ''Preliminary Note 1'' and ''Preliminary Note 2'' and adding introductory text;
■ c. Removing Preliminary Note 3;
■ d. Revising the heading of paragraph (a);
■ e. Revising paragraphs (a)(1) and (a)(2);
■ f. Removing paragraph (a)(4) and redesignating paragraph (a)(3) as new paragraph (a)(4);
■ g. Adding new paragraph (a)(3);
■ h. Revising newly redesignated paragraph (a)(4);
■ i. Revising the introductory text of paragraphs (d) and (e);
■ j. Revising paragraph (f);
■ k. Removing paragraph (g); and
■ l. Revising Note to § 232.405.

The revisions and addition read as follows:

§ 232.405 Interactive Data File submissions.

Section 405 of Regulation S–T (§ 232.405) applies to electronic filers that submit Interactive Data Files. Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), and paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), and General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter) specify when electronic filers are required to submit an Interactive Data File (§ 232.11), as further described in the Note to § 232.405. Section 405 imposes content, format and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§ 232.11).

(a) *Content, format and submission requirements—General.* * * *

(1) Comply with the content, format and submission requirements of this section;

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), or General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), as applicable;

(3) Be submitted using Inline XBRL,

(i) If the electronic filer is not an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) and is not within one of the categories specified in paragraph (f) of this section, as partly embedded into a form with the remainder simultaneously submitted as an exhibit to:

(A) A form that contains the disclosure required by this section; or

(B) An amendment to a form that contains the disclosure required by this section if the amendment is filed no more than 30 days after the earlier of the due date or filing date of the form and the Interactive Data File is the first Interactive Data File the electronic filer submits; or

(ii) If the electronic filer is an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) and is not within one of the categories specified in paragraph (f) of this section, as partly embedded into a form with the remainder simultaneously submitted as an exhibit to a form that contains the disclosure required by this section; and

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), or General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter).

* * * * *

(d) *Format—Footnotes—Generally.* The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of footnotes to financial statements must comply with the requirements of paragraphs (c)(1) and (c)(2) of this section, as modified by this paragraph (d). Footnotes to financial statements must be tagged as follows:

* * * * *

(e) *Format—Schedules—Generally.* The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of financial statement schedules as set forth in Article 12 of Regulation S–X (17 CFR 210.12–01 to 210.12–29) must comply with the requirements of paragraphs (c)(1) and (c)(2) of this section, as modified by this paragraph (e). Financial statement schedules as set forth in Article 12 of Regulation S–X (17 CFR 210.12–01 to 210.12–29) must be tagged as follows:

* * * * *

(f) *Format—Phase-in for Inline XBRL submissions.*

(1) The following electronic filers may choose to submit an Interactive Data File:

(i) In the manner specified in paragraph (f)(2)(i) or (ii) of this section rather than as specified by paragraph (a)(3)(i) of this section: any electronic filer that is not an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) if it is:

(A) A large accelerated filer (§ 240.12b–2 of this chapter) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after [one year after the final rule is effective];

(B) An accelerated filer (§ 240.12b–2 of this chapter) that prepares its financial statements in accordance with generally accepted accounting principles as used in the United States and none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after [two years after the final rule is effective]; and

(C) A filer not specified in paragraph (f)(1)(i)(A) or (f)(1)(i)(B) of this section that prepares its financial statements in accordance with either generally

accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board and none of the financial statements for which an Interactive Data File is required is for a fiscal period that ends on or after [three years after the final rule is effective];

(ii) In the manner specified in paragraph (f)(2)(i) of this section rather than as specified by paragraph (a)(3)(ii) of this section: any electronic filer that is an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) that, together with other investment companies in the same ''group of related investment companies,'' as such term is defined in § 270.0–10 of this chapter, has assets of:

(A) $1 billion or more as of the end of the most recent fiscal year until it files an initial registration statement (or post-effective amendment that is an annual update to an effective registration statement) that becomes effective on or after [one year after the final rule is effective]; and

(B) Less than $1 billion as of the end of the most recent fiscal year until it files an initial registration statement (or post-effective amendment that is an annual update to an effective registration statement) that becomes effective on or after [two years after the final rule is effective].

(2) The electronic filers specified in paragraph (f)(1) of this section may submit the Interactive Data File solely as an exhibit to:

(i) A form that contains the disclosure required by this section; or

(ii) If the electronic filer is not an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), an amendment to a form that contains the disclosure required by this section if the amendment is filed no more than 30 days after the earlier of the due date or filing date of the form and the Interactive Data File is the first Interactive Data File the electronic filer submits.

Note To § 232.405: Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Forms S–1 (§ 239.11 of this chapter), S–3 (§ 239.13 of this chapter), S–4 (§ 239.25 of this chapter), S–11 (§ 239.18 of this chapter), F–1 (§ 239.31 of this chapter), F–3 (§ 239.33 of this chapter), F–4 (§ 239.34 of this chapter), 10–K (§ 249.310 of this chapter), 10–Q (§ 249.308a of this chapter) and 8–K (§ 249.308 of this chapter). Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F–10. Paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20–F. Paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter) and Paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 40–F and Form 6–K(§ 249.240f of this chapter and § 249.306 of this chapter), respectively. Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F and paragraph C.(6) of the General Instructions to Form 6–K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 to 210.6–10). For an issuer that is an open-end management investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter) specifies the circumstances under which an Interactive Data File must be submitted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 13. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l,* 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a),78*ll,* 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, 80a–37, and Sec. 71003 and Sec. 84001, Pub. L. 114–94, 129 Stat. 1312, unless otherwise noted.

* * * * *

■ 14. Amend § 239.13 by revising paragraph (a)(7)(ii) to read as follows:

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

(a) * * *

(7) * * *

(ii) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to § 232.405 of this chapter during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

* * * * *

■ 15. Amend Form S–3 (referenced in § 239.13) by revising General Instruction I.A.7.(b) to read as follows:

Note: The text of Form S–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–3

Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

I. Eligibility Requirements for Use of Form S–3

* * * * *

A. * * *

7. * * *

(b) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

* * * * *

■ 16. Amend § 239.16b by revising paragraph (b)(2) to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to employee benefit plans.

* * * * *

(b) * * *

(2) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to § 232.405 of this chapter during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

■ 17. Amend Form S–8 (referenced in § 239.16b) by revising General Instruction A.3.(b) to read as follows:

Note: The text of Form S–8 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–8

Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

A. Rule as to Use of Form S–8

* * * * *

3. * * *

(b) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

* * * * *

■ 18. Amend § 239.33 by revising paragraph (a)(6)(ii) to read as follows:

239.33 Form F–3, for registration under the Securities Act of 1933 of securities of certain foreign private issuers offered pursuant to certain types of transactions.

* * * * *

(a) * * *

(6) * * *

(ii) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to § 232.405 of this chapter during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

* * * * *

■ 19. Amend Form F–3 (referenced in § 239.33) by revising paragraph I.A.6.(ii) to read as follows:

Note: The text of Form F–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–3

Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

I. Eligibility Requirements for Use of Form F–3

* * * * *

A. Registrant Requirements

* * * * *

6. Electronic filings. * * *

* * * * *

(ii) Submitted electronically to the Commission all Interactive Data Files required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement on this Form (or for such shorter period of time that the registrant was required to submit such files).

* * * * *

■ 20. Amend Form F–10 (referenced in § 239.40) by revising paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers to read as follows:

Note: The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form F–10

Registration Statement Under the Securities Act of 1933

* * * * *

Part II—Information Not Required To Be Delivered To Offerees or Purchasers

* * * * *

(101) Where a registrant prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, an Interactive Data File (§ 232.11 of this chapter) is:

(a) *Required to be submitted.* Required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*), except that an Interactive Data File:

(i) First is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable; and

(ii) Is required for a registration statement under the Securities Act only if the registration statement contains a price or price range.

(b) *Permitted to be submitted.* Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the:

(i) Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*); and

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph (101).

(c) *Not permitted to be submitted.* Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

Instruction to paragraphs (101)(a) and (b): When an Interactive Data File is submitted as provided by Rule 405(a)(3)(i) of Regulation S–T (§ 232.405(a)(3)(i) of this chapter), the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 21. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111–203, 124 Stat. 1904; and Sec. 102(a)(3), Pub. L. 112–106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

■ 22. Amend Form 20–F (referenced in § 249.220f) by:

■ a. Revising the undesignated paragraph on the cover that begins ''Indicate by check mark whether the registrant has submitted electronically''; and

■ b. Revising paragraph 101 of the Instructions as to Exhibits.

The revisions read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

☐ **Registration Statement Pursuant To Section 12(b) OR (g) of the Securities Exchange Act of 1934**

Or

☐ **Annual Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934**

* * * * *

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

* * * * *

Instructions as to Exhibits

* * * * *

101. Interactive Data File. Where a registrant prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, an

Interactive Data File (§ 232.11 of this chapter) is:

(a) Required to be submitted. Required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the Form 20–F is an annual report and the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

(b) Permitted to be submitted. Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the:

(i) Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*); and

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph 101.

(c) Not permitted to be submitted. Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

Instruction to paragraphs 101.(a) and (b): When an Interactive Data File is submitted as provided by Rule 405(a)(3)(i) of Regulation S–T (§ 232.405(a)(3)(i) of this chapter), the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

■ 23. Amend Form 40–F (referenced in § 249.240f) by:

■ a. Revising the undesignated paragraph on the cover that begins ''Indicate by check mark whether the registrant has submitted electronically''; and

■ b. Revising paragraph B.(15) of the General Instructions.

The revisions read as follows:

Note: The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 40–F

☐ Registration Statement Pursuant To Section 12 of the Securities Exchange Act of 1934

Or

☐ Annual Report Pursuant To Section 13(a) or 15(d) of the Securities Exchange Act of 1934

* * * * *

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit such files).

* * * * *

General Instructions

* * * * *

B. Information To Be Filed on This Form

* * * * *

(15) Where a registrant prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, an Interactive Data File (§ 232.11 of this chapter) is:

(a) *Required to be submitted.* Required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) and, to the extent submitted as an exhibit, listed as exhibit 101, if the Form 40–F is an annual report and the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

(b) *Permitted to be submitted.* Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the:

(i) Registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*); and

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph B.(15).

(c) *Not permitted to be submitted.* Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

Instruction to paragraphs B.(15)(a) and (b): When an Interactive Data File is submitted as provided by Rule 405(a)(3)(i) of Regulation S–T (§ 232.405(a)(3)(i) of this chapter), the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

* * * * *

■ 24. Amend Form 6–K (referenced in § 249.306) by revising paragraph (6) to General Instruction C to read as follows:

Note: The text of Form 6–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 6–K

Report Foreign Private Issuer Pursuant To Rule 13a–16 or 15d–16 of the Securities Exchange Act of 1934

* * * * *

General Instructions

* * * * *

C. Preparation and Filing of Report

* * * * *

(6) *Interactive Data File.* Where a registrant prepares its financial statements in accordance with either generally accepted accounting principles as used in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, an Interactive Data File (§ 232.11 of this chapter) is:

(a) *Required to be submitted.* Required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) and, to the extent submitted as an exhibit, listed as exhibit 101, if the registrant does not prepare its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*), except that an Interactive Data File:

(i) First is required for a periodic report on Form 10–Q (§ 249.308a of this chapter), Form 20–F (§ 249.220f of this chapter) or Form 40–F (§ 249.240f of this chapter), as applicable; and

(ii) Is required for a Form 6–K (§ 249.306 of this chapter) only when the Form 6–K contains either of the following: audited annual financial statements that are a revised version of financial statements that previously were filed with the Commission that have been revised pursuant to applicable accounting standards to reflect the effects of certain subsequent events, including a discontinued operation, a change in reportable segments or a change in accounting principle; or current interim financial statements included pursuant to the nine-month updating requirement of Item 8.A.5 of Form 20–F, and, in either such case, the Interactive Data File would be required only as to such revised financial statements or current interim financial statements regardless whether the Form 6–K contains other financial statements.

(b) *Permitted to be submitted.* Permitted to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) if the:

(i) Registrant does not prepare its financial statements in accordance with

Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*); and

(ii) Interactive Data File is not required to be submitted to the Commission under subparagraph (a) of this paragraph C.(6).

(c) *Not permitted to be submitted.* Not permitted to be submitted to the Commission if the registrant prepares its financial statements in accordance with Article 6 of Regulation S–X (17 CFR 210.6–01 *et seq.*).

Instruction to paragraphs C.(6)(a) and (b): When an Interactive Data File is submitted as provided by Rule 405(a)(3)(i) of Regulation S–T (§ 232.405(a)(3)(i) of this chapter), the exhibit index must include the word ''Inline'' within the title description for any eXtensible Business Reporting Language (XBRL)-related exhibit.

* * * * *

■ 25. Amend Form 10–Q (referenced in § 249.308a) by revising the undesignated paragraph on the cover that begins ''Indicate by check mark whether the registrant has submitted electronically'' to read as follows:

Note: The text of Form 10–Q does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–Q

* * * * *

☐ Quarterly Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

☐ Transition Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

* * * * *

■ 26. Amend Form 10–K (referenced in § 249.310) by revising the undesignated paragraph on the cover that begins ''Indicate by check mark whether the registrant has submitted electronically'' to read as follows:

Note: The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–K

* * * * *

☐ Annual Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

☐ Transition Report Pursuant To Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S–T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 27. The authority citation for part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b),78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, 80a-29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 28. Amend Form N–1A (referenced in §§ 239.15A and 274.11A) by revising General Instruction C.3.(g) to read as follows:

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

☐ Registration Statement Under the Securities Act OF 1933

* * * * *

☐ Registration Statement Under the Investment Company Act of 1940

* * * * *

General Instructions

* * * * *

C. * * *

3. * * *

(g) Interactive Data File

(i) An Interactive Data File (§ 232.11 of this chapter) is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T (§ 232.405 of this chapter) for any registration statement or post-effective amendment thereto on Form N–1A that includes or amends information provided in response to Items 2, 3, or 4.

(A) Except as required by paragraph (g)(i)(B), the Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted on or before the date the registration statement or post-effective amendment that contains the related information becomes effective.

(B) In the case of a post-effective amendment to a registration statement filed pursuant to paragraphs (b)(1)(i), (ii), (v), or (vii) of rule 485 under the Securities Act [17 CFR 230.485(b)], the Interactive Data File must be submitted either with the filing, or as an amendment to the registration statement to which the Interactive Data Filing relates that is submitted on or before the date the post-effective amendment that contains the related information becomes effective.

(ii) An Interactive Data File is required to be submitted to the Commission in the manner provided by Rule 405 of Regulation S–T for any form of prospectus filed pursuant to paragraphs (c) or (e) of rule 497 under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 3, or 4 that varies from the registration statement. The Interactive Data File must be submitted with the filing made pursuant to rule 497.

(iii) The Interactive Data File must be submitted in such a manner that will permit the information for each Series and, for any information that does not relate to all of the Classes in a filing, each Class of the Fund to be separately identified.

* * * * *

By the Commission.

Dated: March 1, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–04366 Filed 3–16–17; 8:45 am]

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FEDERAL REGISTER

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Part III

Department of Commerce

International Trade Administration

Certain Amorphous Silica Fabric From the People's Republic of China: Countervailing Duty Order and Antidumping Duty Order; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–038]

Certain Amorphous Silica Fabric From the People's Republic of China: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing an antidumping duty order on certain amorphous silica fabric from the People's Republic of China (PRC).

DATES: Effective March 17, 2017.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4947 or (202) 482–2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on January 25, 2017, the Department published the final determination of sales at less than fair value in the antidumping duty investigation of certain amorphous silica fabric from the PRC.[1] On March 10, 2017, the ITC notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of certain amorphous silica fabric from the PRC.[2] In addition, in its final determination, the ITC did not make an affirmative critical circumstances finding with respect to imports of subject merchandise from the PRC that are subject to the Department's final affirmative critical circumstances finding.[3]

Scope of the Order

The product covered by this order is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO2) by nominal weight, and a nominal width in excess of 8 inches. The order covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The order covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this order.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the order is amorphous silica fabric that is subjected to controlled shrinkage, which is also called ''pre-shrunk'' or ''aerospace grade'' amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (l) The amorphous silica fabric must contain a minimum of 98 percent silica (SiO2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, ''areal shrinkage'' refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[4]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this order is dispositive.

Antidumping Duty Order

In accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC has notified the Department of its final determination in this investigation, in which it found that imports of certain amorphous silica fabric from the PRC are materially injuring a U.S. industry.[5]

[1] *See Antidumping Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value, and Final Affirmative Determination of Critical Circumstances,* 82 FR 8399 (January 25, 2017) (*Final Determination*), and accompanying Issues and Decision Memorandum.

[2] *See* Letter to Ronald Lorentzen, Acting Assistant Secretary of Commerce for Enforcement and Compliance, from Rhonda K Schmidtlein, Chairman of the U.S. International Trade Commission, regarding certain amorphous silica fabric from China (March 10, 2017) (ITC Letter).

[3] *Id.*

[4] Areal shrinkage is expressed as the following percentage:

((Fired Area, cm2 − Initial Area, cm2)/Initial Area, cm2) × 100 = Areal Shrinkage, %

[5] *See* ITC Letter.

Therefore, in accordance with section 735(c)(2) of the Act, we are publishing this antidumping duty order. Because the ITC determined that imports of certain amorphous silica fabric from the PRC are materially injuring a U.S. industry, unliquidated entries of such merchandise from the PRC, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

As a result of the ITC's final determination, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of certain amorphous silica fabric from the PRC. These antidumping duties will be assessed on unliquidated entries from the PRC entered, or withdrawn from warehouse, for consumption on or after September 1, 2016, the date on which the Department published the *Preliminary Determination,*[6] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all relevant entries of subject merchandise from the PRC. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits at rates equal to the estimated weighted-average dumping margins indicated in the chart below, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.[7] Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit at the rates listed below.[8] The rate for the PRC-wide entity applies to all producers or exporters not specifically listed. For the purpose of determining cash deposit rates, the estimated weighted-average dumping margins for imports of subject merchandise from the PRC will be adjusted, as appropriate, for export subsidies found in the final determination of the companion countervailing duty investigation of this merchandise imported from the PRC.[9]

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant portion of certain amorphous silica fabric from the PRC, the Department extended the four-month period to six months. In the underlying investigation, the Department published the *Preliminary Determination* on September 1, 2016.[10] Therefore, the six-month period beginning on the date of the publication of the *Preliminary Determination* ended on February 27, 2017. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of certain amorphous silica fabric from the PRC entered, or withdrawn from warehouse, for consumption after February 27, 2017, the date the provisional measures expired, and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**.

Estimated Weighted-Average Dumping Margin

The weighted-average antidumping duty margin percentages and cash deposit percentages are as follows:

Exporter	Producer	Weighted-average dumping margin (percent)	Cash deposit (percent)
ACIT (Pinghu) Inc	ACIT (Pinghu) Inc	162.47	151.93
Nanjing Tianyuan Fiberglass Material Co., Ltd	Nanjing Tianyuan Fiberglass Material Co., Ltd	162.47	151.71
PRC-Wide Entity		162.47	151.93

Critical Circumstances

In its final determination, the ITC did not make an affirmative critical circumstances finding with respect to imports of subject merchandise from the PRC that were subject to the Department's final affirmative critical circumstances determination. Accordingly, the Department will instruct CBP to lift suspension and to refund any cash deposit made to secure the payment of estimated antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after June 3, 2016 (*i.e.,* 90 days prior to the date of publication of the preliminary determination), but before September 1, 2016, the publication date of the *Preliminary Determination.*

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to certain amorphous silica fabric from the PRC pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://www.trade.gov/enforcement/.*

[6] *See Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* 81 FR 60341 (September 1, 2016) (*Preliminary Determination*).

[7] No party in the less-than-fair-value investigation established eligibility for an adjustment for estimated domestic subsidy pass-through. *See Preliminary Determination,* unchanged in *Final Determination.*

[8] *See* section 736(a)(3) of the Act.

[9] *See Final Determination.*

[10] *See Preliminary Determination.*

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: March 14, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–05431 Filed 3–16–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–039]

Certain Amorphous Silica Fabric From the People's Republic of China: Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing a countervailing duty (CVD) order on certain amorphous silica fabric from the People's Republic of China (PRC).

DATES: Effective March 17, 2017.

FOR FURTHER INFORMATION CONTACT: Emily Maloof or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5649 or (202) 482–7438, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on January 25, 2017, the Department published its affirmative final determination in the countervailing duty investigation of certain amorphous silica fabric from the PRC.[1] On March 10, 2017, the ITC notified the Department of its final determination pursuant, to section 705(d) of the Act, that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of certain amorphous silica fabric from the PRC.[2]

Scope of the Order

The product covered by this order is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO2) by nominal weight, and a nominal width in excess of 8 inches. The order covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The order covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The order covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this order.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the order is amorphous silica fabric that is subjected to controlled shrinkage, which is also called ''pre-shrunk'' or ''aerospace grade'' amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (1) The amorphous silica fabric must contain a minimum of 98 percent silica (SiO2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, ''areal shrinkage'' refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[3]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this order is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found that imports of certain amorphous silica fabric from the PRC are materially injuring, within the meaning of section 705(b)(1)(A)(i) of the Act, a U.S. industry.[4] Therefore, in accordance with section 705(c)(2) of the Act, we are

[1] *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Final Affirmative Determination,* 82 FR 8405 (January 25, 2017) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

[2] *See* Letter from ITC concerning Amorphous Silica Fabric from the PRC USITC Investigation Nos. 701–TA–555 and 731–TA–1310 (Final), USITC Publication 731–1310 (March 2017) (ITC Letter).

[3] Areal shrinkage is expressed as the following percentage:

((Fired Area, em2 − Initial Area, cm2)/Initial Area, cm2) × 100 = Areal Shrinkage, %.

[4] *See* ITC Letter.

publishing this CVD order. Because the ITC determined that imports of certain amorphous silica fabric from the PRC are materially injuring a U.S. industry, unliquidated entries of such merchandise from the PRC, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

As a result of the ITC's final determination, in accordance with section 706(a) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, countervailing duties on unliquidated entries of certain amorphous silica fabric from the PRC. Countervailing duties will be assessed on unliquidated entries of certain amorphous silica fabric from the PRC entered, or withdrawn from warehouse, for consumption on or after July 5, 2016, the date of publication of the *Preliminary Determination*,[5] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination.

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigation, the Department published the *Preliminary Determination* on July 5, 2016. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on November 1, 2016. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to duties, unliquidated entries of amorphous silica fabric from the PRC made on or after November 2, 2016. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Suspension of Liquidation

In accordance with section 706 of the Act, the Department will instruct CBP to reinstitute the suspension of liquidation on all entries of subject merchandise from the PRC, effective the date of publication of the ITC's notice of final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by the Department pursuant to 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. We will also instruct CBP to require cash deposits for each entry of subject merchandise equal to the amounts as indicated below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Exporter/producer	Subsidy rate, (percent)
ACIT (Pinghu) Inc., ACIT (Shanghai) Inc	48.94
Nanjing Tianyuan Fiberglass Material Co., Ltd	79.90
Acmetex Co., Ltd.,*, Beijing Great Pack Materials, Co. Ltd.,*, Beijing Landingji Engineering Tech Co., Ltd.,*, Changshu Yaoxing Fiberglass Insulation Products Co., Ltd.,*, Changzhou Kingze Composite Materials Co., Ltd.,*, Changzhou Utek Composite Co.,*, Chengdu Chang Yuan Shun Co., Ltd.,*, China Beihai Fiberglass Co., Ltd.,*, China Yangzhou Guo Tai Fiberglass Co., Ltd.,*, Chongqing Polycomp International Corp.,*, Chongqing Yangkai Import & Export Trade Co., Ltd.,*, Cixi Sunrise Sealing Material Co., Ltd.,*, Fujian Minshan Fire-Fighting Co., Ltd.,*, Grand Fiberglass Co., Ltd.*, Haining Jiete Fiberglass Fabric Co., Ltd.,*, Hebei Yuniu Fiberglass Manufacturing Co., Ltd.,*, Hebei Yuyin Trade Co., Ltd.,*, Hengshui Aohong International Trading Co., Ltd.,*, Hitex Insulation (Ningbo) Co., Ltd.,*, Mowco Industry Limited,*, Nanjing Debeili New Materials Co., Ltd.,*, Ningbo Fitow High Strength Composites Co., Ltd.,*, Ningbo Universal Star Industry & Trade Limited,*, Ningguo BST Thermal Protection Products Co., Ltd.,*, Qingdao Feelongda Industry & Trade Co., Ltd.,*, Qingdao Shishuo Industry Co., Ltd.,*, Rugao City Ouhua Composite Material Co., Ltd.,*, Rugao Nebola Fiberglass Co., Ltd.,*, Shanghai Bonthe Insulative Material Co., Ltd.,*, Shanghai Horse Construction Co., Ltd.,*, Shanghai Liankun Electronics Material Co., Ltd.,*, Shanghai Suita Environmental Protection Technology Co., Ltd.,*, Shangqui Huanyu Fiberglass Co., Ltd.,*, Shengzhou Top-Tech New Material Co., Ltd.,*, Shenzhen Songxin Silicone Products Co., Ltd.,*, Taixing Chuanda Plastic Co., Ltd.,*, Taixing Vichen Composite Material Co., Ltd.,*, TaiZhou Xinxing Fiberglass Products Co., Ltd.,*, Tenglong Sealing Products Manufactory Yuyao,*, Texaspro (China) Company,*, Wallean Industries Co., Ltd.,*, Wuxi First Special-Type Fiberglass Co., Ltd.,*, Wuxi Xingxiao Hi-Tech Material Co., Ltd.,*, Yuyao Feida Insulation Sealing Factory,*, Yuyao Tianyi Special Carbon Fiber Co., Ltd.,*, Zibo Irvine Trading Co., Ltd.,*, Zibo Yao Xing Fire-Resistant and Heat-Preservation Material Co., Ltd.,*, Zibo Yuntai Furnace Technology Co., Ltd.*	165.39
All-Others	64.42

* Non-cooperative company to which an AFA rate is being applied. *See* Issues and Decision Memorandum and Preliminary Decision Memorandum for additional information.

Notification to Interested Parties

This notice constitutes the CVD order with respect to certain amorphous silica fabric from the PRC pursuant to section 706(a) of the Act. Interested parties may find an updated list of CVD orders currently in effect *http://enforcement.trade.gov/enforcement.*

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: March 14, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–05432 Filed 3–16–17; 8:45 am]

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[5] *See Countervailing Duty Investigation of Certain Amorphous Silica Fabric From the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 81 FR 43579 (July 5, 2016) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

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