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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

[Docket No. MSHA–2014–0030]

RIN 1219–AB87

Examinations of Working Places in Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: The Mine Safety and Health Administration is delaying the effective date of the Agency's final rule that amends existing standards for examination of working places in metal and nonmetal mines. The effective date of that rule is extended to October 2, 2017. This extension offers additional time for MSHA to provide stakeholders training and compliance assistance.

DATES: The effective date of the rule published January 23, 2017 (82 FR 7680) is delayed to October 2, 2017.

FOR FURTHER INFORMATION CONTACT: Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Delay of Effective Date

On January 23, 2017, MSHA published a final rule in the **Federal Register** (82 FR 7680) amending the Agency's standards for the examination of working places in metal and nonmetal mines. The final rule was scheduled to become effective on May 23, 2017.

On March 27, 2017 (82 FR 15173), MSHA published a proposed rule to delay the effective date of the final rule to July 24, 2017. MSHA solicited comments on the limited issue of whether to extend the effective date to July 24, 2017, and whether this extension offered an appropriate length of time for MSHA to provide stakeholders training and compliance assistance. Commenters who supported a delay of the effective date stated that the delay would allow time for the Agency to develop and distribute compliance assistance materials, permit review of the final rule by the President's appointees, and allow for resolution of the legal challenge in the Eleventh Circuit Court of Appeals.

Other commenters supported the 60-day extension saying that a two-month delay is more than adequate for the metal and nonmetal mining community to achieve compliance with the new standard. One commenter did not anticipate any difficulty in implementing the requirements in the final rule. Another commenter noted that a two-month delay is more than adequate for the mining community to achieve compliance since the final rule made only minor changes to the existing standards.

However, several commenters supported delaying the rule's effective date beyond the proposed date of July 24, 2017, to provide MSHA with sufficient time to complete outreach and compliance assistance activities focused on the final rule's requirements to assure compliance by operators and consistent enforcement by MSHA inspectors. The amount of time commenters suggested for these activities varied significantly.

One commenter recommended an extension of 120 days from the May 23, 2017, effective date to give MSHA sufficient time to fully inform and educate mine operators with online materials and stakeholder education sessions. The commenter stated that, in his state, severe weather events since the January 23, 2017, publication of the final rule hampered MSHA's educational and informational efforts. Specifically, the commenter stated that these weather events had shut down mining operations and washed out roads, making it impossible to reach mine sites and difficult to schedule information meetings in nearby towns. The commenter further stated that extra time afforded by a 120-day extension would allow mine operators and contractors to implement new systems that are necessary to properly manage the additional paperwork, including the adjustment of examination forms and to fully comply with the additional data retention guidelines. The commenter believed that while larger mining companies would be able to enhance their systems quickly, that may not be the case for small mines with few administrative staff.

Another commenter suggested at least a 6-month extension to November 27, 2017, to give the regulated community time to comply with the final rule. A few commenters supported a longer delay of the effective date: One suggested January 23, 2018, and others suggested May 23, 2018. These commenters stated as reasons for the delay that the rule required new training, revising documents, extra expenses, resources and time.

MSHA agrees that small mines may need additional time to comply with the final rule. Based on data reported to MSHA, nearly 90 percent of metal and nonmetal mines employ fewer than 20 miners. In addition, almost all (98 percent) of MNM mines are surface operations. Over half of all metal and nonmetal mines are surface sand and gravel or crushed stone operations that operate intermittently or seasonally and employ five or fewer miners. Many of these small mines are in remote locations, making compliance assistance time-consuming for MSHA.

MSHA also agrees with commenters that mine operators, especially small mine operators, will need time to implement recordkeeping systems to comply with the final rule. MSHA understands that large and small mines may need time to adjust schedules and in other ways modify the way they currently do business to comply with the rule. The extension provides an industry which includes over 11,000 mine operators and employs more than 200,000 miners and contractors enough time to effectuate compliance, minimize mine operator recordkeeping burden, and train miners prior to the rule's effective date.

MSHA is developing a variety of compliance assistance materials to assist the industry. The extension provides MSHA the time and flexibility to make these materials available to stakeholders and post them on MSHA's Web site (*www.msha.gov*); hold informational stakeholder meetings at various locations around the country; and focus on compliance assistance visits in other

areas of the country, as well as assure all issues at these meetings and visits are addressed. Additional time will also allow MSHA to train its inspectors to assure consistent enforcement. MSHA will make the Agency's inspector training materials available to the mining community to assist miners and mine operators in effectively implementing the rule, thus enhancing the safety of miners.

Several commenters, including labor unions, did not support the proposed extension, stating that the May 2017 date was sufficient for mine operators to comply with the final rule. One stated that the 60-day extension is not justified and is potentially harmful because the final rule made only a few, simple changes to the existing standards which have been in place for 38 years.

As discussed, most metal and nonmetal mines are small operations with limited staff, limited administrative staff, and limited resources, and many are located in remote areas. These small mines may have limited access or no access to the internet at the mine site and may rely on stakeholder meetings and other MSHA in-person services to acquire the knowledge to comply with the rule. MSHA is providing educational, technical, and compliance assistance for affected miners and mine operators. In MSHA's experience with previous changes to metal and nonmetal standards and regulations, outreach to these small mine operators requires MSHA to be flexible regarding different approaches that may be needed and regarding the time necessary to assure that all miners and mine operators can comply with the rule.

MSHA has concluded that miners' protections are assured when operators and miners are provided needed informational and instructional materials regarding the rule's requirements. The extension of the effective date provides MSHA the flexibility the Agency needs to assure compliance, thereby increasing protections for miners.

II. Other Issues

On March 17, 2017, petitioners filed a Petition for Review of the final Examinations rule in the United States Court of Appeals for the Eleventh Circuit. Some commenters on the proposed rule to delay the effective date requested a stay of the effective date until the completion of this litigation and final adjudication of the validity of the final rule in federal court. One commenter suggested at least a 6-month extension to November 27, 2017, or later to give the court time to issue a decision on the Petition for Review.

Petitioners also filed a ''Motion for Emergency Stay'' with the Court. On May 3, the Department filed its response to the stay motion.

Other commenters requested a delay until new officials from the current Administration and an Assistant Secretary appointed by the Administration have an opportunity to conduct a review of the final rule in accordance with the January 20, 2017, memorandum titled ''Regulatory Freeze Pending Review'' released by the Chief of Staff of the White House. Several commenters also suggested that MSHA delay the effective date indefinitely until the rule's status is finally resolved. MSHA also received several comments objecting to the substantive requirements of the Examinations rule. These comments are outside the scope of the March 27, 2017, proposed rule, which was limited to delaying the rule's effective date to ensure compliance readiness. MSHA is not addressing these comments, as they are beyond the scope of this rulemaking.

III. Conclusion

Having given due consideration to all comments received, MSHA has determined that it is appropriate to delay the effective date until October 2, 2017. As stated, this additional delay will address commenters' concerns regarding sufficient time for MSHA to inform and educate the mining community, including mines that operate intermittently. The extension also affords both large and small mine operators the needed time to implement recordkeeping systems to comply with the final rule. Also, an October 2, 2017, effective date provides more time and flexibility for MSHA to complete development of compliance assistance materials, make them available to stakeholders, hold informational meetings for stakeholders and conduct compliance assistance visits at metal and nonmetal mines throughout the country. Similarly, further extending the effective date permits more time for MSHA to address issues that may be raised during upcoming stakeholder meetings and compliance assistance visits and to train MSHA inspectors to help assure consistency in MSHA enforcement. MSHA believes that the training and compliance assistance provided to mine operators and miners during the effective date extension will enhance their understanding of the rule's requirements, thereby increasing protections for miners.

Patricia W. Silvey,

Deputy Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2017–10474 Filed 5–19–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100 and 165

[Docket No. USCG–2016–1022]

RIN 1625–AA08; AA00

Special Local Regulations and Safety Zones; Annually Recurring Events in Coast Guard Southeastern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending a special local regulation to change the method of providing notice to the public when enforcing the safety zone associated with the biennial Newport/Bermuda Race. The Coast Guard is also establishing permanent safety zones in Coast Guard Southeastern New England Captain of the Port (COTP) Zone for two recurring marine events. When the special local regulation or safety zones are activated and subject to enforcement, vessels and people will be restricted from portions of water areas that may pose a hazard to public safety. The revised special local regulation and safety zones will expedite public notification of the applicable marine events, and help protect the maritime public and event participants from hazards associated with these recurring marine events.

DATES: This rule is effective June 21, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–1022 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Mr. Edward G. LeBlanc, Chief of the Waterways Management Division at Coast Guard Sector Southeastern New England, telephone 401–435–2351, email *Edward.G.LeBlanc@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

CFR Code of Federal Regulations
COTP Captain of the Port
DHS epartment of Homeland Security
FR Federal Register
LNTM Local Notice To Mariners
NOE Notice of Enforcement
NPRM Notice of proposed rulemaking
§ Section
TFR Temporary Final Rule
U.S.C. United States Code

II. Background Information and Regulatory History

On March 9, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulations and Safety Zones; Annually Recurring Marine Events in Coast Guard Southeastern New England Captain of the Port Zone'' (82 FR 13081). There we stated why we issued the NPRM, and invited comments on our regulatory action. During the comment period that ended on April 10, 2017, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231, 1233; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define safety zones and special local regulations.

The Captain of the Port (COTP) Southeastern New England has determined that this rule will improve the method of providing notice to the public when enforcing the safety zone associated with the biennial Newport/Bermuda Race. The COTP Southeastern New England has also determined that establishing permanent safety zones for both the Fall River Grand Prix and the Cape Cod Bay Challenge will enhance the safety of vessels and the navigable waters in the safety zone during these scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on March 9, 2017. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. This rule amends a special local regulation to change the method of providing notice to the public when enforcing the safety zone associated with the biennial Newport/Bermuda Race. This rule also establishes permanent safety zones in Coast Guard Southeastern New England Captain of the Port (COTP) Zone for two recurring marine events: (1) The Fall River Grand Prix, and (2) the Cape Cod Bay Challenge. The two events will be included in the Table at 33 CFR 165.173, which is a listing of recurring major marine events in the Coast Guard Southeastern New England COTP Zone. The TABLE provides the event name, type, and approximate safety zone dimensions as well as approximate dates, times, and locations of the events. The specific times, dates, regulated areas and enforcement period for each event will be provided through the Local Notice to Mariners.

When the special local regulation or safety zones are activated and subject to enforcement, vessels and people will be restricted from portions of water areas that may pose a hazard to public safety. The revised special local regulation and safety zones will expedite public notification of the applicable marine events, and help protect the maritime public and event participants from hazards associated with these recurring marine events.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

With respect to the change in method of providing the NOE for the Newport/Bermuda Race, this rule utilizes an approach that the Coast Guard believes is more effective, less costly, and more flexible. By utilizing an LNTM to provide the NOE for the Newport/Bermuda race, the Coast Guard will be able to better inform waterway users in a timelier manner.

With respect to the safety zones for the recurring marine events, this regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessels will only be restricted from safety zones and special local regulation areas for a short duration of time; vessels may transit in all portions of the affected waterway except for those areas covered by the regulated areas, and vessels may enter or pass through the affected waterway with the permission of the COTP or the COTP's representative. By including these two recurring marine events in the permanent regulation at 33 CFR 165.173, the Coast Guard is eliminating the need to establish individual temporary rules for each separate event that occurs on an annual basis, thereby limiting the costs of repetitive rulemaking.

Notifications will be made to the local maritime community through the LNTM in advance of the events. The notifications will include the exact dates and times of enforcement, and no new or additional restrictions will be imposed on vessel traffic.

B. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule makes an administrative change to the method of notification of one marine event, and involves the establishment of temporary safety zones in conjunction with two recurring marine events in Southeastern New England COTP Zone. These actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. In § 100.119, revise paragraph (c) to read as follows:

§ 100.119 Newport-Bermuda Regatta, Narragansett Bay, Newport, RI.

* * * * *

(c) *Effective date.* This section is in effect biennially on a date and times published in the Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1; 6:04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 4. In § 165.173, add sections 8.4 and 8.5 to the Table to read as follows:

§ 165.173 Safety Zones for annually recurring marine events held in Coast Guard Southeastern New England Captain of the Port Zone.

* * * * *

TABLE TO § 165.173

*	*	* * * * *
8.0		AUGUST
*	*	* * * * *
8.4	Fall River Grand Prix	• Event Type: Offshore powerboat race • Date: One weekend (Friday, Saturday, & Sunday) in August as announced in the Local Notice to Mariners. • Time: Approximately 8:00 a.m. to 5 p.m. daily • Location: Taunton River, Massachusetts, in the vicinity of Fall River and Somerset, MA. • Safety Zone Dimension: Mt Hope Bay and the Taunton River navigation channel from approximately Mt Hope Bay buoy R10 southwest of Brayton Point channel, and extending approximately two miles to the northeast up to and including Mt Hope Bay buoy C17 north of the Braga Bridge. The safety zone is encompassed by the following coordinates (NAD 83):

TABLE TO § 165.173—Continued

	Corner Latitude Longitude	
	SW., 41°41.40′ N., 71°11.15′ W. NW., 41°41.48′ N., 71°11.15′ W. SE., 41°42.33′ N., 71°09.40′ W. NE., 41°42.42′ N., 71°09.47′ W.	
8.5 Cape Cod Bay Challenge		• Event Type: Paddleboard excursion. • Date: One weekend day (Saturday or Sunday) in August. • Time: Approximately 4:30 a.m. to 4:30 p.m. • Location: Departing from Scusset Beach, Sandwich, MA, and transiting to Wellfleet Harbor, Wellfleet, MA. • Position: A line drawn from Scusset Beach at approximate position 41°47′ N., 70°30′ W., to Wellfleet Harbor at approximate position 41°53′ N., 70°02′ W. (NAD 83). • Safety Zone Dimension: Approximately 500 yards extending in each direction from the line described above.

* * * * *

Dated: May 10, 2017.

Richard J. Schultz,

Captain, U.S. Coast Guard, Captain of the Port Southeastern New England.

[FR Doc. 2017–10387 Filed 5–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0370]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0 at Sacramento, CA. The deviation is necessary to allow the community to participate in a Girl Scouts Ceremony event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 10 a.m. to 12 p.m. on June 3, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0370], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 10 a.m. to 12 p.m. on June 3, 2017, to allow the community to participate in a Girl Scouts Ceremony event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway, through our Local and Broadcast Notices to Mariners, of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 17, 2017.

C.T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–10422 Filed 5–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0364]

Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the University Bridge, mile 4.3, and the Montlake Bridge, mile 5.2, both crossing Lake Washington Ship Canal at Seattle, WA. The deviation is necessary to accommodate the ''Beat the Bridge'' foot race event. This deviation allows the bridges to remain in the closed-to-navigation position to allow for the safe movement of event participants.

DATES: This deviation is effective from 8:15 a.m. to 9:30 a.m. on May 21, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0364] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil*.

SUPPLEMENTARY INFORMATION: Washington State Department of Transportation (bridge owner) and Seattle Department of Transportation (bridge owner) requested a temporary deviation from the operating schedule

for the University Bridge, mile 4.3, and the Montlake Bridge, mile 5.2, both crossing Lake Washington Ship Canal at Seattle, WA, to facilitate safe passage of participants in the ''Beat the Bridge'' foot race. The University Bridge, bascule, provides a vertical clearance of 30 feet in the closed-to-navigation position. The Montlake Bridge, bascule, provides 30 feet of vertical clearance in the closed-to-navigation position throughout the navigation channel, and 46 feet of vertical clearance in the closed-to-navigation position throughout the center 60 feet of the bridge. Vertical clearances are referenced to the Mean Water Level of Lake Washington. The normal operating schedule for both the University Bridge and Montlake Bridge is in 33 CFR 117.1051. During this deviation period, the University Bridge need not open to marine vessels from 8:15 a.m. to 9:30 a.m. on May 21, 2017; the Montlake Bridge need not open to marine vessels from 8:15 a.m. to 8:45 a.m. on May 21, 2017. Waterway usage on Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridges in the closed-to-navigation position may do so at anytime. Both bridges will be able to open for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 2, 2017.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2017–10335 Filed 5–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0825]

RIN 1625–AA00

Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River; Milford and Stratford, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Housatonic River. This action is necessary to provide for the safety of life on these navigable waters near Milford and Stratford, CT, during the United Illuminating Company Housatonic River Crossing. This regulation prohibits vessels or people from being in the safety zone unless authorized by the Captain of the Port Long Island Sound or a designated representative. The safety zone will only be enforced during cable pulling operations or other instances which may create a hazard to navigation.

DATES: This rule is effective without actual notice from May 22, 2017 through August 3, 2017. For the purposes of enforcement, actual notice will be used from April 26, 2017 through May 22, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0825 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Katherine Linnick, Prevention Department, U.S. Coast Guard Sector Long Island Sound, telephone (203) 468–4565, email *Katherine.E.Linnick@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LIS Long Island Sound
NPRM Notice of Proposed Rulemaking
NAD 83 North American Datum 1983

II. Background Information and Regulatory History

This rulemaking establishes a temporary safety zone for certain waters of the Housatonic River near Milford and Stratford, CT. Corresponding regulatory history is discussed below.

On August 25, 2016, United Illuminating Company notified the Coast Guard that it would conduct a project involving the installation of new transmission conductors over the Housatonic River near Stratford and Milford, CT. On March 14, 2017, the Coast Guard published a NPRM entitled, ''Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River; Milford and Stratford, CT'' in the **Federal Register** (80 FR 13572). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this transmission project. During the comment period that ended April 13, 2017, we received zero comments.

The United Illuminating Company Housatonic River Crossing Project is schedule to be completed in two phases. The first phase involving the stringing of optical fiber ground wires on the North circuit of the project is scheduled to begin on April, 26, 2017 through May 4, 2017. The second phase involves the stringing of optical fiber ground wires on the South circuit from July 29, 2017 through August 3, 2017. The work area for both phases is between the eastern and western shores of the Housatonic River. The southern boundary of the work area is the Metro-North Rail Bridge. The northern boundary of the work area is approximately 525 feet upstream of the Metro-North Rail Bridge. Exact coordinates are included in the regulatory text. Potential hazards from this project include entanglement of vessels with the messenger line and falling equipment from the electrical towers. The Captain of the Port Long Island Sound (COTP) has determined that the potential hazards associated with the cable crossing project could be a safety concern for anyone within the proposed work area.

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. As stated above, the first phase of the United Illuminating Company Housatonic River Crossing Project is scheduled to begin on April 26, 2017. Thus, there is now insufficient time for a 30 day comment period before the need to enforce this safety zone on April 26, 2017. Delaying the enforcement of this safety zone to allow a 30 day effective period will be impractical and contrary to the public interest because it would inhibit the Coast Guard's ability to fulfill its mission to keep the waterways safe.

III. Legal Authority and Need for Rule

The legal basis for this temporary rule is 33 U.S.C. 1231. The COTP Sector LIS has determined that potential hazards associated with the river cable crossing project starting on April 26, 2017 and continuing through August 3, 2017 will be a safety concern for anyone within the work zone. This rule is needed to protect people and vessels within the safety zone until the cable crossing project is completed.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on March 14, 2017. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8:00 a.m. on April 26, 2017 through 6:00 p.m. on May 4, 2017, and from 8:00 a.m. on July 29, 2017 through 6:00 p.m. on August 3, 2017. The safety zone will cover all navigable waters of the Housatonic River near Milford and Stratford, CT contained within the following area: Beginning at a point on land in position at 41°12′17″ N., 073°06′40″ W. near the Governor John Davis Lodge Turnpike (I–95) Bridge; then northeast across the Housatonic River to a point on land in position at 41°12′20″ N, 073°06′29″ W near the Governor John Davis Lodge Turnpike (I–95) Bridge; then northwest along the shoreline to a point on land in position at 41°12′25″ N, 073°06′31″ W; then southwest across the Housatonic River to a point on land in position at 41°12′22″ N., 073°06′43″ W.; then southeast along the shoreline back to point of origin (NAD 83). All positions are approximate.

The duration of the zone is intended to ensure the safety of vessels on the navigable waters within the work zone before, during, and after each messenger pulling operation or during any instance that necessitates a temporary closure of the Housatonic River at the work site. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 eight hours in advance of any scheduled enforcement period. The regulatory text we are enforcing appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits 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, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This regulatory action creates a temporary safety zone that will be enforced for less than 15 days on a designated area of the Housatonic River. During those 15 days, the safety zone will be enforced only during brief periods of time when the cable installation project necessitates closure of the waterway or during an emergency. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and any periods of enforcement. The rule also allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit this regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule creates a temporary safety zone lasting less than 15 days. During those 15 days, the safety zone will be enforced only during brief periods of time when the cable installation project necessitates closure of the waterway or during an emergency. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A Record of Environmental Consideration (REC) for Categorically Excluded Actions is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0825 to read as follows:

§ 165.T01–0825 Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River; Milford and Stratford, CT.

(a) *Location:* The following area is included with this safety zone: All navigable waters of the Housatonic River near Milford and Stratford, CT contained within the following area; beginning at a point on land in position at 41°12′17″ N., 073°06′40″ W. near the Governor John Davis Lodge Turnpike (I–95) Bridge; then northeast across the Housatonic River to a point on land in position at 41°12′20″ N., 073°06′29″ W. near the Governor John Davis Lodge Turnpike (I–95) Bridge; then northwest along the shoreline to a point on land in position at 41°12′25″ N., 073°06′31″ W.; then southwest across the Housatonic River to a point on land in position at 41°12′22″ N., 073°06′43″ W.; then southeast along the shoreline back to point of origin (NAD 83). All positions are approximate.

(b) *Effective and enforcement period.* This rule will be effective from 8:00 a.m. on April 26, 2017 to 6:00 p.m. on May 4, 2017, and from 8:00 a.m. on July 29, 2017 to 6:00 p.m. on August 3, 2017. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 eight hours in advance to any scheduled period of enforcement or as soon as practicable in response to an emergency.

(c) *Definitions.* The following definitions apply to this section: A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. ''Official patrol vessels'' may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation. A ''work vessel'' is any vessel provided by United Illuminating Company for the Housatonic River Crossing Project and may be hailed via VHF channel 13 or 16.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long Island Sound.

(3) Operators of vessels desiring to enter or operate within the safety zone should contact the COTP Sector Long Island Sound at 203–468–4401 (Sector LIS command center), or the designated representative via VHF channel 16 to obtain permission to do so. Request to enter or operate in the safety zone must be made 24 hours in advance of the planned undertaking.

(4) Mariners are requested to proceed with caution after passing arrangements have been made. Mariners are requested to cooperate with the United Illuminating Company work vessels for the safety of all concerned. The United Illuminating Company work vessels will be monitoring VHF channels 13 and 16. Mariners are requested to proceed with extreme caution and operate at their slowest safe speed as to not cause a wake.

(5) Any vessel given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(6) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

Dated: April 24, 2017.

A.E. Tucci,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2017–10389 Filed 5–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0269]

Safety Zones; Fireworks and Swim Events in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels, spectators and participants from hazards associated with fireworks displays and swim events. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer First Class Ronald Sampert U.S. Coast Guard; telephone 718–354–4197, email *ronald.j.sampert@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Tables 1 and 2 below.

TABLE 1

1. Heritage of Pride 2017, Pier 40, Hudson River Safety Zone, 33 CFR 165.160(5.14).	• Launch site: A barge located in approximate position 40°43′30″ N. 074°01′06.7″ W. (NAD 1983), in the vicinity of the Holland Tunnel Ventilator, 530 yards south of Pier 40, Manhattan, New York. This Safety Zone is a 360-yard radius from the barge. • Date: June 25, 2017. • Time: 9:45 p.m.–10:00 p.m.
2. Briggs Inc. GCC, South Ellis Island Safety Zone, 33 CFR 165.160(2.3).	• Launch site: A barge located in approximate position 40°41′39.9″ N., 074°02′33.7″ W. (NAD 1983), approximately 260 yards south of Ellis Island. This Safety Zone is a 360-yard radius from the barge. • Date: June 27, 2017. • Time: 10:20 p.m.–10:30 p.m.
3. Central Astoria, Wards Island, East River Safety Zone, 33 CFR 165.160(4.1).	• Launch site: A barge located in approximate position 40°46′57.8″ N. 073°55′28.6″ W. (NAD 1983), approximately 330 yards north of the Robert F. Kennedy Bridge (Triborough Bridge) Bridge. This Safety Zone is a 150-yard radius from the barge. • Date: June 29, 2017. • Time: 9:00 p.m.–10:00 p.m.
4. PGA Tour Inc., Ellis Island Safety Zone, 33 CFR 165.160(2.2)	• Launch site: A barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41′45″ N. 074°02′09″ W. (NAD 1983) about 365 yards east of Ellis Island. This Safety Zone is a 360-yard radius from the barge. • Date: September 27, 2017. • Time: 9:00 p.m.–9:30 p.m.

TABLE 2

1. Swim Across America Swim Event, 33 CFR 165.160(3.1), Date: July 29, 2017.	• Location: Participants will swim between Glen Cove and Larchmont, New York and an area of Hempstead Harbor between Glen Cove and the vicinity of Umbrella Point. This Safety Zone includes all waters within a 100-yard radius of each participating swimmer. • Date: July 29, 2017. • Time: 5:30 a.m.–12:00 p.m.
2. Newburgh Beacon Swim Swim Event, 33 CFR 165.160(1.2), Date: August 12, 2017.	• Location: Participants will cross the Hudson River between Newburgh and Beacon, New York approximately 1300 yards south of the Newburgh-Beacon Bridges. This Safety Zone includes all waters within a 100-yard radius of each participating swimmer. • Date: August 12, 2017. • Time: 11:15 a.m.–2:15 p.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that a safety zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: May 4, 2017.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2017–10388 Filed 5–19–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0167; FRL–9962–21–Region 6]

Approval and Promulgation of Implementation Plans; Louisiana; Volatile Organic Compounds Rule Revision and Stage II Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing a direct final rule published on March 23, 2017 because relevant adverse comments were received. The rule pertained to EPA approval of Louisiana State Implementation Plan (SIP) revisions controlling emissions of volatile organic compounds (VOCs) and changing the Stage II gasoline vapor recovery rule. In a separate subsequent final rulemaking EPA will address the comments received.

DATES: The direct final rule published on March 23, 2017 (82 FR 14822), is withdrawn effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Wendy Jacques, (214) 665–7395.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA. On March 23, 2017, we published a direct final rule approving Louisiana SIP revisions controlling emissions of VOCs and changing the Stage II gasoline vapor recovery rule (82 FR 14822). The direct final rule was published without prior proposal because we anticipated no adverse comments. We stated in the direct final rule that if we received relevant adverse comments by April 24, 2017, we would publish a timely withdrawal in the **Federal Register**. We received relevant adverse comments and accordingly are withdrawing the direct final rule. In a separate subsequent final rulemaking we will address the comments received.

List of Subjects in 40 CFR Part 52

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

Dated: May 17, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

■ Accordingly, the amendments to 40 CFR 52.970 published in the **Federal Register** on March 23, 2017 (82 FR 14822), which were to become effective on May 22, 2017, are withdrawn.

[FR Doc. 2017–10485 Filed 5–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2016–0550; FRL–9962–20–Region 6]

Approval and Promulgation of Implementation Plans; Texas; El Paso Carbon Monoxide Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing a direct final rule published on March 21, 2017 because a relevant adverse comment was received. The rule pertained to EPA approval of the required second carbon monoxide (CO) maintenance plan for the El Paso, Texas CO maintenance area as a revision to the Texas State Implementation Plan (SIP). In a separate subsequent final rulemaking EPA will address the comment received.

DATES: The direct final rule published on March 21, 2017 (82 FR 14442), is withdrawn effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, 214–665–8542, *riley.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA. On March 21, 2017 we published a direct final rule approving the required second CO maintenance plan for the El Paso, Texas CO maintenance area as a revision to the Texas SIP (82 FR 14442). The direct final rule was published without prior proposal because we anticipated no adverse comments. We stated in the direct final rule that if we received relevant adverse comments by April 20, 2017, we would publish a timely withdrawal in the **Federal Register**. We received a relevant adverse comment and accordingly are withdrawing the direct final rule. In a separate subsequent final rulemaking we will address the comment received.

List of Subjects in 40 CFR Part 52

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

Dated: May 17, 2017.

Samuel Coleman,

Acting Regional Administrator, Region 6.

■ Accordingly, the amendments to 40 CFR 52.2270(e) published in the **Federal Register** on March 21, 2017 (82 FR 14442), which were to become effective on May 22, 2017, are withdrawn.

[FR Doc. 2017–10486 Filed 5–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 171

[EPA–HQ–OPP–2011–0183; FRL–9962–94]

Pesticides; Certification of Pesticide Applicators Rule; Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective date.

SUMMARY: On January 4, 2017, EPA published a final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs). The original effective date of March 6, 2017 was extended to March 21, 2017 by rule issued January 26, 2017, and subsequently extended to May 22, 2017 by rule issued March 20, 2017. In accordance with the Presidential directives as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' and the principles identified in the April 25, 2017 Executive Order ''Promoting Agriculture and Rural Prosperity in America,'' EPA solicited public comments on May 15, 2017 about a possible further delay of the effective date of the January 4, 2017 revisions to the Certification of Pesticide Applicators rule until May 22, 2018. With this action, EPA is making an interim extension of the effective date until June 5, 2017 in order to consider and respond to public comments received in regard to the proposed May 22, 2018 extension.

DATES: The effective date of the final rule that appeared in the **Federal Register** of January 4, 2017 (82 FR 952), is delayed from May 22, 2017, to June 5, 2017.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0183, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket)

in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

Kevin Keaney, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 305–5557; email address: *keaney.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

On January 26, 2017, EPA published a final rule in the **Federal Register** entitled ''Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017'' (82 FR 8499). In that rule, EPA delayed the effective dates of the thirty regulations, including the final rule revising the regulation concerning the certification of applicators of restricted use pesticides (RUPs) issued on January 4, 2017 (82 FR 952) (FR–9956–70), as requested in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'' (January 20 Memorandum). The January 20 Memorandum directed the heads of Executive Departments and Agencies to postpone for 60 days from the date of the January 20 Memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect.

The January 20 Memorandum further directed that where appropriate and as permitted by applicable law, agencies should consider a rule to delay the effective date for regulations beyond that 60-day period. Accordingly, on March 20, 2017, EPA published the final rule ''Further Delay of Effective Dates for Five Final Regulations Published by the Environmental Protection Agency Between December 12, 2016 and January 17, 2017'' (82 FR 14324), which applied to the revised Certification of Pesticide Applicators rule and four other rules. Pursuant to that March 20, 2017 rule, the effective date of the revised Certification of Pesticide Applicators rule was extended to May 22, 2017. To give recently arrived Agency officials the opportunity to conduct a substantive review of the revised Certification of Pesticide Applicators rule, EPA solicited public comment on a proposed further delay of the effective date until May 22, 2018 (82 FR 22294, May 15, 2017). EPA anticipates receiving comments in response to the May 15, 2017 request for comments on the proposal to further delay until May 22, 2018 the effective date of the January 4, 2017 final rule, and therefore is extending the effective date of that final rule until June 5, 2017 in order to allow adequate time to consider and respond to the public comments.

Section 553(b)(1)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(1)(B), allows an action to be taken without opportunity for notice or comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In addition, section 553(d)(3), 5 U.S.C. 553(d)(3), allows the effective date of an action to be less than 30 days when a good cause finding is made. Because of the immediate pendency of the effective date of the January 4, 2017 final rule, it would be impractical to make the effective date of this extension 30 days after its publication, and it would be impractical to get public comments on this interim extension of the effective date of the rule. In addition, EPA still has only one Senate-confirmed official, and the new Administration has not had the time to adequately review the January 4, 2017 certification rule. This extension to June 5, 2017, will prevent the confusion and disruption among regulatees and stakeholders that would result if the January 4, 2017 rule were to become effective (displace the existing regulation) and then stayed or revoked as a result of administrative review. Therefore, EPA finds good cause to extend the effective date of the rule without notice and comment.

II. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not involve any information collection activities subject to the PRA, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under RFA, 5 U.S.C. 601 *et seq.*

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not an economically significant regulatory action as defined by Executive Order 12866.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

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

EPA believes that this action would not have disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 171

Environmental protection, Applicator competency, Agricultural worker safety, Certified applicator, Pesticide safety training, Pesticide worker safety, Pesticides and pests, Restricted use pesticides.

Dated: May 17, 2017.

Louise P. Wise,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–10541 Filed 5–18–17; 4:15 pm]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 270

[Docket No. FRA–2011–0060, Notice No. 6]

RIN 2130–AC31

System Safety Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Final rule; stay of regulations.

SUMMARY: On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement a system safety program (SSP) to improve the safety of their operations. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017, and on March 20, 2017, FRA extended the stay to May 22, 2017. This document extends that stay until June 5, 2017.

DATES: Effective May 18, 2017, 49 CFR part 270 is stayed until June 5, 2017.

FOR FURTHER INFORMATION CONTACT: Matthew Navarrete, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel; telephone: 202–493–0138; email: *Matthew.Navarrete@dot.gov.*

SUPPLEMENTARY INFORMATION: On August 12, 2016, FRA published a final rule requiring commuter and intercity passenger railroads to develop and implement an SSP to improve the safety of their operations. See 81 FR 53850. On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017 consistent with the new Administration's guidance issued January 20, 2017, intended to provide the Administration an adequate opportunity to review new and pending regulations. 82 FR 10443 (Feb. 13, 2017). To provide additional time for that review, FRA extended the stay until May 22, 2017. 82 FR 14476 (Mar. 21, 2017). To continue this review, FRA needs to extend the stay until June 5, 2017.

FRA's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary, and contrary to the public interest. The delay in the effective date until June 5, 2017, is necessary to provide the opportunity for further review and consideration of this new regulation, consistent with the new Administration's January 20, 2017 guidance. Given the imminence of the effective date of the ''System Safety Program'' final rule, seeking prior public comment on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority: 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

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

Patrick T. Warren,

Executive Director.

[FR Doc. 2017–10519 Filed 5–18–17; 4:15 pm]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA–2016–0125]

RIN 2126–AK93

Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action temporarily delays until June 5, 2017, the effective date of the final rule titled ''Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles,'' initially scheduled to become effective on February 13, 2017.

DATES: The effective date of the final rule published on December 14, 2016 (81 FR 90416), is delayed until June 5, 2017. The initial compliance date is September 1, 2018, with full phase in by September 1, 2019.

FOR FURTHER INFORMATION CONTACT: For legal issues, contact Thomas Healy, Office of Chief Counsel, at (202) 366–2992. For non-legal issues, contact Mike Pyne, Office of Rulemaking, at (202) 366–4171.

SUPPLEMENTARY INFORMATION: NHTSA bases this action on the Presidential directive expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'' (the January 20, 2017 memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of certain regulations that had been published in the **Federal Register**, but had not yet taken effect. Because the original effective date of the final rule published on December 14, 2016, fell within that 60-day window, the effective date of the rule was extended to March 21, 2017, in a final rule published on February 6, 2017 (82 FR 9368). The effective date was again extended to May 22, 2017, in a final rule

published March 21, 2017. Consistent with the memorandum of the Assistant to the President and Chief of Staff, and as stated in the February 6, 2017, final rule delaying the effective date, the Agency further delays the effective date of this regulation until June 5, 2017.

The Agency's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The delay in the effective date until June 5, 2017, is necessary to provide the opportunity for further review and consideration of this new regulation, consistent with the January 20, 2017 memorandum. Given the imminence of the effective date of the ''Federal Motor Vehicle Safety Standards; Minimum Sound Requirements for Hybrid and Electric Vehicles'' final rule, seeking prior public comment on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30116; delegation of authority at 49 CFR 1.95.

Jack Danielson,

Acting Deputy Administrator.

[FR Doc. 2017–10504 Filed 5–18–17; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101206604–1758–02]

RIN 0648–XF414

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2016–2017 Commercial Accountability Measure and Closure for King Mackerel in Western Zone of the Gulf of Mexico

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for commercial king mackerel in the western zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary rule. NMFS has determined that the commercial quota for king mackerel in the western zone of the Gulf EEZ will be reached by May 21, 2017. Therefore, NMFS closes the western zone of the Gulf EEZ to commercial king mackerel fishing on May 21, 2017. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective at 12:01 p.m., local time, May 21, 2017, until 12:01 a.m., local time, on July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Gulf king mackerel below apply as either round or gutted weight.

On October 14, 2016, NMFS closed the commercial sector for king mackerel in the western zone, because the commercial harvest of king mackerel in the July 1, 2016, through June 30, 2017, fishing year reached the commercial quota that was in place at that time (81 FR 71410, October 17, 2016). The western zone of Gulf migratory group king mackerel is located in the EEZ between a line extending east from the border of the United States and Mexico, and 87°31.1′ W. long., which is a line extending south from the state boundary of Alabama and Florida.

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). That final rule adjusted the management boundaries, zones, and annual catch limits for Gulf migratory group king mackerel (Gulf king mackerel) that resulted in increased commercial quotas for each zone of the Gulf EEZ. Consequently, NMFS reopened the western zone to commercial harvest of king mackerel on May 11, 2017, to allow harvest up to the new commercial quota for that zone of 1,180,000 lb (535,239 kg) (82 FR 21314, May 8, 2017).

Regulations at 50 CFR 622.388(a)(1)(i) require NMFS to close the commercial sector for Gulf king mackerel in the western zone when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the commercial quota of 1,180,000 lb (535,239 kg) for Gulf king mackerel in the western zone will be reached by May 21, 2017. Accordingly, the western zone is closed to commercial fishing for Gulf king mackerel effective at 12:01 p.m., local time, May 21, 2017, through June 30, 2017, the end of the current fishing year.

Except for a person aboard a charter vessel or headboat, during the closure no person aboard a vessel that has been issued a Federal commercial permit for king mackerel may fish for or retain Gulf king mackerel in the EEZ in the closed zone (50 CFR 622.384(e)(1)). A person aboard a vessel that has a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zone under the recreational bag and possession limits set forth in 50 CFR 622.382(a)(1)(ii) and (a)(2), provided the vessel is operating as a charter vessel or headboat (50 CFR 622.384(e)(2)). A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(3)).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf migratory group king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.384(e) and 622.388(a)(1)(i), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior

notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated AM has already been subject to notice and public comment, and all that remains is to notify the public of the closure. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the king mackerel stock, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 16, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–10251 Filed 5–16–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 97
Monday, May 22, 2017

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0008; Directorate Identifier 2013–NM–076–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: We are revising an earlier notice of proposed rulemaking (NPRM) to supersede an Airworthiness Directive (AD) for all Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. This action revises the NPRM by adding a requirement to revise the maintenance or inspection program, as applicable, to incorporate new airworthiness limitations and adding certain airplanes to the applicability. We are proposing this airworthiness directive (AD) to address the unsafe condition on these products. Since these actions impose an additional burden over those proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: The comment period for the NPRM published in the **Federal Register** on February 3, 2014 (79 FR 6106), is reopened.

We must receive comments on this SNPRM by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this SNPRM, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this SNPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ana Martinez Hueto, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0008; Directorate Identifier 2013–NM–076–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this SNPRM. We will consider all comments received by the closing date and may amend this SNPRM based on those comments.

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

Discussion

On November 13, 2012, we issued AD 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012) (''AD 2012–23–09''). AD 2012–23–09 requires actions intended to address an unsafe condition on all Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes.

We issued an NPRM to amend 14 CFR part 39 by adding an AD to supersede AD 2012–23–09 that would apply to all Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on February 3, 2014 (79 FR 6106). The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations were necessary. The NPRM proposed to require a revision to the maintenance or inspection program to incorporate new inspection tasks and their respective thresholds and intervals.

Actions Since the NPRM was Issued

Since we issued the NPRM, a new revision of the airworthiness limitations section (ALS) of the EMBRAER ERJ 190/195 Maintenance Review Board Report (MRBR) was issued, which contains more restrictive airworthiness limitations. The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2016–04–01, effective April 4, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 IGW, and –100 ECJ airplanes; and

Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. The MCAI states:

> This [Brazilian] AD was prompted by a determination that existing maintenance requirements and airworthiness limitations are inadequate to ensure the structural integrity of the airplane. We are issuing this [Brazilian] AD to prevent failure of certain system components, which could result in reduced structural integrity [and system reliability] of the airplane.

The required action is revising the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008.

Related Service Information Under 1 CFR Part 51

Embraer S.A. has issued Appendix A—Airworthiness Limitations, Part 1—Certification Maintenance Requirements, Part 2—Airworthiness Limitation Inspections—Structures, Part 3—Fuel System Limitation Items, and Part 4—Life-Limited Items, of the EMBRAER ERJ 190/195 Maintenance Review Board Report (MRBR), MRB–1928, Revision 9, dated August 14, 2015 (''MRB–1928, Revision 9''). This service information describes airworthiness limitations (Part 1, Part 2, Part 3, and Part 4 in Appendix A—Airworthiness Limitations of MRB–1928, Revision 9, make up the airworthiness limitations).

Embraer S.A. has also issued Temporary Revision 9–1, dated October 27, 2015, to Appendix A—Airworthiness Limitations, of MRB–1928, Revision 9, which provides revised airworthiness limitation inspections and life limited items due to new structural provisions for Live TV and Connectivity System.

In addition, Embraer S.A. has issued Temporary Revision 9–3, dated October 27, 2015, to Appendix A—Airworthiness Limitations, of MRB–1928, Revision 9, which updates the life limitations of certain main landing gear and nose landing gear components.

Embraer S.A. has also issued Appendix A, Airworthiness Limitation, of the EMBRAER ERJ 190–100 ECJ Maintenance Planning Guide (MPG), MPG–2928, Revision 4, dated July 14, 2014 (''MPG–2928, Revision 4''). This service information describes airworthiness limitations (Part 1, Certification Maintenance Requirements, Part 2, Airworthiness Limitation Inspections—Structures, Part 3, Fuel System Limitation Items, and Part 4, Life Limited Items, of the MPG make up the airworthiness limitations).

Embraer S.A. has also issued Temporary Revision 4–2, dated February 13, 2015, to Appendix A, Part 2, of MPG–2928, Revision 4, which describes detailed inspections for the upper doubler at the forward passenger door cutout.

Furthermore, Embraer S.A. has issued Temporary Revision 4–3, dated October 30, 2015, to Appendix A, Part 4, of MPG–2928, Revision 4, which updates the life limitations of certain main landing gear and nose landing components.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Comments

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

FAA's Determination and Requirements of This SNPRM

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (k)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure.

Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before accomplishing the revision of the airplane maintenance or inspection program specified in this proposed AD, do not need to be reworked in accordance with the CDCCLs. However, once the airplane maintenance or inspection program has been revised as required by this proposed AD, future maintenance actions on these components must be done in accordance with the CDCCLs.

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Costs of Compliance

We estimate that this SNPRM affects 83 airplanes of U.S. registry.

The actions that are required by AD 2012–23–09 and retained in this SNPRM take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 2012–23–09 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the new basic requirements of this SNPRM. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this SNPRM on U.S. operators to be $7,055, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012), and adding the following new airworthiness directive (AD):

Embraer S.A.: Docket No. FAA–2014–0008; Directorate Identifier 2013–NM–076–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

This AD replaces AD 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012) (''AD 2012–23–09'').

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; serial numbers 19000002, 19000004, 19000006 through 19000213 inclusive, 19000215 through 19000276 inclusive, 19000278 through 19000466 inclusive, 19000468 through 19000525 inclusive, and 19000527 through 19000696 inclusive.

(d) Subject

Air Transport Association (ATA) of America Codes 27, Flight controls; 28, Fuel; 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; 57, Wings; 71, Powerplant; and 78, Exhaust.

(e) Reason

This AD was prompted by a determination that more restrictive airworthiness limitations are necessary. We are issuing this AD to detect and correct fatigue cracking of structural components and to prevent failure of certain system components; these conditions could result in reduced structural integrity and system reliability of the airplane.

(f) Compliance

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

(g) Retained Revision of the Maintenance Program, With No Changes

For Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes: This paragraph restates the actions required by paragraph (h) of AD 2012–23–09, with no changes. Within 90 days after January 14, 2013 (the effective date of AD 2012–23–09), revise the maintenance program to incorporate the tasks specified in Part 2—Airworthiness Limitation Inspections (ALI)—Structures, of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010; and EMBRAER Temporary Revision (TR) 5–1, dated February 11, 2011, to Part 2—Airworthiness Limitation Inspections (ALI)—Structures, of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are stated in the ''Implementation Plan'' section of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(h) Retained No Alternative Actions or Intervals, With New Exception

This paragraph restates the actions required by paragraph (i) of AD 2012–23–09, with a new exception. After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used, unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD, and except as required by paragraph (i) of this AD.

(i) New Requirements of This AD: Revision of the Maintenance or Inspection Program

(1) For Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes: Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the tasks specified in Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A—Airworthiness Limitations, of the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 9, dated August 14, 2015 (''MRB–1928, Revision 9''); EMBRAER Temporary Revision 9–1, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, and Part 4—Life Limited Items, of Appendix A, Airworthiness Limitations, of MRB–1928, Revision 9; and EMBRAER Temporary Revision 9–3, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A, Airworthiness Limitations, of MRB–1928, Revision 9; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are at the later of the times specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD. Doing the revision required by this paragraph terminates the revision required by paragraph (g) of this AD.

(i) Within the applicable times specified in MRB–1928, Revision 9; EMBRAER Temporary Revision 9–1, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, and Part 4—Life Limited Items, of Appendix A, Airworthiness Limitations, of MRB–1928, Revision 9; and EMBRAER Temporary Revision 9–3, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A, Airworthiness Limitations, of MRB–1928, Revision 9. Where tasks are listed in both MRB–1928, Revision 9, and a temporary revision, the compliance times in the temporary revision take precedence.

(ii) Within 90 days or 600 flight cycles after the effective date of this AD, whichever occurs later.

(2) For Model ERJ 190–100 ECJ airplanes: Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the tasks specified in Part 1, Certification Maintenance Requirements, Part 2, Airworthiness Limitation Inspections—Structures, Part 3, Fuel System Limitation Items, and Part 4, Life Limited Items, of Appendix A, Airworthiness Limitation, of the EMBRAER ERJ 190–100 ECJ Maintenance Planning Guide, MPG–2928, Revision 4, dated July 14, 2014; EMBRAER Temporary Revision (TR) 4–2, dated February 13, 2015, and EMBRAER TR 4–3, dated October 30, 2015; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are at the later of the times specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Within the applicable times specified in Part 1, Certification Maintenance Requirements, Part 2, Airworthiness Limitation Inspections—Structures, Part 3, Fuel System Limitation Items, and Part 4, Life Limited Items, of Appendix A, Airworthiness Limitation, of the EMBRAER ERJ 190–100 ECJ Maintenance Planning Guide, MPG–2928, Revision 4, dated July 14, 2014; EMBRAER TR 4–2, dated February 13, 2015; and EMBRAER TR 4–3, dated October 30, 2015. Where tasks are listed in both MPG–2928, Revision 4, and a temporary revision, the compliance times in the temporary revision take precedence.

(ii) Within 90 days or 600 flight cycles after the effective date of this AD, whichever occurs later.

(j) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishment of the revision required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are

approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2016–04–01, effective April 4, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008.

(2) For more information about this AD, contact Ana Martinez Hueto, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320.

(3) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 8, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10136 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0477; Directorate Identifier 2016–NM–112–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This proposed AD was prompted by a report indicating that the lanyard length of the passenger drop down oxygen masks is too long. This proposed AD would require replacing the existing oxygen mask lanyards with lanyards of the correct length. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0477; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar A. Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0477; Directorate Identifier 2016–NM–112–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–15, dated June 1, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. The MCAI states:

> Bombardier (BA) has determined that the lanyard length of the passenger drop down oxygen masks is too long and may cause the safety pin tethered to the opposite end of the lanyard to remain engaged in the oxygen flow mechanism when the mask is pulled to the passenger's face. In an emergency situation where oxygen is required, it is possible that certain passengers may not receive oxygen

supply due to the increased length of the lanyard.

[Bombardier] has issued service bulletin (SB) 605–35–003 to replace the existing lanyards in the passenger oxygen box assemblies with lanyards of the correct length. Incorporation of this [Bombardier service bulletin] will restore the proper oxygen flow functionality to the passenger oxygen masks in the event of an emergency.

This [Canadian] AD mandates the incorporation of [Bombardier service bulletin] 605–35–003.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0477.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., issued Service Bulletin 605–35–003, Revision 02, dated April 18, 2016. This service information describes procedures for replacing the existing oxygen mask lanyards with lanyards of the correct length. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 120 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	4 work-hours × $85 per hour = $340	Not available	$340	$40,800

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2017–0477; Directorate Identifier 2016–NM–112–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, certificated in any category, serial numbers 5702 through 5705 inclusive, 5707, 5709, 5710, 5712, 5714, 5715, 5718, 5719, 5722, 5723, 5725, 5727, 5728, 5731 through 5733 inclusive, 5735, 5736, 5740, 5742, 5743, 5745, 5746, 5748 through 5750 inclusive, 5752 through 5754 inclusive, 5756 through 5758 inclusive, 5760 through 5762 inclusive, 5764 through 5766 inclusive, 5768 through 5770 inclusive, 5772 through 5774 inclusive, 5776 through 5780 inclusive, 5782 through 5787 inclusive, 5790, 5791, 5793, 5794, 5796, 5797, 5799, 5800, 5802, 5803, 5805 through 5814 inclusive, 5816, 5818 through 5820 inclusive, 5823 through 5829 inclusive, 5831 through 5853 inclusive, 5856, 5857, 5859 through 5863 inclusive, 5865 through 5874 inclusive, 5876 through 5881 inclusive, 5883 through 5888 inclusive, 5890 through 5894 inclusive, 5896 through 5898 inclusive, 5900 through 5906 inclusive, 5908 through 5911 inclusive, 5913 through 5938 inclusive, 5940 through 5947 inclusive, 5949 through 5980 inclusive, 5982 through 5985 inclusive, 5987, and 5988.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a report indicating that the lanyard length of the passenger drop down oxygen masks is too long. The length of the oxygen mask lanyard might cause the safety pin tethered to the opposite end of the lanyard to remain

engaged in the oxygen flow mechanism when the mask is pulled to the passenger's face. We are issuing this AD to prevent improper oxygen flow functionality to the passenger oxygen masks in the event of an emergency.

(f) Compliance

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

(g) Replacement of Oxygen Mask Lanyards

Within 2,400 flight hours or 60 months, whichever occurs first after the effective date of this AD, replace the existing lanyards in the passenger oxygen box assemblies with lanyards of the correct length, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 605–35–003, Revision 02, dated April 18, 2016.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 605–35–003, dated January 28, 2016; or Bombardier Service Bulletin 605–35–003, Revision 01, dated February 10, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–15, dated June 1, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0477.

(2) For more information about this AD, contact Cesar A. Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10137 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0479; Directorate Identifier 2016–NM–202–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes. This proposed AD was prompted by the discovery of circuit breakers of unsuitable strength that fail to protect the system from overcurrent. This proposed AD would require replacing certain circuit breakers. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0479; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0479; Directorate Identifier 2016–NM–202–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0234, dated November 24, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes. The MCAI states:

Circuit breakers of an unsuitable strength have been found installed on SAAB SF340A aeroplanes, failing in protecting the system from an overcurrent.

This condition, if not corrected, could lead to the overheating of wires, possibly resulting in smoke or fire on the aeroplane.

To address this potential unsafe condition, Saab issued [service bulletin] SB 340–33–058 (later revised) to provide instructions for replacement of circuit breakers.

For the reason described above, this [EASA] AD requires replacement of circuit breakers of unsuitable strength in the passenger reading light system.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0479.

Related Service Information Under 1 CFR Part 51

We reviewed Saab Service Bulletin 340–33–058, Revision 01, dated October 21, 2016. The service information describes procedures for replacing any circuit breaker having part number (P/N) MS3320–10 installed at position 2LJ (L25) and position 4LJ (L26) with a circuit breaker having P/N MS3320–7–5. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 19 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	2 work-hours × $85 per hour = $170	$220	$390	$7,410

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Docket No. FAA–2017–0479; Directorate Identifier 2016–NM–202–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) airplanes, certificated in any category, serial numbers 004 through 138 inclusive; except those on which Saab Service Bulletin 340–33–053 (modification/removal for cargo/freighter configuration) has been embodied.

(d) Subject

Air Transport Association (ATA) of America Code 33, Lights.

(e) Reason

This AD was prompted by the discovery of circuit breakers of unsuitable strength that fail to protect the system from overcurrent. We are issuing this AD to prevent such conditions, which could lead to overheating of the wires and possibly result in smoke or fire in the airplane.

(f) Compliance

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

(g) Replacement

Within 6 months after the effective date of this AD: Replace any circuit breaker having part number (P/N) MS3320–10 installed at position 2LJ (L25) and position 4LJ (L26) with a circuit breaker having P/N MS3320–7–5, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–33–058, Revision 01, dated October 21, 2016.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a circuit breaker P/N MS3320–10 on any passenger reading light system at position at 2LJ (L25) and position 4LJ (L26), on any airplane.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Saab Service Bulletin 340–33–058, dated May 30, 2016.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0234, dated November 24, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0479.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10139 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0478; Directorate Identifier 2016–NM–174–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233, airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by a report of cracks on frame forks and outer skin on the forward and aft cargo compartment doors. This proposed AD would require repetitive inspections of the frame forks, and corrective actions if necessary. This proposed AD would also include optional modifications that constitute terminating action. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0478; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0478; Directorate Identifier 2016–NM–174–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each

substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0187, dated September 19, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233, airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> During full scale fatigue test, cracks have been found on frame forks and outer skin on forward and aft cargo doors.
>
> To improve the fatigue behaviour of the frame forks, Airbus introduced modification (mod) 22948 in production, and issued inspection Service Bulletin (SB) A320–52–1032 and modification SB A320–52–1042, both recommended.
>
> Since those actions were taken, further improved cargo compartment doors have been introduced in production through Airbus mod 26213, on aeroplanes having MSN 0759 and up. This modification, which is not available for in-service retrofit, also includes provisions that exclude installation of pre-mod 26213 aft and forward compartment cargo doors on an aeroplane.
>
> In the frame of the Widespread Fatigue Damage (WFD) study, it has been determined that repetitive inspections are necessary for aft and forward cargo compartment doors on aeroplanes that do not (or no longer) embody mod 22948 (or SB A320–52–1042), and those that do not embody mod 26213. Failure to detect cracks would reduce the cargo door structural integrity.
>
> This condition, if not detected and corrected, could lead to cargo door failure, possibly resulting in decompression of the aeroplane and injury to occupants.
>
> To address this unsafe condition, Airbus issued SB A320–52–1171 to provide inspection instructions. This SB was later revised to correct the list of affected cargo doors. Airbus also issued SB A320–52–1170, introducing a door modification which constitutes terminating action for the repetitive special detailed inspection (SDI).
>
> For the reason described above, this [EASA] AD requires accomplishment of repetitive SDI by rototest of all frame forks in beam 4 area to detect cracks, and, depending on findings, accomplishment of applicable corrective action(s) [repair or replacement]. This AD also provides an optional [modification that constitutes] terminating action for the repetitive SDI required by this [EASA] AD.

One of the optional modifications includes related investigative and corrective actions. The related investigative action is a high frequency eddy current (HFEC) rotating probe inspection for cracks, and the corrective action is a repair. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0478.

Related Service Information Under 1 CFR Part 51

We reviewed the following Airbus service information.

- Airbus Service Bulletin A320–52–1171, Revision 01, dated September 5, 2016, describes procedures for repetitive special detailed inspections of all frame forks in the beam 4 area of any affected door, and corrective actions.
- Airbus Service Bulletin A320–52–1042, Revision 2, dated January 14, 1997, describes procedures for modification of all affected forward and aft cargo compartment doors of an airplane.
- Airbus Service Bulletin A320–52–1170, dated September 5, 2016, describes modification of all affected forward and aft cargo compartment doors of an airplane, including related investigative and corrective actions.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Difference Between This Proposed AD and the MCAI or Service Information

Note 2 of the MCAI specifies to refer to Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) Part 1—Safe Life Airworthiness Limitation Items, Section 1, Chapter 5.2 (traceability). However, that document refers to an Airbus document to which we do not have access, and therefore we have not included a reference to Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Section 1, Chapter 5.2 (traceability) in this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 88 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Special detailed inspection	25 work-hours × $85 per hour = $2,125	$0	$2,125	$187,000

OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Modification	24 work-hours × $85 per hour = $2,040.	Up to $240	Up to $2,280.

We have received no definitive data that would enable us to provide cost estimates for the on-condition repairs and replacements specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2017–0478; Directorate Identifier 2016–NM–174–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, certificated in any category, manufacturer serial numbers through 0758 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by a report of cracks on the frame forks and outer skin on the forward and aft cargo compartment doors. We are issuing this AD to detect and correct cracks on the frame forks and outer skin on the forward and aft cargo compartment doors, which could lead to reduced structural integrity and failure of the cargo compartment door, possible decompression of the airplane, and injury to occupants.

(f) Compliance

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

(g) Definition of Affected Door

For the purpose of this AD, an ''affected door'' is a forward or aft cargo compartment door, having any part number listed in table 1 to paragraph (g) of this AD, except a cargo compartment door on which Airbus Service Bulletin A320–52–1042 or Airbus Service Bulletin A320–52–1170 is embodied.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—AFFECTED PART NUMBERS

Forward cargo compartment door part Nos.	Aft cargo compartment door part Nos.
D52371000000	D52371900000
D52371000002	D52371900002
D52371000004	D52371900004
D52371000006	D52371900008
D52371000008	D52371900010
D52371000010	D52371900012
D52371000012	D52371900014
D52371000014	D52371900016
D52371000016	D52371900018
D52371000018	D52371900022
D52371000022	.....

(h) Repetitive Special Detailed Inspection of Frame Forks

At the latest of the compliance times listed in paragraphs (h)(1) through (h)(4) of this AD: Do a special detailed inspection of all frame forks in the beam 4 area of any affected door as defined in paragraph (g) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–52–1171, Revision 01, dated September 5, 2016 (''SB A320–52–1171 R01''), except as specified in paragraphs (k) and (l) of this AD. Repeat the inspection thereafter at intervals not to exceed 3,000 flight cycles. A review of the airplane delivery or maintenance records is acceptable to identify any affected door installed on the airplane, provided that the cargo compartment door part number can be conclusively determined from that review.

(1) Before exceeding 37,500 flight cycles since first installation of the door on an airplane.

(2) Within 900 flight cycles after the effective date of this AD, without exceeding 41,950 flight cycles since first installation of the door on an airplane.

(3) Within 50 flight cycles after the effective date of this AD, for a door having reached or exceeded 41,900 flight cycles since first installation on an airplane.

(4) Within 3,000 flight cycles since the last inspection of the door as specified in Airbus Service Bulletin A320–52–1032.

(i) Corrective Actions

If any crack is found during any inspection required by paragraph (h) of this AD, before further flight, do all applicable corrective actions in accordance with the Accomplishment Instructions of SB A320–52–1171 R01, except as specified in paragraphs (k) and (l) of this AD. Accomplishment of applicable corrective actions does not constitute terminating action for the repetitive inspections.

(j) Optional Terminating Action

(1) Modification of all affected doors of an airplane in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–52–1042, Revision 2, dated January 14, 1997, constitutes terminating action for the repetitive inspections specified in paragraph (h) of this AD for that airplane, provided that, after modification, no affected door is re-installed on that airplane.

(2) Modification of all affected doors of an airplane including accomplishment of all applicable related investigative and corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–52–1170, dated September 5, 2016, except as specified in paragraphs (k) and (l) of this AD, constitutes terminating action for the repetitive inspections specified in paragraph (h) of this AD for that airplane, provided that, after modification, no affected door is re-installed on that airplane.

(3) Modification of all affected doors on an airplane, in case of finding damaged frame forks, as specified in an Airbus Repair Design Approval Sheet (RDAS), and done in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA); constitutes terminating action for the repetitive inspection specified in paragraph (h) of this AD for that airplane, provided that, after modification, no affected door is re-installed on that airplane.

(k) Exception to Service Information

Where SB A320–52–1171 R01 specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance

with the procedures specified in paragraph (o)(2) of this AD.

(l) No Reporting Requirement

Although SB A320–52–1171 R01 specifies to submit certain information to the manufacturer, and specifies that action as ''RC'' (Required for Compliance), this AD does not include that requirement.

(m) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–52–1171, dated October 29, 2015, provided that it can be conclusively determined that any part number D52371000018 was also inspected as specified in paragraph (h) of this AD.

(n) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an affected door specified in paragraph (g) of this AD, unless it has been inspected in accordance with the requirements of paragraph (h) of this AD and all applicable corrective actions have been done in accordance with paragraph (i) of this AD.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (p)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as specified in paragraphs (k) and (l) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0187, dated September 19, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0478.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–1405; fax: 425–227–1149.

(3) For service information identified in this AD, contact Airbus, Airworthiness—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10138 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0475; Directorate Identifier 2016–NM–142–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes. This proposed AD was prompted by reports of ice accretion on the airplane wing due to the failure of certain anti-ice piccolo tubes in the wing outboard slats. This proposed AD would require repetitive inspections of each anti-ice piccolo tube and corrective action if necessary. This proposed AD also provides an optional terminating action for the repetitive inspections. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0475; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0475; Directorate Identifier 2016–NM–142–AD'' at the beginning of

your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0149, dated July 25, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes. The MCAI states:

Occurrences were reported of ice accretion on the wing, due to failure of the affected anti-ice piccolo tubes Part Number (P/N) FGFB725102. Investigation results indicated that some wing piccolo tubes P/N FGFB725102 could have manufacturing defects in their welded parts, which may have caused the rupture of the tubes, due to fatigue.

This condition, if not detected and corrected, could lead to undetected significant ice accretion on the wing, possibly resulting in loss of control of the aeroplane.

To address this potential unsafe condition, [Dassault Aviation] DA issued Service Bulletin (SB) F2000–431 Revision 1 and SB F2000EX–391 Revision 1 (hereafter referred to collectively as 'the applicable SB' in this [EASA] AD) to provide instructions for endoscopic inspection of the tubes.

For the reasons described above, this [EASA] AD requires repetitive inspections of each wing outboard slat piccolo tube [for discrepancies, *i.e.,* manufacturing defects, cracking, and loss of material in the welded parts] and, depending on findings, replacement of the piccolo tube(s) [and the outboard slat] with a [new or] serviceable part.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0475.

Related Service Information Under 1 CFR Part 51

Dassault Aviation issued Service Bulletin F2000–431, Revision 1, dated June 6, 2016; and Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016. The service information describes procedures for endoscopic inspections of the anti-ice piccolo tube on each wing outboard slat, and replacement or re-identification of affected anti-ice piccolo tubes and outboard slats. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 348 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510 per inspection cycle.	$177,480 per inspection cycle.

We have received no definitive data that will enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2017–0475; Directorate Identifier 2016–NM–142–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by reports of ice accretion on the airplane wing due to the failure of certain anti-ice piccolo tubes in the wing outboard slats. We are issuing this AD to detect and correct manufacturing defects in the anti-ice piccolo tubes in the wing outboard slats. This condition could lead to undetected significant ice accretion on a wing, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Affected Anti-Ice Piccolo Tubes

(1) For the purpose of this AD, an affected anti-ice piccolo tube meets at least one of the conditions specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Has part number (P/N) FGFB725102 (left-hand side (LH)) or P/N FGFB726102 (right-hand side (RH)).

(ii) Is installed on a wing outboard slat having a part number identified in table 1 to paragraph (g)(1)(ii) of this AD.

TABLE 1 TO PARAGRAPH (g)(1)(ii) OF THIS AD—AFFECTED OUTBOARD SLATS PART NUMBERS

LH	RH
FGFB134	FGFB144.
FGFB134A1 to FGFB134A9 inclusive	FGFB144A1 to FGFB144A9 inclusive.
FGFB134B1	FGFB144B1.
FFGFB134C1 to FGFB134C4 inclusive	FGFB144C1 to FGFB144C4 inclusive.
From FGFB134D1 to FGFB134D4 inclusive	FGFB144D1 to FGFB144D4 inclusive.
FGFB135 and FGFB135M	FGFB145 and FGFB145M.
FGFB135A1 to FGFB135A4 inclusive	FGFB145A1 to FGFB145A4 inclusive.
From FGFB135A1M to FGFB135A4M inclusive	FGFB145A1M to FGFB145A4M inclusive.
From FGFB135B1 to FGFB135B3 inclusive	FGFB145B1 to FGFB145B3 inclusive.
FGFB135B1M to FGFB135B3M inclusive	FGFB145B1M to FGFB145B3M inclusive.
F2MB135	F2MB145.
F2MB135A1	F2MB145A1.
F2MB135L1 to F2MB135L5 inclusive	F2MB145L1 to F2MB145L5 inclusive.

(2) If the outboard slat part number is identified in table 2 to paragraph (g)(2) of this AD, the anti-ice piccolo tube is not affected because the outboard slat has already been retrofitted with a new stiffened anti-ice piccolo tube, and no action is required by this AD for that piccolo tube.

TABLE 2 TO PARAGRAPH (g)(2) OF THIS AD—SERVICEABLE OUTBOARD SLATS PART NUMBERS

LH	RH
FGFB134P	FGFB144P.
FGFB134A1P through FGFB134A9P inclusive	FGFB144A1P through FGFB144A9P inclusive.
FGFB134B1P	FGFB144B1P.
FFGFB134C1P to FGFB134C4P inclusive	FGFB144C1P to FGFB144C4P inclusive.
From FGFB134D1P to FGFB134D4P inclusive	FGFB144D1P to FGFB144D4P inclusive.
FGFB135P and FGFB135MP	FGFB145P and FGFB145MP.
FGFB135A1P to FGFB135A4P inclusive	FGFB145A1P to FGFB145A4P inclusive.
From FGFB135A1MP to FGFB135A4MP inclusive	FGFB145A1MP to FGFB145A4MP inclusive.
From FGFB135B1P to FGFB135B3P inclusive	FGFB145B1P to FGFB145B3P inclusive.
FGFB135B1MP to FGFB135B3MP inclusive	FGFB145B1MP to FGFB145B3MP inclusive.
F2MB135P	F2MB145P.
F2MB135A1P	F2MB145A1P.
F2MB135L1P to F2MB135L5P inclusive	F2MB145L1P to F2MB145L5P inclusive.
F2MB135L6 to F2MB135L7 inclusive	F2MB145L6 to F2MB145L7 inclusive.

(h) Inspections

If an anti-ice piccolo tube has been determined to be affected, as specified in paragraph (g) of this AD: At the applicable time specified in table 3 to paragraph (h) of this AD, do an endoscopic inspection for discrepancies, *i.e.,* manufacturing defects, cracking, and loss of material in the welded parts of each affected anti-ice piccolo tube, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable. Repeat the endoscopic inspection thereafter at intervals not to exceed those specified in table 3 to paragraph (h) of this AD, until the modification specified in paragraph (j) of this AD is done.

TABLE 3 TO PARAGRAPH (h) OF THIS AD—COMPLIANCE TIMES FOR INSPECTIONS

Airplane model	Initial inspection	Repetitive inspection intervals
FALCON 2000 airplanes	Prior to exceeding 2,000 flight cycles since the airplane's first flight, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.	2,000 flight cycles.
FALCON 2000EX airplanes	Prior to exceeding 1,000 flight cycles since the airplane's first flight, or within 500 flight cycles after the effective date of this AD, whichever occurs later.	1,000 flight cycles.

(i) Corrective Action

If any discrepancy is found during any inspection required by paragraph (h) of this AD: Before further flight, replace the affected anti-ice piccolo tube with a new or serviceable part, and replace or re-identify the affected wing outboard slat as applicable, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable.

(j) Optional Terminating Action

Modification of an airplane by installing a new or serviceable anti-ice piccolo tube, and replacing or re-identifying the affected wing outboard slat, terminates the repetitive inspections required by paragraph (h) of this AD, if done in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000–431, Revision 1, dated June 6, 2016; or Service Bulletin F2000EX–391, Revision 1, dated June 6, 2016; as applicable.

(k) Parts Installation Prohibition

As of the time specified in paragraph (k)(1) or (k)(2) of this AD, as applicable, no person may install on any airplane an affected anti-ice piccolo tube or an affected outboard slat.

(1) For an airplane that, on the effective date of this AD, has an affected anti-ice piccolo tube or an affected outboard slat installed: Before further flight after modification of that airplane as required by paragraph (i) of this AD.

(2) For an airplane that, on the effective date of this AD, does not have an affected anti-ice piccolo tube or an affected outboard slat installed: As of the effective date of this AD.

(l) Later-Approved Parts

Installation on an airplane of an anti-ice piccolo tube having a part number approved after the effective date of this AD is acceptable for compliance with the requirements of paragraph (i) or paragraph (j) of this AD, as applicable, provided the conditions in paragraphs (l)(1) and (l)(2) of this AD are met.

(1) The anti-ice piccolo tube part number must be approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA).

(2) The installation of the anti-ice piccolo tube must be accomplished in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Dassault Aviation's EASA DOA.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to the attention of the person identified in paragraph (n)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Dassault Aviation's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0149, dated July 25, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0475.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 11, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10135 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0480; Directorate Identifier 2016–NM–204–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This proposed AD was prompted by cracking in the door sill area of the aft cargo door. This proposed AD would require repetitive inspections of the aft cargo door lower torsion box area, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 6, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0480; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0480; Directorate Identifier 2016–NM–204–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0241, dated December 6, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The MCAI states:

> Cracks were found on in-service aeroplane post mod 5438 in the door sill area, from frame (FR) 60 to FR63, including the sill beam flag, lock fitting, door sill web and torsion door panel. Two previous cases with less crack extent were also reported.
>
> This condition, if not detected and corrected, could lead to reduced structural integrity of the aeroplane.
>
> To address this unsafe condition, Airbus published Inspection Service Bulletin (SB) A310–53–2139 and SB A300–53–6179 to provide inspection instructions for the affected areas. Airbus published also Airbus SB A310–53–2141 and SB A300–53–6181 to provide modification instructions.
>
> Further analysis showed that aeroplanes pre-mod 5438, for which one or several lock fittings have been replaced by post mod 10319 lock fittings, could also be affected. Airbus published SB A310–53–2143 and SB A300–53–6185 to provide inspection instructions.
>
> For the reason described above, this [EASA] AD requires repetitive Special Detailed Inspections (SDI) of the aft cargo door lower torsion box area and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0480.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A300–53–6185, dated February 11, 2016; and Service Bulletin A310–53–2143, dated February 11, 2016; which describe, among other actions, repetitive inspections of the aft cargo door sill area for cracking. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	12 work-hours × $85 per hour = $1,020 per inspection cycle.	$0	$1,020 per inspection cycle	$18,360 per inspection cycle.

We have received no definitive data that would enable us to provide a cost estimate for the on-condition corrective actions specified in this proposed AD.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701:

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2017–0480; Directorate Identifier 2016–NM–204–AD.

(a) Comments Due Date

We must receive comments by July 6, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), and (c)(5) of this AD; certificated in any category; except those on which Airbus Modification 5438 was embodied in production.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R and F4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by cracking in the door sill area of the aft cargo door. We are issuing this AD to detect and correct cracking of the door sill area of the aft cargo; such cracking could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

Within the applicable compliance time specified in table 1 to paragraph (g) of this AD: Do a high frequency eddy current (HFEC) inspection for cracking of the door sill area (including the sill beam flag, lock fitting, door sill web, and torsion door panel) of the aft cargo door lower torsion box area, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6185, dated February 11, 2016; or Service Bulletin A310–53–2143, dated February 11, 2016; as applicable. Repeat the HFEC inspection thereafter at intervals not to exceed 15,100 flight cycles.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—INITIAL INSPECTION

Airplane configuration	Compliance time
Repaired (date known), post-Airbus Modification 10319 lock fittings installed using Airbus Structural Repair Manual (SRM) Task 51–72–00.	Before exceeding 25,800 flight cycles since the lock fitting replacement.
Repaired (no record, date unknown), post-Airbus Modification 10319 lock fittings installed using Airbus SRM Task 51–72–00.	Before exceeding 25,800 flight cycles from November 1, 1996.
Non-repaired airplane, or airplane repaired with pre-Airbus Modification 10319 lock fittings using Airbus SRM Task 51–72–00.	No inspection required.

(h) Corrective Action

If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, repair in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6185, dated February 11, 2016; or Service Bulletin A310–53–2143, dated February 11, 2016; as applicable; except, where Airbus Service Bulletin A300–53–6185, dated February 11, 2016; or Service Bulletin A310–53–2143, dated February 11, 2016; specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance), before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (j)(2) of this AD.

(i) Terminating Action

Repair of an airplane as required by paragraph (h) of this AD constitutes terminating action for the repetitive inspections required by paragraph (g) of this AD for that airplane.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by

the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0241, dated December 6, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0480.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10140 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

Notices

Federal Register

Vol. 82, No. 97

Monday, May 22, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEPARTMENT OF STATE

Notice of Partner Vetting System Pilot Program Meeting on May 31, 2017

AGENCY: U.S. Agency for International Development and U.S. Department of State.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting on completion of the congressionally mandated Partner Vetting System (PVS) pilot program.

DATES: Wednesday, May 31, 2017, 2:00–3:00 p.m.

ADDRESSES: Ronald Reagan Building, 1300 Pennsylvania Avenue NW., Washington, DC 20523.

SUPPLEMENTARY INFORMATION:

Agenda

The purpose of the meeting is to receive input and comments on the PVS pilot program from stakeholders who have experience relevant to the pilot. Members of the public may attend in person or join via teleconference. Officials from the U.S. Department of State (State) and the U.S. Agency for International Development (USAID) will provide an overview of the status of the pilot review process, followed by an open forum. Public participation is encouraged to help inform the State/USAID joint pilot evaluation report to Congress. The agenda is subject to change.

Stakeholders

Although the meeting is free and open to the public, registration is required for attendance. Please email *pvspilothelpdesk@usaid.gov* to register and receive location or call-in information. Please specify whether you wish to attend in person or call in. As space is limited, members of the public interested in attending in person will be accommodated in order of registrations received.

Dated: May 12, 2017.

Colleen R. Allen,

U.S. Agency for International Development.

Lisa M. Farrell,

U.S. Department of State.

[FR Doc. 2017–10418 Filed 5–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–17–0023]

Notice of Request for Extension and Revision 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, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection for the Child Nutrition Labeling Program.

DATES: Comments on this notice must be received by July 21, 2017 to be assured of consideration.

Additional Information or Comments: Contact Patricia Tung-Tayman, Contract Services Branch, Specialty Crops Inspection Division, Specialty Crops Programs, U.S. Department of Agriculture, STOP 0247, 1400 Independence Ave SW., telephone: (202) 720–0367 and FAX: (202) 690–1527; or Internet: *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Child Nutrition Labeling Program.

OMB Number: 0581–0261.

Expiration Date of Approval: 3 years from approval.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Child Nutrition (CN) Labeling Program is a voluntary technical assistance service to aid schools and institutions participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP) in determining the contribution toward the food-based meal pattern requirements of these programs. (See Appendix C to 7 CFR parts 210, 220, 225, and 226 for more information on this program). The existence of a CN label on a product assures schools and other Child Nutrition Program operators that the product contributes to the meal pattern requirements as printed on the label. However, there is no Federal requirement that commercial products must have a CN label statement in order to be included in meals served by schools and institutions. AMS officially opened the CN Labeling Program Operations Office on January 19, 2010.

To participate in the CN Labeling Program, a manufacturer submits a label application to AMS for evaluation. AMS reviews the product formulation to determine the contribution a serving of the product makes towards the food-based meal pattern requirements. The application form submitted to AMS is the same application form that a manufacturer submits to the USDA's Food Safety and Inspection Service (FSIS) Labeling and Program Delivery Division for review of meat and poultry labels. Participation in the CN Labeling Program is voluntary and manufacturers who wish to place a CN label on their products must comply with CN Labeling Program requirements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Manufacturers who produce food for the school foodservice.

Estimated Number of Respondents: 185.

Estimated Total Annual Responses: 1573.

Estimated Number of Responses per Respondent: 8.5.

Estimated Total Annual Burden on Respondents: 393.13 Hours.

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 Patricia Tung-Tayman, Contract Services Branch, Specialty Crops Inspection Division, Specialty Crops Programs, U.S. Department of Agriculture, STOP 0247, 1400 Independence Ave SW., telephone: (202) 720–0367 and FAX: (202) 690–3824; or Internet: *http://www.regulations.gov.*

All comments received will be available for public inspection during regular business hours at the same address.

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: May 16, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–10323 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 18, 2017.

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

Comments regarding this information collection received by June 21, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

Forest Service

Title: Non-Timber Forest Products Generic for Surveys, Interviews, and Focus Groups.

OMB Control Number: 0596–New.

Summary of Collection: Many laws and policies specifically direct the USDA Forest Service (FS) to consider and manage for non-timber forest products for the benefit of the American public and to meet trust responsibilities to American Indians and Alaskan Natives on federal and tribal lands. Primary authorities to collect information include the Multiple-Use Sustained-Yield Act of 1960 that requires the FS to manage national forests ''under principles of multiple use and to produce a sustained yield of products and services.'' The Forest and Rangeland Renewable Resources Planning Act of 1974 requires the Secretary of Agriculture to ''maintain a comprehensive inventory of renewable resources and evaluate opportunities to improve their yield of goods and services. The 2012 Planning Rule specifically requires ''consideration of habitat conditions for wildlife, fish, and plants commonly enjoyed and used by the public for hunting, fishing, trapping, gathering, observing, and subsistence'' on national forests.

Need and Use of the Information: Surveys, interviews, and focus groups administered under this generic collection will be designed to collect information from individuals and groups who forage for non-timber forest products and from natural resource professionals who manage land where non-timber forest products foraging takes place. Non-timber forest products harvested for use as food, medicine, and other purposes are plants, mushrooms, and plant- or tree-derived goods like nuts, boughs, sap, and leaves. The FS and other land management agencies will not have a scientific basis for managing non-timber forest product resources and the lands that support them without this information. Also, FS will not have the necessary information to provide technical advice on this issue to other land management agencies and individuals.

Description of Respondents: Individuals or households; Non-profit organizations and State, Local and Tribal government.

Number of Respondents: 14,250.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 5,613.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–10481 Filed 5–19–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0039]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Female Squash Flowers From Israel Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of female squash flowers from Israel into the continental United States.

DATES: We will consider all comments that we receive on or before July 21, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0039.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0039, Regulatory Analysis and Development, PPD, APHIS, Station

3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0039* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the importation of female squash flowers from Israel into the continental United States, contact Dr. Robert Baca, Assistant Director, Permitting and Compliance Coordination, Compliance and Environmental Coordination Branch, PPQ, APHIS, 4700 River Road, Unit 150, Riverdale, MD 20737; (301) 851–2292. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Female Squash Flowers from Israel into the Continental United States.

OMB Control Number: 0579–0406.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service regulates the importation of certain fruits and vegetables in accordance with the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–76).

Section 319.56–68 provides the requirements for the importation of female squash flowers from Israel into the continental United States. This commodity may be imported under certain conditions to prevent the introduction of plant pests into the United States. The regulations require information collection activities, including production site registration, trapping records, box marking, production site inspection, and phytosanitary certificates.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 0.05 hours per response.

Respondents: Businesses and the national plant protection organization of Israel.

Estimated Annual Number of Respondents: 6.

Estimated Annual Number of Responses per Respondent: 1,849.

Estimated Annual Number of Responses: 11,091.

Estimated Total Annual Burden on Respondents: 556 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of May 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–10318 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0038]

Notice of Request for Revision to and Extension of Approval of an Information Collection; South American Cactus Moth; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the interstate movement of regulated articles to prevent the spread of South American cactus moth.

DATES: We will consider all comments that we receive on or before July 21, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2017-0038.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0038, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0038* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the interstate movement of regulated articles to prevent the spread of South American cactus moth, contact Dr. Robert Baca, Assistant Director, Permitting and Compliance Coordination, Compliance and Environmental Coordination Branch, PPQ, APHIS, 4700 River Road, Unit 150, Riverdale, MD 20737; (301) 851–2292. For copies of more detailed information

on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: South American Cactus Moth; Quarantine and Regulations.

OMB Control Number: 0579–0337.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture, either independently or in cooperation with States, may carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests that are new to or not widely distributed within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, which administers regulations to implement the PPA.

In accordance with the regulations in ''Subpart—South American Cactus Moth'' (7 CFR 301.55 through 301.55–9), APHIS restricts the interstate movement of cactus moth host material, including nursery stock and plant parts for consumption, from infested areas of the United States to help prevent the spread of South American cactus moth into noninfested areas of the United States. The regulations contain requirements for the interstate movement of regulated articles and involve information collection activities, including completion of Federal certificates, compliance agreements, and limited permits.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.41 hours per response.

Respondents: State plant health officials and businesses.

Estimated annual number of respondents: 6.

Estimated annual number of responses per respondent: 7.

Estimated annual number of responses: 39.

Estimated total annual burden on respondents: 16 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of May 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–10316 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0040]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of French Beans and Runner Beans From Kenya Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of French beans and runner beans from Kenya into the United States.

DATES: We will consider all comments that we receive on or before July 21, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0040.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0040* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the importation of French beans and runner beans from Kenya, contact Dr. Robert Baca, Assistant Director, Permitting and Compliance Coordination, Compliance and Environmental Coordination Branch, PPQ, APHIS, 4700 River Road Unit 150, Riverdale, MD 20737; (301) 851–2292. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of French Beans and Runner Beans From Kenya Into the United States.

OMB Control Number: 0579–0373.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service regulates the importation of certain fruits and vegetables in accordance with the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–76).

Section 319.56–54 provides the requirements for the importation of French beans (*Phaseolus vulgaris* L.) and runner beans (*P. coccineus* L.) from Kenya into the United States. These commodities may be imported under certain conditions to prevent the

introduction of plant pests into the United States. The regulations require information collection activities, including inspections, packinghouse registration, box labeling, and a phytosanitary certificate attesting that the conditions in § 319.56–54 have been met and that each consignment has been inspected and found free of certain pests.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.03 hours per response.

Respondents: Businesses and the national plant protection organization of Kenya.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 681.

Estimated annual number of responses: 2,044.

Estimated total annual burden on respondents: 55 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 16th day of May 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–10319 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Opportunity for Designation in the Missouri Area; Request for Comments on the Official Agency Servicing This Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designation of the official agency listed below will end on September 30, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: Missouri Department of Agriculture (Missouri).

DATES: Applications and comments must be received by June 21, 2017.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- Submit Comments Using the Internet: Go to *Regulations.gov* (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Mark Wooden, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Mark Wooden, 816–872–1257.
- *Email: FGIS.QACD@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Mark Wooden, 816–659–8413 or *FGIS.QACD@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than 5 years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

State of Missouri

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area in the State of Missouri is assigned to this official agency.

In Missouri

The entire State of Missouri.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in Missouri is for the period beginning October 1, 2017, to September 30, 2022. To apply for designation or to request more information, contact Mark Wooden at the address listed above.

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Missouri official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Mark Wooden at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–10322 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Opportunity for Designation in the South Carolina Area; Request for Comments on the Official Agency Servicing This Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designation of the official agency listed below will end on September 30, 2017. We are asking persons or governmental agencies interested in providing official services in the areas presently served by this agency to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agency: South Carolina Department of Agriculture (South Carolina).

DATES: Applications and comments must be received by June 21, 2017.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to *Regulations.gov* (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Sharon Lathrop, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Sharon Lathrop, 816–872–1257.
- *Email: FGIS.QACD@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Sharon Lathrop, 816–891–0415 or *FGIS.QACD@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

State of South Carolina

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area in the State of South Carolina is assigned to this official agency.

In South Carolina

The entire State, except those export port locations within the State, which are serviced by South Carolina.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic area specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic area in South Carolina is for the period beginning October 1, 2017, to September 30, 2022. To apply for designation or to request more information, contact Sharon Lathrop at the address listed above.

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the South Carolina official agency. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant. Submit all comments to Sharon Lathrop at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–10320 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Designation for the Casa Grande, AZ Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: GIPSA is announcing the designation of Farwell Commodity and Grain Services, Inc. (Farwell Southwest) to provide official services under the United States Grain Standards Act (USGSA), as amended.

DATES: *Effective Date:* April 1, 2017.

ADDRESSES: Jacob Thein, Compliance Officer, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

FOR FURTHER INFORMATION CONTACT: Jacob Thein, 816–866–2223, *Jacob.D.Thein@usda.gov* or *FGIS.QACD@usda.gov.*

Read Applications: All applications and comments are available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the January 10, 2017, **Federal Register** (82 FR 2939), GIPSA requested applications for designation to provide official services in the geographic area presently serviced by Farwell Southwest. Applications were due by February 9, 2017.

The current official agency, Farwell Southwest, was the only applicant for designation to provide official services in this area. As a result, GIPSA did not ask for additional comments.

GIPSA evaluated the designation criteria in section 79(f) of the USGSA (7 U.S.C. 79(f)) and determined that Farwell Southwest is qualified to provide official services in the geographic area specified in the **Federal Register** on January 10, 2017. This designation to provide official services in the specified areas of Arizona and California is effective April 1, 2017, to March 31, 2022.

Interested persons may obtain official services by contacting this agency at the following telephone number:

Official agency	Headquarters location and telephone	Designation start	Designation end
Farwell Southwest	Casa Grande, AZ 520–421–1027	4/1/2017	3/31/2022

Section 79(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)).

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2017–10321 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for the Delta Health Care Services Grant Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces that the Rural Business-Cooperative Service (Agency) is accepting fiscal year (FY) 2017 applications for the Delta Health Care Services (DHCS) grant program. The DHCS program is authorized under Section 379G of the Consolidated Farm and Rural Development Act as amended by the Agricultural Act of 2014. The Agency will publish the program funding level on the Rural Development Web site *https://www.rd.usda.gov/programs-services/delta-health-care-services-grants.* The purpose of this program is to provide financial assistance to address the continued unmet health needs in the Delta Region through cooperation among health care professionals, institutions of higher education, research institutions, and economic development entities in the Delta Region.

DATES: You must submit completed applications for grants according to the following deadlines:

- Paper copies must be postmarked and mailed, shipped, or sent overnight no later than Monday, July 24, 2017.
- Electronic copies must be received by Monday, July 17, 2017. Late applications are not eligible for funding under this Notice and will not be evaluated.

ADDRESSES: You should contact your USDA Rural Development State Office (State Office) if you have questions about eligibility or submission requirements. You are encouraged to contact your State Office well in advance of the application deadline to discuss your Project and to ask any questions regarding the application process. A list of State Office contacts can be found at *http://www.rd.usda.gov/contact-us/state-offices.*

A supplementary application guide has also been created for your assistance. You may obtain the application guide and materials for this Notice in the following ways:

- Through the Internet at the Rural Business-Cooperative Service (RBS) Cooperative Programs Web site: *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants.*
- By requesting the application guide and materials from your local State Office. A list of State Office contacts can be found at *http://www.rd.usda.gov/contact-us/state-offices.*

Alabama

USDA Rural Development State Office, Sterling Centre, Suite 601, 4121 Carmichael Road, Suite 601, Montgomery, AL 36106–3683, (334) 279–3400/TDD (334) 279–3495.

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200/TDD (501) 301–3279.

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6200/TDD (217) 403–6240.

Kentucky

USDA Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7435/TDD (859) 224–7422.

Louisiana

USDA Rural Development State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7960/TDD (318) 473–7655.

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–5457/TDD (601) 965–5850.

Missouri

USDA Rural Development State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–9321/TDD (573) 876–9480.

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1321.

You must submit either:

- A complete paper application to the State Office located in the State where the Project will primarily take place, *http://www.rd.usda.gov/contact-us/state-offices* (see list above), or
- A complete electronic grant application at *http://www.grants.gov/* (*Grants.gov*). Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp,* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the application deadline.

FOR FURTHER INFORMATION CONTACT: Grants Division, Cooperative Programs, Rural Business-Cooperative Service, 1400 Independence Avenue SW., STOP 3253, Washington, DC 20250–3253; or call (202) 690–1374.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: USDA Rural Business-Cooperative Service (RBS).

Funding Opportunity Title: Delta Health Care Services Grant Program.

Announcement Type: Initial funding announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.874.

Dates: You must submit your complete application by Monday, July 24, 2017, or it will not be considered for funding. Electronic copies must be received by *www.grants.gov* no later than midnight Eastern time Monday, July 17, 2017, or it will not be considered for funding.

Executive Order (E.O.) 13175 Consultation and Coordination With Indian Tribal Governments

This Executive Order imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that this Notice does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the

Federal Government and the Indian tribes. Thus, this Notice is not subject to the requirements of Executive Order 13175. Tribal Consultation inquiries and comments should be directed to RD's Native American Coordinator at *aian@wdc.usda.gov* or (720) 544–2911.

Paperwork Reduction Act

The Paperwork Reduction Act requires Federal agencies to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Agency conducted an analysis to determine the number of applications the Agency estimates that it will receive under the DHCS grant program. It was determined that the estimated number of applications was fewer than nine and in accordance with 5 CFR 1320, thus no OMB approval is necessary at this time.

A. Program Description

This Notice announces the availability of funds for the DHCS grant program, which is authorized under Section 379G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008u), as amended by the Agricultural Act of 2014 (Pub. L. 113–79). The primary objective of the program is to provide financial assistance to address the continued unmet health needs in the Delta Region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the Delta Region. Grants are awarded on a competitive basis. The maximum award amount per grant is $1,000,000.

Definitions

The terms and conditions provided in this Notice are applicable to this Notice only. In addition, the term ''you'' referenced throughout this Notice should be understood to mean the applicant and the terms ''we,'' ''us,'' and ''our'' should be understood to mean Rural Business-Cooperative Services, Rural Development, USDA.

Academic Health and Research Institute means one of the following:

- A combination of a medical school, one or more other health profession schools or educational training programs (such as allied health, dentistry, graduate studies, nursing, pharmacy, public health), and one or more owned or affiliated teaching hospitals or health systems; or
- A health care nonprofit organization or health system, including nonprofit medical and surgical hospitals, that conduct health related research exclusively for scientific or educational purposes.

Conflict of Interest means a situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the Project; or that restrict open and free competition for unrestrained trade. Specifically, Project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. An example of conflict of interest occurs when the consortium member's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the recipients receiving the benefits or services of the grant.

Consortium means a group of three or more entities that are regional Institutions of Higher Education, Academic Health and Research Institutes, and/or Economic Development Entities located in the Delta Region that have at least 1 year of prior experience in addressing the health care issues in the region. At least one of the consortium members must be legally organized as an incorporated organization or other legal entity and have legal authority to contract with the Federal Government.

Delta Region means the 252 counties and parishes within the states of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee that are served by the Delta Regional Authority. (The Delta Region may be adjusted by future Federal statute.) To view the areas identified within the Delta Region visit *http://dra.gov/about-dra/dra-states.*

Economic Development Entity means any public or non-profit organization whose primary mission is to stimulate local and regional economies within the Delta Region by increasing employment opportunities and duration of employment, expanding or retaining existing employers, increasing labor rates or wage levels, reducing outmigration, and/or creating gains in other economic development-related variables such as land values. These activities shall primarily benefit low- and moderate-income individuals in the Delta Region.

Health System means the complete network of agencies, facilities, and all providers of health care to meet the health needs of a specific geographical area or target populations.

Institution of Higher Education means either a postsecondary (post-high school) educational institution that awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or a postsecondary vocational institution that provides a program of training to prepare students for gainful employment in a recognized occupation.

Nonprofit Organization means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which may inure, to the benefit of any private shareholder or individual.

Project means all activities to be funded by the DHCS grant.

Project Funds means grant funds requested plus any other contributions to the proposed Project.

Rural and rural area means any area of a State:

- Not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States; and
- The contiguous and adjacent urbanized area,
- Urbanized areas that are rural in character as defined by 7 U.S.C. 1991 (a)(13), as amended by Section 6018 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (June 18, 2008).
- For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State.

State means each of the 50 states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

B. Federal Award Information

Type of Award: Grant.

Total Funding for DHCS: To be determined.

Maximum DHCS Award: $1,000,000.

Minimum DHCS Award: $50,000.

Project Period: Up to 24 months.

Anticipated Award Date: September 29, 2017.

C. Eligibility Information

Applicants must meet all of the following eligibility requirements. Your application will not be considered for funding if it does not provide sufficient information to determine eligibility or is missing required elements. Applicants that fail to submit the required elements by the application deadline will be deemed ineligible and will not be evaluated further. Information submitted after the application deadline will not be accepted.

1. Eligible Applicants

Grants funded through DHCS may be made to a Consortium as defined in Paragraph A of this Notice. Consortiums are eligible to receive funding through this Notice. One member of the Consortium must be designated as the lead entity by the other members of the Consortium and have legal authority to contract with the Federal Government.

The lead entity is the recipient (see 2 CFR 200.86) of the DHCS grant funds and accountable for monitoring and reporting on the Project performance and financial management of the grant. In addition, the lead entity (recipient) is responsible for subrecipient monitoring and management in accordance with 2 CFR 200.330 and 200.331, respectively. The remaining consortium members are subrecipients (see 2 CFR 200.93). They may receive subawards (see 2 CFR 200.94) from the recipient and are responsible for monitoring and reporting the Project performance and financial management of their subaward to the recipient.

(a) An applicant is ineligible if they do not submit ''Evidence of Eligibility'' and ''Consortium Agreements'' as described in Section D.2. of this Notice.

(b) An applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' The Agency will check the System for Award Management (SAM) to determine if the applicant has been debarred or suspended. In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt. The applicant must certify as part of the application that they do not have an outstanding judgment against them. The Agency will check the Credit Alert Interactive Voice Response System (CAIVRS) to verify this.

(c) Sections 743, 744, 745, and 746 of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113) apply. Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. In addition, none of the funds appropriated or otherwise made available by this or any other Act may be available for a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Additionally, no funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.

(d) Applications will be deemed ineligible if the application includes any funding restrictions identified under Section D.6.

(e) Applications will be deemed ineligible if the application is not complete in accordance with the requirements stated in Section C.3.g.

2. Cost Sharing or Matching

Matching funds are not required. However, if you are adding any other contributions to the proposed Project, you must provide documentation indicating who will be providing the matching funds, the amount of funds, when those funds will be provided, and how the funds will be used in the Project budget. Examples of acceptable documentation include: A signed letter from the source of funds stating the amount of funds, when the funds will be provided, and what the funds can be used for or a signed resolution from your governing board authorizing the use of a specified amount of funds for specific components of the Project. The matching funds you identify must be for eligible purposes and included in your work plan and budget. Additionally, expected program income may not be used as matching funds at the time you submit your application. However, if you have a contract to provide services in place at the time you submit your application, you can verify the amount of the contract as matching funds. If you choose, you may use a template to summarize the matching funds. The template is available either from your State Office or the program Web site at: *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants.*

3. Other Eligibility Requirements

The following additional eligibility requirements apply to this program:

(a) *Use of Funds.* An application must propose to use Project funds, including grant and other contributions committed under the evaluation criteria for eligible purposes. Eligible Project purposes include the development of:

- Health care services;
- health education programs;
- health care job training programs; and
- the development and expansion of public health-related facilities in the Delta Region.

(b) *Project Area.* The proposed Project must take place in a rural area within the Delta Region as defined in this Notice. However, the applicant need not propose to serve the entire Delta Region.

(c) *Project Input.* Your proposed Project must be developed based on input from local governments, public health care providers, and other entities in the Delta Region.

(d) *Grant Period.* All awards are limited to up to a 24-month grant period based upon the complexity of the Project. Your proposed grant period should begin no earlier than October 1, 2017, and should end no later than 24

months following that date. If you receive an award, your grant period will be revised to begin on the actual date of award—the date the grant agreement is executed by the Agency—and your grant period end date will be adjusted accordingly. Your Project activities must begin within 90 days of the date of award. If you request funds for a time period beginning before October 1, 2017, and/or ending later than 24 months from that date, your application will be ineligible. The length of your grant period should be based on your Project's complexity, as indicated in your application work plan.

(e) *Multiple Grant Requests.* The Consortium, including its members, is limited to submitting one application for funding under this Notice. We will not accept applications from Consortiums that include members who are also members of other Consortiums that have submitted applications for funding under this Notice. If we discover that a Consortium member is a member of multiple Consortiums with applications submitted for funding under this Notice, all applications will be considered ineligible for funding.

(f) *Performance on Existing DHCS Awards.* If the lead entity, or any of its Consortium members, has an existing DHCS award, they must be performing satisfactorily to be considered eligible for a funding under this Notice. Satisfactory performance includes, but is not limited to, being up-to-date on all financial and performance reports and being current on all tasks as approved in the work plan. The Agency will use its discretion to make this determination.

(g) *Completeness.* Your application must provide all of the information requested in Section D.2. of this Notice. Applications lacking sufficient information to determine eligibility and scoring will be deemed ineligible and will not be considered for scoring.

(h) *Indirect Costs.* Your negotiated indirect cost rate approval does not need to be included in your application, but you will be required to provide it if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

D. Application and Submission Information

Please see instructions below on how to access and submit a complete application for this funding opportunity.

1. Address To Request Application Package

The application guide and copies of necessary forms for the DHCS grant program are available from these sources:

- The Internet at *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants, http://www.grants.gov,* or
- For paper copies of these materials, please call (202) 690–1374.

2. Content and Form of Application Submission

You may submit your application in paper form or electronically through *Grants.gov*. Your application must contain all required information.

To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept emailed or faxed applications.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the CFDA for this program.

When you enter the *Grants.gov* Web site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a Data Universal Numbering System (DUNS) number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

You must submit all of your application documents electronically through *Grants.gov*. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After electronically submitting an application through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

If you want to submit a paper application, send it to the State Office located in the State where you are headquartered. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.*

You are strongly encouraged, but not required, to utilize the DHCS Application Guide found at *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants.* The guide provides specific guidance on each of the required items listed and also provides all necessary forms and sample worksheets.

The organization submitting the application will be considered the lead entity. The Contact/Program Manager must be associated with the lead entity submitting the application.

A completed application must include the following:

(a) *Form SF–424,* ''Application for Federal Assistance.'' The application for Federal assistance must be completed by the lead entity as described in Section C.1. of this Notice. Your application must include your DUNS number and SAM Commercial and Government Entity (CAGE) code and expiration date (or evidence that you have begun the SAM registration process). Because there are no specific fields for a CAGE code and expiration date, you may identify them anywhere you want to on the form. If you do not include the DUNS number in your application, it will not be considered for funding. The form must be signed by an authorized representative.

(b) *Form SF–424A,* ''Budget Information—Non-Construction Programs.'' This form must be completed and submitted as part of the application package for non-construction Projects.

(c) *Form SF–424B,* ''Assurances—Non-Construction Programs.'' This form must be completed, signed, and submitted as part of the application package for non-construction Projects.

(d) *Form SF–424C,* ''Budget Information—Construction Programs.'' This form must be completed, signed, and submitted as part of the application package for construction Projects.

(e) *Form SF–424D,* ''Assurances—Construction Programs.'' This form must be completed, signed, and submitted as part of the application package for construction Projects.

(f) *A Project abstract.* You must provide a brief summary of the proposed Project, not to exceed 250 words, suitable for dissemination to the public and to Congress.

(g) *Executive summary.* You must provide a more detailed description of your Project containing the following information: (1) legal name of lead applicant; (2) consortium members; (3) applicant type (including consortium members); (4) application type (development of health care services, health education programs, health care job care training programs, or the development and/or expansion of health related facilities); (5) a summary of your Project; (6) Project goals; and (7) how

you intend to use the grant funds. Limit two pages.

(h) *Evidence of eligibility.* You must provide evidence of the Consortium's eligibility to apply under this Notice. This section must include a detailed summary demonstrating how each Consortium member meets the definition of an eligible entity as defined under Definitions of this Notice.

(i) *Consortium agreements.* The application must include a formal written agreement with each Consortium member that addresses the negotiated arrangements for administering the Project to meet Project goals, the Consortium member's responsibilities to comply with administrative, financial, and reporting requirements of the grant, including those necessary to ensure compliance with all applicable Federal regulations and policies, and facilitate a smooth functioning collaborative venture. Under the agreement, each Consortium member must perform a substantive role in the Project and not merely serve as a conduit of funds to another party or parties. This agreement must be signed by an authorized representative of the lead entity and an authorized representative of each partnering consortium entity.

(j) *Scoring documentation.* You must address and provide documentation for each scoring criterion, specifically (1) the rurality of the Project area and communities served, (2) the community needs and benefits derived from the Project, and (3) Project management and organization capability. See Section E.1.

(k) *Work Plan and Budget.* You must provide a work plan and budget that includes the following: (1) The specific activities, such as programs, services, trainings, and/or construction-related activities for a facility to be performed under the Project; (2) the estimated line item costs associated with each activity, including grant funds and other necessary sources of funds; (3) the key personnel who will carry out each activity (including each Consortium member's role); and (4) the specific time frames for completion of each activity.

An eligible start and end date for the Project and for individual Project tasks must be clearly shown and may not exceed Agency specified timeframes for the grant period. You must show the source and use of both grant and other contributions for all tasks. Other contributions must be spent at a rate equal to, or in advance of, grant funds.

(l) *Performance Measures.* The Agency has also established annual performance measures to evaluate the DHCS program. You must provide estimates on the following performance measures as part of your application:

- Number of businesses assisted;
- Number of jobs created;
- Number of jobs saved;
- Number of individuals assisted/trained.

It is permissible to have a zero in a performance element. When you calculate jobs created, estimates should be based upon actual jobs to be created by your organization as a result of the DHCS funding or actual jobs to be created by businesses as a result of assistance from your organization. When you calculate jobs saved, estimates should be based only on actual jobs that would have been lost if your organization did not receive DHCS funding or actual jobs that would have been lost without assistance from your organization.

You can also suggest additional performance elements for example where job creation or jobs saved may not be a relevant indicator. These additional elements should be specific, measurable performance elements that could be included in an award document.

(m) *Financial information and sustainability.* You must provide current financial statements and a narrative description demonstrating sustainability of the Project, all of which show sufficient resources and expertise to undertake and complete the Project and how the Project will be sustained following completion. Applicants must provide 3 years of pro-forma financial statements for the Project.

(n) *Evidence of legal authority and existence.* The lead entity must provide evidence of its legal existence and authority to enter into a grant agreement with the Agency and perform the activities proposed under the grant application.

(o) *Evidence of input solicited from local stakeholders.* The application must include documentation detailing support solicited from local government, public health care providers, and other entities in the Delta Region. Evidence of support can include; but is not limited to surveys conducted amongst rural residents and stakeholders, notes from focus groups, or letters of support from local entities.

(p) *Service area maps.* You must provide maps with sufficient detail to show the area that will benefit from the proposed facilities and services and the location of the facilities improved or purchased with grant funds if applicable.

(q) *Form AD–3030.* Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants,'' if you are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands, or the various territories of the United States including American Samoa, Guam, Midway Islands, the Commonwealth of the Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

(r) *Certification of no current outstanding Federal judgment.* You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. You must also certify that you are not delinquent on the payment of Federal income taxes, or any Federal debt. To satisfy the Certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

(s) Environmental information necessary to support the Agency's environmental finding. Required information can be found in 7 CFR part 1970, specifically in Subpart B, Exhibit C and Subpart C, Exhibit B. These documents can be found here: *http://www.rd.usda.gov/publications/regulations-guidelines/instructions.* Non-construction Projects applying under this Notice are hereby classified as Categorical Exclusions according to 7 CFR 1970.53(b), the award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses, which do not require any additional documentation.

3. DUNS Number and SAM Registration

In order to be eligible (unless you are exempted under 2 CFR 25.110(b), (c) or (d), you are required to:

(a) Provide a valid DUNS number in your application, which can be obtained at no cost via a toll-free request line at (866) 705–5711;

(b) Register in SAM before submitting your application. You may register in SAM at no cost at *https://www.sam.gov/portal/public/SAM/;* and

(c) Continue to maintain an active SAM registration with current

information at all times during which you have an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Agency may not make a Federal award to you until you have complied with all applicable DUNS and SAM requirements. If you have not fully complied with requirements by the time the Agency is ready to make a Federal award, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use this determination as a basis for making an award to another applicant.

4. Submission Date and Time

Application Deadline Date: Paper: Monday, July 24, 2017; Electronic: Monday, July 17, 2017.

Explanation of Deadlines: Complete paper applications must be postmarked and mailed, shipped, or sent overnight by Monday, July 24, 2017. The Agency will determine whether your application is late based on the date shown on the postmark or shipping invoice. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day. Late applications are not eligible for funding.

Electronic applications must be RECEIVED by *http://www.grants.gov* by midnight Eastern time Monday, July 17, 2017, to be eligible for funding. Please review the *Grants.gov* Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. Intergovernmental Review

Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many States have established a Single Point of Contact (SPOC) to facilitate this consultation. A list of States that maintain a SPOC may be obtained at *http://www.whitehouse.gov/omb/grants_spoc.* If your State has a SPOC, you may submit your application directly for review. Any comments obtained through the SPOC must be provided to Rural Development for consideration as part of your application. If your State has not established a SPOC or you do not want to submit your application to the SPOC, Rural Development will submit your application to the SPOC or other appropriate agency or agencies.

You are also encouraged to contact Cooperative Programs at 202–690–1374 or *cpgrants@wdc.usda.gov* if you have questions about this process.

6. Funding Restrictions

The use of Project funds, including grant funds and other contributions, cannot be used for ineligible purposes. In addition, you shall not use Project funds for the following:

(a) To duplicate current services or to replace or to substitute support previously provided. However, Project funds may be used to expand the level of effort or a service beyond what is currently being provided;

(b) To pay for costs to prepare the application for funding under this Notice;

(c) To pay for costs of the Project incurred prior to the effective date of the period of performance;

(d) To pay expenses for applicant employee training;

(e) Fund political activities;

(f) To pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(g) To pay any judgment or debt owed to the United States;

(h) Engage in any activities that are considered a Conflict of Interest, as defined by this Notice; or

(i) Fund any activities prohibited by 2 CFR 200;

In addition, your application will not be considered for funding if it does any of the following:

- Requests more than the maximum grant amount: or
- Proposes ineligible costs that equal more than 10 percent of the Project funds.

If you include funds in your budget that are for ineligible purposes, we will consider the application for funding if the ineligible purposes total 10 percent or less of an applicant's Project funds. However, if the application is successful, those ineligible costs must be removed from the work plan and budget and replaced with eligible costs before we will make the grant award, or the grant award will be reduced accordingly. If we cannot determine the percentage of ineligible costs, the application will not be considered for funding.

7. Other Submission Requirements

(a) You should not submit your application in more than one format. You must choose whether to submit your application in hard copy or electronically. Applications submitted in hard copy should be mailed or hand-delivered to the State Office where the Project will primarily take place. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.* To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* A password is not required to access the Web site.

(b) National Environmental Policy Act.

This Notice has been reviewed in accordance with 7 CFR part 1970, ''Environmental Policies and Procedures.'' We have determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act regulation found at 7 CFR 1970.53(f), ''Environmental Policies and Procedures.'' We have determined that this Notice does not constitute a major Federal action significantly affecting the quality of the human environment.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

(c) Civil Rights Compliance Requirements.

All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

E. Application Review Information

We will review your application to determine if it is complete and eligible. If at any time we determine that your application is ineligible, you will be notified in writing as to the reasons it was determined ineligible and you will be informed of your review and appeal rights.

We will only score applications in which the lead entity, partnering

Consortium member entities, and the Project are eligible. The applications must also be complete and sufficiently responsive to program requirements.

We will review each application to determine if it is eligible for funding and complete, based on the requirements of this Notice as well as other applicable Federal regulations.

Applications that are determined to be eligible and complete will be evaluated based on the criteria described below.

1. Criteria

For each criterion, you must show how the Project has merit and why it is likely to be successful. If you do not address all parts of a criterion your application will be deemed ineligible. If you do not sufficiently communicate relevant Project information, you will receive lower scores. DHCS is a competitive program, so you will receive scores based on the quality of your responses. Simply addressing the criteria will not guarantee higher scores. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual evaluation criterion. The maximum number of points that can be awarded to your application is 100. The minimum score requirement for funding is 60 points. It is at the Agency's discretion to fund applications with a score of 59 points or less if it is in the best interest of the Federal Government.

The evaluation criteria are detailed in the DHCS Grant Application Guide which can be found at *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants.* You must address each evaluation criterion outlined in this Notice. Any criterion not substantively addressed will receive zero points. There are three criteria totaling 100 points. They are listed below:

(a) Rurality of the Project and communities served (maximum of 30 points)—The rurality of the communities served by the Project is an objective criterion that measures the rurality of the Project's service area. It is determined by the population of the community based upon the 2010 U.S. Census data available on the American Fact Finder Web site—*http://www.factfinder.census.gov.* If you have multiple addresses in the same community (city, town, or census designated place), please only list the community once when preparing your rurality calculation. The rurality calculation provided in the application will be checked and, if necessary, corrected by us.

COMMUNITY HAVING A POPULATION

Level	Over	Not in Excess of	Points
1	0	5,000	30
2	5,001	20,000	20
3	20,001	50,000	10
4	50,001 or located in an Urbanized Area		0

(b) The Community Needs and Benefits derived from the Project (maximum of 30 points)—We will assess how the Project will benefit the residents in the Delta Region. This criterion will be scored based on the documentation in support of the community needs for health services and public health-related facilities and the benefits to people living in Delta Regional derived from the implementation of the proposed Project. It should lead clearly to the identification of the Project participant pool and the target population for the Project, and provide convincing links between the Project and the benefits to the community to address its health needs. The Agency will consider:

(1) The extent of the applicant's documentation explaining the health care needs, issues, and challenges facing the service area. Include what problems the residents face and how the Project will benefit the residents in the region.

(2) The extent to which the applicant is able to show the relationship between the Project's design, outcome, and benefits.

(3) The extent to which the applicant explains the Project and its implementation and provides milestones which are well-defined and can be realistically completed.

(4) The extent to which the applicant clearly outlines a plan to track, report, and evaluate performance outcomes.

Applicants should attempt to quantify benefits in terms of outcomes from the Project; that is, ways in which peoples' lives, or the community, will be improved. Provide estimates of the number of people affected by the benefits arising from the Project.

(c) The Project Management and Organization Capability (maximum of 40 points)—We will evaluate the Consortium's experience, past performance, and accomplishments addressing health care issues to ensure effective Project implementation. This criterion will be scored based on the documentation of the Project's management and organizational capability. The Agency will consider:

(1) The degree to which the organization has a sound management and fiscal structure including: Well-defined roles for administrators, staff, and established financial management systems.

(2) The extent to which the applicant identifies and demonstrates that qualifications, capabilities, and educational background of the identified key personnel (at a minimum the Project Manager) who will manage and implement programs are relevant and will contribute to the success of the Project.

(3) The extent to which the applicant demonstrates current successful and effective experience (or demonstrated experience within the past 5 years) addressing the health care issues in the Delta Region.

(4) The extent to which the applicant has experience managing grant-funded programs.

(5) The extent to which the applicant is able to correlate and support the budget to the Project phases and implementation timeline.

(6) The extent to which administrative/management costs are balanced with funds designated for the provision of programs and services.

(7) The extent and diversity of eligible entity types within the applicant's Consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta Region.

2. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements in this Notice and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of National

and State Office employees in accordance with the point allocation specified in this Notice. A recommendation will be submitted to the Administrator to fund applications in highest ranking order, subject to availability of funds. It is at the Agency's discretion to fund applications with a score of 59 points or less if it is in the best interest of the Federal Government. If your application is evaluated, but not funded, it will not be carried forward into the next competition.

F. Federal Award Administration Information

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal mail from the State Office where your application was submitted, containing instructions on requirements necessary to proceed with execution and performance of the award. You must comply with all applicable statutes, regulations, and notice requirements before the grant award will be approved. We recognize that each funded Project is unique and therefore the terms and conditions of each award may vary. We will notify applicants whose applications are selected for funding by sending a letter of conditions, which must be met before the award can be finalized.

Once the conditions of the award are met, we will issue a grant agreement, which must be signed by the lead entity and us before the period of performance can begin. The lead entity may administer the award using the traditional subaward approach to the other Consortium members.

If you are not selected for funding, you will be notified in writing via postal mail and informed of any review and appeal rights. See 7 CFR part 11 for USDA National Appeals Division procedures. Funding of successfully appealed applications will be limited to available FY 2017 funding. You must comply with all applicable statutes, regulations, and notice requirements before the grant will be approved.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this in program can be found in 2 CFR parts 25, 170, 180, 200, 400, 415, 417, 418, and 421; and 48 CFR 31.2, and successor regulations to these parts. In addition, all recipients of Federal financial assistance are required to comply with the Federal Funding Accountability and Transparency Act of 2006, and must report information about subawards and executive compensation (see 2 CFR part 170). These recipients must also maintain their registration in the SAM database as long as their grants are active. These regulations may be obtained at *http://www.ecfr.gov.*

The following additional requirements apply to grantees selected for this program:

- Agency-approved Grant Agreement.
- Letter of Conditions.
- Form RD 1940–1, ''Request for Obligation of Funds.''
- Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.''
- Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirement (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''
- Form RD 400–4, ''Assurance Agreement.'' Each prospective recipient must sign Form RD 400–4, Assurance Agreement, which assures USDA that the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other Agency regulations. That no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the recipient receives Federal financial assistance. That nondiscrimination statements are in advertisements and brochures.
- Collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, ''(62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.
- The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.
- Civil rights compliance reviews should be conducted by the Agency at pre award and post award. The results of the review should be documented on Form RD 400–8, Compliance Review, and appropriate documentation attached to substantiate findings of compliance or noncompliance. The original Form RD 400–8 should be maintained in the case file with copies forwarded to the Rural Development State Civil Rights Coordinator. If the recipient is not in compliance, copies must be immediately forwarded to the Director, Civil Rights Staff, with a recommendation for action to be taken.
- RD Instruction 2006–P requires that a Civil Rights Impact Analysis be conducted prior to approving or implementing a wide range of Agency activities. The Agency will prepare Form RD 2006–38, Civil Rights Impact Analysis, on the re-lender only.
- RD Instruction 1940–Q, Exhibit A–1, ''Certification for Contracts, Grants and
- Loans.'' SF–LLL, ''Disclosure of Lobbying Activities'' if applicable.

3. Reporting

(a) *Federal Financial Reports.*

(1) An SF–425, ''Federal Financial Report,'' must be submitted listing expenditures according to agreed upon budget categories, on a semiannual basis. Reporting periods end each August 31 and February 28. Reports are due 30 days after the reporting period ends.

(2) A final Project and financial status report within 90 days after the expiration or termination of the grant.

(3) Provide outcome Project performance reports and final deliverables.

(b) *Performance Reports.*

Semiannual performance reports should compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the Project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds should be discussed. Reports are due as provided in paragraph 3.a. of this section.

(c) *Subrecipient Reporting.*

The lead entity must have the necessary processes and systems in place to comply with the reporting requirements for first-tier subawards

and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

(1) First Tier Subawards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

(2) The Total Compensation of the Recipient's Executives (five most highly compensated executives) must be reported by the recipient (if the recipient meets the criteria under 2 CFR part 170) to *http://www.sam.gov* by the end of the month following the month in which the award was made.

(3) The Total Compensation of the Subrecipient's Executives (five most highly compensated executives) must be reported by the subrecipient (if the subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the subaward was made. Further details regarding these requirements can be obtained at *http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr170_main_02.tpl.*

(d) *Closeout.*

Grant closeout activities include a letter to the grantee with final instructions and reminders for amounts to be de-obligated for any unexpended grant funds, final Project performance reports due, submission of outstanding deliverables, audit requirements, or other outstanding items of closure.

(e) *Report for Public Distribution.*

You must provide a report suitable for public distribution that describes the accomplishments made during this Project. We may use this report as a success story to promote this program.

G. Federal Awarding Agency Contacts

If you have questions about this Notice, please contact the State Office as identified in the **ADDRESSES** section of this Notice. You are also encouraged to visit the application Web site for application tools, including an application guide and templates. The Web site address is: *http://www.rd.usda.gov/programs-services/delta-health-care-services-grants.*

H. Other Information

Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture

(USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident. Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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Dated: May 11, 2017.

Chad Parker,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2017–10324 Filed 5–19–17; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Delaware Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of monthly planning meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Delaware State Advisory Committee to the Commission will convene by conference call, on Monday, June 19 at 4:00 p.m. (EDT). The purpose of the meeting is to make preparations for a briefing meeting on Policing and Implicit Bias in Delaware.

DATES: Monday, June 19, 2017, at 4:00 p.m. (EDT).

Public Call-In Information: Conference call number: 1–888–737–3705 and conference call ID: 5272563.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–888–737–3705 and conference call ID: 5272563. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–888–364–3109 and providing the operator with the toll-free conference call number: 1–888–737–3705 and conference call ID: 5272563.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the

Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=240*; click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

I. Welcome and Introductions
Rollcall
II. Planning Meeting
Discuss project planning
III. Other Business
IV. Open Comment
V. Adjournment

Dated: May 17, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10413 Filed 5–19–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the District of Columbia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of monthly planning meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the District of Columbia Advisory Committee to the Commission will convene at 11:30 a.m. (EDT) Tuesday, June 13, 2017 at the offices of the U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue NW., Suite 1150, Washington, DC 20425. The purpose of the planning meeting is to discuss and select the topic for the committee's civil rights project.

DATES: Tuesday, June 13, 2017 at 11:30 a.m. EDT.

ADDRESSES: 1331 Pennsylvania Avenue NW., Suite 1150, Washington, DC 20425.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Persons with accessibility needs should contact the Eastern Regional Office no later than 10 working days before the scheduled meeting by sending an email to the following email address at *ero@usccr.gov.*

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=241;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

I. Welcome and Introductions
—Rollcall
II. Planning Meeting
—Discuss Topics for Civil Right Project
III. Other Business
IV. Open Comment
V. Adjournment

Dated: May 17, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10412 Filed 5–19–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the California Advisory Committee To Vote on 2016 Voter Integrity Report

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the California State Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Monday, June 12, 2017, for the purpose of voting on a Committee report on voter integrity in the state.

DATES: The meeting will be held on Monday, June 12, 2017, at 1:00 p.m. PDT.

Public Call Information: Dial: 877–874–1570, Conference ID: 5517545.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes at *afortes@usccr.gov* or (213) 894–3437.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–874–1570, conference ID number: 5517545. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://database.faca.gov/committee/committee.aspx?cid=237&aid=17.*

Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the

Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Orientation
III. Discussion of 2016 Voter Integrity Report
IV. Public Comment
V. Adjournment

Dated: May 17, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10353 Filed 5–19–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Virginia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Virginia Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EDT) on Thursday, June 1, 2017. The purpose of the meeting is to plan the review of its civil rights project on hate crimes in Virginia.

DATES: The meeting will be held on Thursday, June 1, 2017, at 12:00 p.m. EDT.

Public Call Information: Dial: 888–601–3861, Conference ID: 417838.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–888–601–3861 and conference ID: 417838. Please be advised that before being placed into the conference call, you will be prompted to provide your name, organizational affiliation (if any), and email address (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–888–601–3861 and conference call ID: 417838.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=279;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

I. Welcome and Introductions
—Rollcall
II. Planning Meeting
—Announce Members of the Planning Subcommittee
—Discuss Tasks to be Performed
III. Other Business
IV. Open Comment
V. Adjournment

Dated: May 17, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10415 Filed 5–19–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Vermont Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of briefing meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Vermont Advisory Committee to the Commission will convene at 11 a.m. EDT on Monday, June 12, 2017 at Community College of Vermont, 660 Elm St., Montpelier, 05602. The purpose of the meeting is for planning future projects and to review and vote on a draft housing report.

DATES: Monday, June 12, 2017 (EDT) at 10:00 a.m. Eastern.

ADDRESSES: Community College of Vermont, 660 Elm St., Montpelier, 05602.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *ero@usccr.gov,* or 202–376–7533.

SUPPLEMENTARY INFORMATION: If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Wednesday, July 12, 2017. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=252* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Monday, June 12, 2017

I. Roll Call
II. Planning
III. Vote on Housing Report
IV. Other Business
IV. Open Comment

IV. Adjournment

Dated: May 17, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10414 Filed 5–19–17; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–905]

Certain Polyester Staple Fiber From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) conducted an administrative review of the antidumping duty order on certain polyester staple fiber from the People's Republic of China (PRC), for the period of review (POR), June 1, 2015, through May 31, 2016. On March 3, 2017, the Department published the preliminary results of this review, and received no comments from interested parties. As the Department continues to determine that the sole remaining mandatory respondent under review failed to establish its eligibility for a separate rate for the POR, and thus, is part of the PRC-wide entity, the final results do not differ from the preliminary results. The final dumping margin of sales at the PRC-Wide Entity rate is listed below in the ''Final Results'' section of this notice.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Courtney Canales, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington DC 20230; telephone: (202) 482–1394 or (202) 482–4997, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2017, the Department published the *Preliminary Results.*[1] No party submitted comments on the *Preliminary Results.*

Scope of the Order

The merchandise subject to the order is certain polyester staple fiber. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 5503.20.0045 and 5503.20.0065. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.[2]

Final Results of Review

As noted in the *Preliminary Results,* the sole mandatory respondent, Hangzhou Huachuang Co., Ltd. (Hangzhou Huachuang), did not respond to the antidumping questionnaire, and failed to establish its eligibility for a separate rate.[3] As such, consistent with the Department's practice regarding conditional review of the PRC-wide entity, the Department determines that Hangzhou Huachuang remains part of the PRC-wide entity.[4] Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity.[5] Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. Therefore, for these final results, we will instruct U.S. Customs and Border Protection (CBP) to liquidate Hangzhou Huachuang's entries at the rate previously established for the PRC-wide entity, which is 44.30 percent.

The final weighted-average dumping margin is as follows:

Exporter	Estimated weighted-average margin (percent)
PRC-Wide Entity[6]	44.30

Assessment Rates

Because Hangzhou Huachuang did not respond to the antidumping duty questionnaire, and is thus a part of the PRC-wide entity, we have not calculated any assessment (or cash deposit) rates in this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-Wide rate of 44.30 percent; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

Because the Department determined that the sole remaining respondent under review, Hangzhou Huachuang, is part of the PRC-wide entity, and has been assigned the PRC-wide rate; no disclosure of calculations is necessary for these final results.

Notification to Importers

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 duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

[1] *See Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016,* 82 FR 12435 (March 3, 2017) (*Preliminary Results*).

[2] For a full description of the scope, *see* Memorandum from James Maeder, Senior Director, Office I, AD/CVD Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled, ''Certain Polyester Staple Fiber from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2015–2016 Antidumping Duty Administrative Review,'' (Preliminary Decision Memorandum) dated February 27, 2017.

[3] *See Preliminary Results,* 82 FR 12435.

[4] *See* Preliminary Decision Memorandum at 2–4.

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013).

[6] The PRC-wide entity includes mandatory respondent, Hangzhou Huachuang.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (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 or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 16, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–10351 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–830]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to exporters and producers of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey). The period of investigation (POI) is January 1, 2015, through December 31, 2015. For information on the estimated subsidy rates, see the ''Final Determination'' section of this notice.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3857.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2017, the Department published its affirmative *Preliminary Determination* of this countervailing duty (CVD) investigation.[1] The petitioner in this investigation is the Rebar Trade Action Coalition and its individual members.[2] The mandatory respondent in this investigation is Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş. (Habas),[3] including certain cross-owned companies and subcontractors.[4] Both Habas and the Government of Turkey (the GOT) participated in this investigation. A complete summary of the events that occurred since publication of the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is dated concurrently with and hereby adopted by this notice.[5] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B–8024 of the Department's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The scope of the investigation covers rebar from Turkey. The Department did not receive any scope comments and has not updated the scope of the investigation since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, as well as the issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by the Department in the Issues and Decision Memorandum is attached at Appendix II to this notice.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), during February and March 2017, the Department verified the subsidy information reported by the GOT and Habas. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondents.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available. As discussed in the Issues and Decision Memorandum,[6] we determine that Habas withheld necessary information with respect to certain import duty rebates/drawbacks received during the POI and, accordingly, did not act to the best of its ability in responding to the Department's request for information. Therefore, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[7] For further information, see the ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the subsidy rate calculations since the *Preliminary Determination.* These changes are discussed in the ''Analysis of Programs'' section of the Issues and Decision Memorandum.[8]

[1] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination,* 82 FR 12195 (March 1, 2017) (*Preliminary Determination*).

[2] The Rebar Trade Action Coalition is comprised of Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc.

[3] Habas is the sole Turkish rebar producer/exporter excluded from the existing CVD order on rebar from Turkey. *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order,* 79 FR 65926 (November 6, 2014) (*2014 Turkey CVD Order*).

[4] The Habas companies include Habas, Habaş Elektrik Üretim A.Ş., Habaş Endüstri Tesisleri A.Ş., Habaş Petrol A.Ş., Mertaş Turizm Nakliyat ve Ticaret A.Ş., Cebitaş Demir Çelik Endüstrisi A.Ş., Ege Çelik Endüstrisi Sanayi ve Ticaret A.Ş., and Osman Sönmez (Inşaat Taahhüt Ticaret).

[5] *See* Department Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey,'' May 15, 2017 (Issues and Decision Memorandum).

[6] *See* Issues and Decision Memorandum at 5–8.

[7] *See* Sections 776(a) and (b) of the Act.

[8] *See* Issues and Decision Memorandum at 8; *see also* Department Memorandum, ''Steel Concrete Reinforcing Bar from the Republic of Turkey: Calculations for the Final Countervailing Duty Determination,'' May 15, 2017.

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, the Department calculated a countervailable subsidy rate for the individually investigated exporter/producer of the subject merchandise. Consistent with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, the Department also calculated an estimated ''all-others'' rate for exporters and producers not individually investigated.[9] Section 705(c)(5)(A)(i) of the Act provides that the ''all-others'' rate shall be an amount equal to the weighted-average of the countervailable subsidy rates established for individually investigated exporters and producers, excluding any rates that are zero or *de minimis* or any rates determined entirely under section 776 of the Act. Because the weighted-average countervailable subsidy rate calculated for Habas is not zero or *de minimis* or based entirely on facts available under section 776 of the Act, the rate calculated for Habas is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

The Department determines the total estimated countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş.[10] ...	16.21
All-Others	16.21

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose the calculations performed within five days of any public announcement of this notice.

Continuation of Suspension of Liquidation

In accordance with section 703(d) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of rebar from Turkey, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 1, 2017, the date of publication of the *Preliminary Determination.* Furthermore, the Department will instruct CBP to require a cash deposit for such entries of merchandise.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of countervailable subsidies. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of rebar from Turkey no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue a CVD order directing CBP to assess, upon further instruction by the Department, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of 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 violation subject to sanction.

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act.

Dated: May 15, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof. Subject merchandise includes deformed steel wire with bar markings (*e.g.,* mill mark, size, or grade) and which has been subjected to an elongation test.

The subject merchandise includes rebar that has been further processed in the subject country or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the rebar.

Specifically excluded are plain rounds (*i.e.,* nondeformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.,* mill mark, size, or grade) and without being subject to an elongation test.

At the time of the filing of the petition, there was an existing countervailing duty order on steel reinforcing bar from the Republic of Turkey. *Steel Concrete Reinforcing Bar From the Republic of Turkey,* 79 FR 65,926 (Dep't Commerce Nov. 6, 2014) (2014 Turkey CVD Order). The scope of this countervailing duty investigation with regard to rebar from Turkey covers only rebar produced and/or exported by those companies that are excluded from the 2014 Turkey CVD Order. At the time of the issuance of the 2014 Turkey CVD Order, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. was the only excluded Turkish rebar producer or exporter.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000.

HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Scope Comments
V. Subsidies Valuation
VI. Use of Facts Otherwise Available and Adverse Inferences

[9] The scope of this countervailing duty investigation only covers rebar produced and/or exported by companies excluded from the existing *2014 Turkey CVD Order.* Currently, only merchandise produced and exported by Habas is excluded from the existing order. Therefore, at this time, no companies will be subject to the all-others rate indicated above, and cash deposits discussed below will apply solely to rebar produced and/or exported by Habas.

[10] This rate applies only to merchandise both produced and exported by Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş. Merchandise produced by Habas, but exported by another company, or produced by another company and exported by Habas continues to be covered by the *2014 Turkey CVD Order.*

VII. Analysis of Programs
VIII. Discussion of the Issues
Comment 1: Financial Contribution in AD/CVD Investigation Assistance Program
Comment 2: Sales Denominator for Habas
Comment 3: Rejection of Habas's February 2, 2017 Rebuttal Benchmark Submission
Comment 4: Natural Gas Benchmark
Comment 5: Application of Adverse Facts Available for Discovered Program
Comment 6: Countervailability of Electricity for More Than Adequate Remuneration
IX. Conclusion

[FR Doc. 2017–10505 Filed 5–19–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Carbon and Certain Alloy Steel Wire Rod From Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On November 16, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod (wire rod) from Mexico. The period of review (POR) is October 1, 2014, through September 30, 2015, and the review covers two producers/exporters of subject merchandise: ArcelorMittal Las Truchas, S.A. de C.V. (AMLT) and Deacero S.A.P.I. de C.V. (Deacero). Based on our analysis of the comments received, we made certain changes to our preliminary findings for Deacero. The final weighted-average dumping margin for the reviewed producers/exporters are listed below in the section entitled ''Final Results of Review.''

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: James Terpstra (for Deacero) and Jolanta Lawska (for AMLT), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–3965 and 202–482–8362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 2016, the Department published in the **Federal Register** the *Preliminary Results* of the antidumping duty administrative review of wire rod from Mexico.[1] We invited interested parties to comment on our *Preliminary Results.* On January 11, 2017, the Department received case briefs from Deacero, and Nucor Corporation (Nucor).[2] On January 17, 2017, interested parties submitted rebuttal briefs. On January 20, 2017, the Department extended the deadline for the final results of this administrative review until May 15, 2017.[3] On January 31, 2017, the Department held a public hearing. The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Period of Review

The POR covered by this review is October 1, 2014, through September 30, 2015.

Scope of the Order

The merchandise subject to this order is carbon and certain alloy steel wire rod. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059. Although the HTS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding 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 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 *http://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://trade.gov/enforcement.* 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 our analysis of the comments received, we applied total adverse facts available (AFA) to Deacero and assigned it the highest margin alleged in the petition, *i.e.,* 40.52 percent, as Deacero's AFA rate. These changes are fully discussed in the Issues and Decision Memorandum.

Final Results of Review

As a result of this review, we determine that the following margin exists for the POR:

Producer/exporter	Weighted-average dumping margin (percent)
Deacero S.A.P.I. de C.V	40.52

Final Determination of No Shipments

As stated in the *Preliminary Results,* AMLT reported that it made no sales of subject merchandise during the POR.[5] We received no comments from interested parties with respect to the Department's preliminary determination of no shipments for AMLT, and we continue to determine that AMLT had no reviewable transactions during the POR. As noted in the ''Assessment Rates'' section below, the Department intends to issue appropriate instructions to U.S. Customs and Border Protection (CBP) for AMLT based on the final results of this review.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the

[1] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 80638 (November 16, 2016) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] Nucor Corporation (Nucor) is a domestic interested party.

[3] *See* Memorandum regarding Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Mexico: Extension of Time Limit for Final Results, dated January 20, 2017.

[4] *See* Decision Memorandum for Final Results of 2014/15 Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Mexico (Issues and Decision Memorandum), dated concurrently with and hereby adopted by this notice for a complete description of the scope of the order.

[5] *See Preliminary Results,* 81 FR at 80639, and accompanying Preliminary Decision Memorandum at 2.

final results of this review.[6] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department will instruct CBP to apply an *ad valorem* assessment rate of 40.52 percent to all entries of subject merchandise during the POR which were produced and/or exported by Deacero. Additionally, because the Department determined that AMLT had no shipments of the subject merchandise, any suspended entries that entered under that company's case number (*i.e.,* at that company's rate) will be liquidated at the all-others rate effective during the period of review.[7]

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 of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for Deacero will be the rate established in the final results of this administrative review; (2) for merchandise exported by producers 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 recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 20.11 percent, the all-others rate established in the investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping 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: May 15, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Final Decision Memorandum

I. Summary
II. Background
III. Use of Adverse Facts Available
IV. List of Comments
  Comment 1: Whether the Department Should Apply AFA to Deacero
  Comment 2: Whether the Department Should Reject Deacero's Adjustment to its Billet Costs
  Comment 3: Whether the Department Should Recalculate Mid Continent's General and Administrative Expense (G&A) Rate
  Comment 4: Whether the Department Should Reject Deacero's Residual Values
  Comment 5: Whether the Department Should Use the Average-to-Average Method
  Comment 6: Clerical Error Allegations
V. Scope of the Order
VI. Discussion of Comments
VII. Recommendation

[FR Doc. 2017–10349 Filed 5–19–17; 8:45 am]

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[6] For assessment purposes, 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).

[7] For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 65945 (October 29, 2002).

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 12, 2017. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 16–024. *Applicant:* The Hormel Institute, 801 16th Avenue NE., Austin, MN 55912. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* The instrument will be used to study biological samples such as human and animal normal and cancer cells, as well as to study protein-protein interactions and protein-compounds interactions. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* March 17, 2017.

Docket Number: 16–025. *Applicant:* The Hormel Institute, 801 16th Avenue NE., Austin, MN 55912. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to study biological samples such as human and animal normal and cancer cells, as well as to study protein-protein interactions and protein-compounds interactions. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* March 17, 2017.

Docket Number: 17–003. *Applicant:* Arizona State University, 550 E. Tyler Mall, PSF 470, Tempe, AZ 85287–1504. *Instrument:* Laser-lithography system for 3-dimensional microstructuring and nanostructuring. *Manufacturer:* Nanoscribe, Germany. *Intended Use:* The instrument will be used to develop new methods of determining the atomic

structure of proteins, and to make movies of molecular machines at work. It is capable of fabricating structures as small as 0.2 microns on a side, which are not limited to a planar geometry, using nozzles whose overall size is a few millimeters, with finest detail of 0.5 microns. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* March 17, 2017.

Docket Number: 17–004. *Applicant:* Trustees of Tufts College, 200 Boston Avenue, Suite 2600, Medford, MA 02155–4284. *Instrument:* Microscopy Image Acquisition Unit. *Manufacturer:* Phaseview, France. *Intended Use:* The instrument will be used to produce 3D images of objects in regular light microscopy, for example, biological cells, the surface of teeth, and polymers. The unique and required features include an andor camera connected to piezo driving optical objective, 3–D imaging device that uses a liquid-crystal focusing technology and so-called Ray technology to record 3–D information in one shot, and very fast mechanical noise-free recording of 3–D images of surfaces and cells. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: April 3, 2017.

Docket Number: 17–005. *Applicant:* Boston University, 110 Cummington Mall, ENG 107, Boston, MA 02215. *Instrument:* Positioner for a prototype Schwarzchild Couder Telescope (pSCT). *Manufacturer:* DESY-DeutchesElektronen-Synchrotron, Germany. *Intended Use:* The instrument will be used in material science research, using a fiber laser to induce two-photon polymerization in the target material. Through sophisticated coordination of an X–Y stage and a galvo-scanner, a structure designed in a standard CAD tool can be transferred to a cube of photosensitive material in a matter of minutes. The instrument is capable of lateral feature sizes for 3D structures of less than 200 nm, and less than 150 nm for 2D structures. The instrument is able to fabricate structures up to 300 μm height with constant high resolution and quality independent of the structure height by means of a dip-in-laser lithography technique. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* April 24, 2017.

Docket Number: 17–006. *Applicant:* The Association of Universities for Research in Astronomy, 3665 Discovery Drive, Boulder, CO 80303. *Instrument:* M1 Cell Assembly. *Manufacturer:* Advanced Mechanical & Optical Systems, NA, Belgium. *Intended Use:* The instrument will be used to study the highly dynamic magnetic fields and plasmas throughout the solar atmosphere. It will provide the necessary means to support, shape and cool the DKIST primary mirror, without which the primary mirror would not meet the stringent performance characteristics for conducting the experiments. The instrument will be able to accurately adjust the M1 Mirror optical surface by applying arbitrary Zernike correction terms to correct for telescope errors in addition to polishing errors and M1 Cell Assembly induced errors. After optics correction, the total allowed M1 Mirror optical surface figure error from all sources other than polishing residuals shall be less than 45 nm RMS after subtraction of tip tilt and focus. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* April 24, 2017.

Docket Number: 17–007. *Applicant:* The Association of Universities for Research in Astronomy, 3665 Discovery Drive, Boulder, CO 80303. *Instrument:* Coating and Cleaning Equipment for the Daniel K. Inouye Solar Telescope. *Manufacturer:* Advanced Mechanical & Optical Systems, NA, Belgium. *Intended Use:* The instrument will be used to study the highly dynamic magnetic fields and plasmas throughout the solar atmosphere. The M1 Wash Platform shall be capable of capturing washing effluent and directing it into a containment system, which shall include pumping capacity to move the effluent from the containment system into AURA supplied containers, as well as protect effluent from contaminating the bottom surface of the M1 Mirror or any other surface. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* April 24, 2017.

Docket Number: 17–008. *Applicant:* UChicago Argonne, 9700 South Cass Avenue, Lemont, IL 60439. *Instrument:* Multiphoton 3D Lithography System. *Manufacturer:* Nanoscribe, Germany. *Intended Use:* The instrument will be used for rapid fabrication and prototyping of micro and nano sized parts by the means of novel technology, two-photon polymerization of UV-curable photoresists. The key and unique features of the instrument include the highest resolution (150 nanometers) among all commercially available 3D printers and ability to deposit a wide variety of materials template by transparent polymers. The high printing resolution enables sub-micron feature sizes and allows a design freedom for very complex parts with internal features otherwise impossible to produce. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* April 24, 2017.

Gregory W. Campbell,

Director, Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2017–10401 Filed 5–19–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–829]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that imports of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2015, through June 30, 2016. For information on the estimated weighted-average dumping margins of sales at LTFV, see the ''Final Determination'' section of this notice.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2017, the Department published the *Preliminary Determination* of this antidumping duty

(AD) investigation.[1] The petitioner in this investigation is the Rebar Trade Action Coalition and its individual members.[2] The mandatory respondents in this investigation are Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş. (Habas) and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.Ş. (Icdas). Both Habas and Icdas participated in this investigation. A complete summary of the events that occurred since publication of the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Final Issues and Decision Memorandum, which is dated concurrently with and hereby adopted by this notice.[3] The Issues and Decision Memorandum is a public document and is available electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B–8024 of the Department's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The scope of the investigation covers rebar from Turkey. The Department did not receive any scope comments and has not updated the scope of the investigation since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Analysis of Comments Received

The issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by the Department in the Issues and Decision Memorandum is attached at Appendix II to this notice.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), during March 2017, the Department verified the sales and cost data reported by Habas and Icdas. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available. As discussed in the Issues and Decision Memorandum,[4] we determine that Icdas withheld necessary information with respect to manufacturer of certain home market sales made by affiliates during the POI and, accordingly, did not act to the best of its ability in responding to the Department's request for information. Therefore, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[5] For further information, see the ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations since the *Preliminary Determination.* These changes are discussed in the ''Analysis of Programs'' section of the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 735(c)(1)(B)(i)(I) of the Act, the Department calculated a dumping margin for the individually investigated exporters/producers of the subject merchandise. Consistent with sections 735(c)(1)(B)(i)(II) and 735(c)(5) of the Act, the Department also calculated an estimated ''all-others'' rate for exporters and producers not individually investigated. Section 735(c)(5)(A) of the Act provides that the ''all-others'' rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. Because the estimated weighted-average dumping margins calculated for Habas and Icdas are not zero or *de minimis* or based entirely on facts available under section 776 of the Act, we calculated the all-others rate using a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration, pursuant to section 735(c)(5)(A) of the Act.[6]

Final Determination

The Department determines the estimated weighted-average dumping margins to be:

Company	Estimated weighted-average dumping margin	Cash deposit rate adjusted for subsidy offset(s))
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.	5.39	5.18
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.	8.17	8.00

[1] *See Steel Concrete Reinforcing Bar From the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 82 FR 12791 (March 7, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] The Rebar Trade Action Coalition is comprised of Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey,'' (Issues and Decision Memorandum).

[4] *See* Issues and Decision Memorandum at 4 and Comment 10.

[5] *See* sections 776(a) and (b) of the Act.

[6] With two respondents, we would normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010); *see also* Memorandum to the File, ''Steel Concrete Reinforcing Bar from the Republic of Turkey: Calculation of the Margin for All Others Rate for the Final Determination,'' dated May 15, 2017.

Company	Estimated weighted-average dumping margin	Cash deposit rate adjusted for subsidy offset(s))
All-Others	6.94	6.77

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose the calculations performed within five days of any public announcement of this notice.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of rebar from Turkey, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 7, 2017, the date of publication of the *Preliminary Determination*. Furthermore, the Department will instruct CBP to require a cash deposit for such entries of merchandise. The Department normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where the Department made an affirmative determination for countervailable export subsidies, the Department has offset the estimated weighted-average dumping margin by the appropriate CVD rate.[7] Any such adjusted cash deposit rate may be found in the ''Final Determination'' section, above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of rebar from Turkey no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an AD order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely 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 violation subject to sanction.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof. Subject merchandise includes deformed steel wire with bar markings (*e.g.,* mill mark, size, or grade) and which has been subjected to an elongation test.

The subject merchandise includes rebar that has been further processed in the subject country or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the rebar.

Specifically excluded are plain rounds (*i.e.,* nondeformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.,* mill mark, size, or grade) and without being subject to an elongation test.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000.

HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Final Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Scope Comments
V. Changes Since the Preliminary Determination
VI. Application of Facts Available and Use of Adverse Inferences
VII. Discussion of the Issues
Comment 1: Whether Respondents' Duty Drawback Adjustment Should be Granted as Reported and How to Calculate any Adjustment
Comment 2: Whether Respondents' Margins Should be Calculated Using Quarterly Cost

Habas

Comment 3: Whether the U.S. Date of Sale is the Contract Date
Comment 4: Whether the Department Should Impute Interest Expense on Zero-Interest Financing Provided by Anadolubank
Comment 5: Whether Zero-Interest Loans Should be Included in the Interest Rate for CREDITH

Icdas

Comment 6: Whether the Department Should Revise Icdas' Costs Consistent with Turkish GAAP

[7] See Memorandum to the File, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Calculation Memorandum for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.,'' dated concurrently with this Notice; *See also* Memorandum to the File, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Margin Calculation for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.,'' dated concurrently with this Notice; *See also* Memorandum to the File, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Calculation for the 'All Others' Rate,'' dated concurrently with this Notice.

Comment 7: Whether the Department Should Revise Icdas' Short-Length Rebar Cost
Comment 8: Whether the Department Should Disallow Offsets to Icdas' G&A Expenses for Reimbursements Related to Port Services Provided to Third Parties
Comment 9: Whether the Department Should Revise the Manufacturer Code Assignments in the Home Market Resellers' Sales File in the Comparison Market Program
Comment 10: Whether the Department Should Apply Partial AFA to Icdas with Respect to Missing Manufacturer Codes in the Home Market Resellers Sales File
Comment 11: Whether the Department Should Adjust Normal Value for Certain Home Market Movement Expenses
Comment 12: Whether the Department Should Use the Correct Home Market Credit Expense Amount CREDIT2H in its Calculation of Normal Value
Comment 13a: Whether the Department Should Adjust Arten's Sales to Exclude VAT
Comment 13b: Whether the Department Should Adjust Home Market Freight Expense for Certain Sales in Order to Eliminate Understatement of this Expense Due to Double Counting of VAT
Comment 14: Whether the Department Should Use the Correct Home Market Gross Unite Price Data in its Margin Calculation
Comment 15: Whether the Department Should Continue to Differentiate Between Air and Water Cooled Rebar
Comment 16: Whether the Department Should Reconsider and Reverse its Decision to Refuse to Accept Icdas' Timely and Properly Submitted Minor Corrections of February 15, 2017
Comment 17: Whether the Computer Programming Error Regarding Icdas' Ending Period Date for U.S. Sales Should be Corrected
VIII. Recommendation

[FR Doc. 2017–10346 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010–2011

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is amending its final results of the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) for the period of review is November 1, 2010, through October 31, 2011.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace or Alexander Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230: telephone: (202) 482–6251 or (202) 482–4956, respectively.

SUPPLEMENTARY INFORMATION: Following the publication of the *Final Results,* Weifang Hongqiao International Logistics Co., Ltd., Qingdao Xintianfeng Foods Co., Ltd., and Shandong Jinxiang Zhengyang Import and Export Co., Ltd. (collectively, Separate Rate Respondents) challenged the Department's *Final Results* in the United States Court of International Trade (CIT). In the *Final Results,* the Department calculated a *de minimis* rate for the two mandatory respondents, but found that averaging the mandatory respondents' *de minimis* rates would not be reasonably reflective of the potential dumping margins of the companies not selected for individual examination.[1] The Department found the Separate Rate Respondents eligible for a separate rate, but did not select them for individual examination.[2] The Department established the dumping margin for the Separate Rate Respondents by applying the most recently-calculated rate under this order, which was not affected by the Department's zeroing methodology, *i.e.,* $1.28 per kilogram, the rate in the 08/09 Garlic NSR.[3] The Separate Rate Respondents challenged the Department's selection of the $1.28 per kilogram dumping margin.[4]

On April 14, 2017, the United States, the Separate Rate Respondents, and the petitioner[5] entered into an agreement to settle this dispute. On April 17, 2017, the United States, the Separate Rate Respondents, and the petitioner filed a stipulation for entry of judgment with the CIT. On April 19, 2017, the CIT entered judgment by stipulation. Consistent with the settlement agreement and the judgment by stipulation, these *Amended Final Results* assign each Separate Rate Respondent a $0.00 per kilogram dumping margin for the POR. The *Amended Final Results* make no other modification to the Department's findings in the *Final Results.*

Within fifteen days of publication of these *Amended Final Results,* we will instruct U.S. Customs and Border Protection to liquidate all unliquidated entries of fresh garlic from the PRC produced and/or exported by Weifang Hongqiao International Logistics Co., Ltd., Qingdao Xintianfeng Foods Co., Ltd., and Shandong Jinxiang Zhengyang Import and Export Co., Ltd., and entered, or withdrawn from warehouse, for consumption in the United States during the POR at the assessment rate of $0.00 per kilogram.

We are issuing and publishing these *Amended Final Results* of review and notice in accordance with section 516A(e) of the Act.

Dated: May 15, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–10350 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] IDM at 4.

[2] IDM at 3–4.

[3] *Final Results,* 78 FR at 36169.

[4] *Weifang Hongqiao International Logistics Co., Ltd. et al.* v. *United States,* Consol. Case No. 13–00228.

[5] The Fresh Garlic Producers Association and its individual members, Christopher Ranch, LLC, the Garlic Company, Valley Garlic, and Vessey and Company, Inc.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–876]

Steel Concrete Reinforcing Bar From Japan: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that imports of steel concrete reinforcing bar (rebar) from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2015, through June 30, 2016. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3870.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2017, the Department published the *Preliminary Determination* of this antidumping duty

(AD) investigation.[1] We invited interested parties to submit comments on the *Preliminary Determination,* but we received no comments. Further on, April 4, 2017, the Department also invited interested parties to submit comments regarding the scope of the investigation;[2] no interested parties submitted scope comments. Additionally, no interested party requested a hearing.

Scope of the Investigation

The scope of the investigation covers rebar from Japan. As noted above, the Department did not receive any scope comments and has not updated the scope of the investigation since the *Preliminary Determination.* For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

As noted above, we received no comments since the publication of the *Preliminary Determination.*

Changes Since the Preliminary Determination and Use of Adverse Facts Available

As stated in the *Preliminary Determination,* we found that the mandatory respondents, Jonan Steel Corporation (Jonan) and Kyoei Steel Ltd. (Kyoei), did not cooperate to the best of their abilities to comply with the Department's request for information. Accordingly, we determined it appropriate to apply facts otherwise available with adverse inferences in accordance with sections 776(a)–(b) of the Tariff Act of 1930, as amended (the Act). For the purposes of this final determination, the Department has made no changes to the *Preliminary Determination.*

All-Others Rate

As discussed in the *Preliminary Determination,* in accordance with section 735(c)(5)(B) of the Act, the Department based the selection of the ''All-Others'' rate on the simple average of the petition rates, resulting in an ''All Others'' rate of 206.43 percent. We have made no changes to the selection of this rate for this final determination.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/producer	Weighted-average margin (percent)
Jonan Steel Corporation	209.46
Kyoei Steel Ltd.	209.46
All-Others	206.43

Disclosure

The weighted-average dumping margin assigned to Jonan and Kyoei in the *Preliminary Determination* was based on adverse facts available. As we have made no changes to the margin since the *Preliminary Determination,* no disclosure of calculations is necessary for this final determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of rebar from Japan, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 7, 2017, the date of publication of the *Preliminary Determination.* Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury by reason of imports of rebar from Japan no later than 45 days after this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an AD order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return of 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.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 15, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof. Subject merchandise includes deformed steel wire with bar markings (*e.g.,* mill mark, size, or grade) and which has been subjected to an elongation test.

The subject merchandise includes rebar that has been further processed in the subject country or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the rebar.

Specifically excluded are plain rounds (*i.e.,* nondeformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.,* mill mark, size, or grade) and without being subject to an elongation test.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000.

HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

[FR Doc. 2017–10348 Filed 5–19–17; 8:45 am]

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[1] *See Steel Concrete Reinforcing Bar from Japan: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 82 FR 12796 (March 7, 2017) (*Preliminary Determination*).

[2] *See* Memorandum to the File, ''Scope Briefing Schedule for the Antidumping and Countervailing Duty Investigations of Steel Concrete Reinforcing Bar from Japan, the Republic of Turkey and Taiwan,'' April 4, 2017.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–048]

Certain Carbon and Alloy Steel Cut-to-Length Plate From the People's Republic of China: Initiation of Expedited Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is initiating an expedited review of the countervailing duty order on certain carbon and alloy steel cut-to-length plate (CTL plate) from the People's Republic of China (PRC) with respect to Jiangsu Tiangong Tools Company Limited (Tiangong Tools).

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Ryan Mullen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5260.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2017, the Department published the countervailing duty order on CTL plate from the PRC.[1] On April 19, 2017, the Department received a request from Tiangong Tools to conduct an expedited review of this countervailing duty order.[2] Tiangong Tools, a company that was not selected for individual examination during the investigation, made this request. pursuant to 19 CFR 351.214(k).

Initiation of Expedited Review

In accordance with 19 CFR 351.214(k)(1)(i)–(iii), Tiangong Tools certified that it exported the subject merchandise to the United States during the period of investigation,[3] that it was not affiliated with an exporter or producer that the Department individually examined in the investigation, and that it informed the Government of the PRC, as the government of the exporting country, that the government will be required to provide a full response to the Department's questionnaire. In addition, pursuant to 19 CFR 351.214(k)(1), in the underlying investigation, the Department limited the number of exporters or producers to be individually examined under section 777A(e)(2)(A), and did not accept Tiangong Tool's request for voluntary respondent treatment.[4]

Therefore, in accordance with 19 CFR 351.214(k), we are initiating an expedited review of the countervailing duty order on CTL plate from the PRC with respect to Tiangong Tools. Pursuant to 19 CFR 351.214(i)(1) and (k)(3), we intend to issue the preliminary results of this expedited review not later than 180 days from the date of initiation of this review.[5] As specified by 19 CFR 351.214(k)(3)(i), the period of review will be the same as the original period of investigation.

Pursuant to 19 CFR 351.214(k)(3)(iii), the final results of this expedited review will not be the basis for the assessment of countervailing duties. Instead, this expedited review is intended to establish individual cash deposit rates for Tiangong Tools, or to exclude it from the countervailing duty order if the final results of review are zero or *de minimis,* as provided in 19 CFR 351.214(k)(3)(iv).

Interested parties must submit applications for disclosure under administrative protective orders, in accordance with 19 CFR 351.305 and 351.306.

Dated: May 16, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–10421 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from the People's Republic of China: Countervailing Duty Order,* 82 FR 14346 (March 20, 2017).

[2] *See* Tiangong Tools Letter re: Request for Expedited Review, dated April 19, 2017. Tiangong Tool's letter includes a request for review of both Jiangsu Tiangong Tools Company Limited and Tiangong Aihe Company Limited. However, the Department is not initiating on Tiangong Aihe Company Limited, as this company is not an exporter as required by 19 CFR 351.214(k)(1). *See also* Memorandum to the File, ''Telephone Call with Jiangsu Tiangong Tools Company Limited,'' dated April 28, 2017.

[3] January 1, 2015, through December 31, 2015.

[4] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 81 FR 62871 (September 13, 2016), and accompanying Preliminary Decision Memorandum at 2, unchanged in *Certain Carbon and Alloy Steel Cut-to-Length Plate from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 82 FR 8507 (January 26, 2017).

[5] Under 19 CFR 351.214(k)(i)(2), this period may be extended to 300 days.

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration Department of Commerce.

DATES: Effective May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482–3692.

SUPPLEMENTARY INFORMATION: Section 702 of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h) of the Act, and to publish quarterly updates to the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on articles of cheese that were imported during the periods October 1, 2016, through December 31, 2016.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies, as defined in section 702(h) of the Act, being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available. The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: May 16, 2017.

Ronald K. Lorentzen.

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
28 European Union Member States [3]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.47	0.47
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).
[3] The 28 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

[FR Doc. 2017–10393 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award and Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board of Overseers) and the Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet together in open session on Thursday, June 8, 2017, from 8:30 a.m. to 3:00 p.m. Eastern time. The Board of Overseers, appointed by the Secretary of Commerce, reports the results of the Malcolm Baldrige National Quality Award (Award) activities to the Director of the National Institute of Standards and Technology (NIST) each year, along with its recommendations for the improvement of the Award process. The Judges Panel, also appointed by the Secretary of Commerce, ensures the integrity of the Award selection process and recommends Award recipients to the Secretary of Commerce. The purpose of this meeting is to discuss and review information received from the National Institute of Standards and Technology and from the Chair of the Judges Panel. The agenda will include: Baldrige Program Update, Baldrige Foundation Fundraising Update, Baldrige Judges Panel Update, Ethics Review, Applicants and Eligibility, and New Business/Public Comment.

DATES: The meeting will be held on Thursday, June 8, 2017 from 8:30 a.m. Eastern time until 3:00 p.m. Eastern time. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Building 101, Lecture Room D, 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(1), 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board of Overseers and the Judges Panel will meet together in open session on Thursday, June 8, 2017 from 8:30 a.m. to 3:00 p.m. Eastern time. The Board of Overseers (Board), composed of approximately twelve members preeminent in the field of organizational performance excellence and appointed by the Secretary of Commerce, make an annual report on the results of Award activities to the Director of the National Institute of Standards and Technology (NIST), along with its recommendations for improvement of the Award process. The Judges Panel consists of twelve members with balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Panel includes members who are familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. The Judges Panel recommends Malcolm Baldrige National Quality Award recipients to the Secretary of Commerce.

The purpose of this meeting is to discuss and review information received from NIST and from the Chair of the Judges Panel of the Malcolm Baldrige National Quality Award. The agenda will include: Baldrige Program Update, Baldrige Foundation Fundraising Update, Baldrige Judges Panel Update, Ethics Review, Applicants and Eligibility, and New Business/Public Comment. The agenda may change to accommodate the Judges Panel and Board of Overseers business. The final agenda will be posted on the NIST Baldrige Performance Excellence Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* The meeting is open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs and/or the Panel of Judges' general process are invited to request a place on the agenda. On June 8, 2017, approximately one-half hour will be reserved in the afternoon for public comments, and speaking times will be assigned on a first-come, first-

served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Performance Excellence Program Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, Attention Suzanne Sullivan, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, via fax at 301–975–2702 or electronically by email to *suzanne.sullivan@nist.gov.*

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Suzanne Sullivan no later than 4:00 p.m. Eastern time, Thursday, June 1, 2017, and she will provide you with instructions for admittance. Non-U.S. citizens must submit additional information; please contact Suzanne Sullivan by email at *suzanne.sullivan@nist.gov* or by phone at (301) 975–2702. Also, please note that under the REAL ID Act of 2005 (Pub. L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Mrs. Sullivan or visit: *http://www.nist.gov/public_affairs/visitor/.*

Dated: May 17, 2017.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2017–10404 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: The Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet on Wednesday, June 7, 2017, from 9:00 a.m. to 3:30 p.m. Eastern time. The purpose of this meeting is to discuss and review the role and responsibilities of the Judges Panel and information received from the National Institute of Standards and Technology (NIST) in order to ensure the integrity of the Malcolm Baldrige National Quality Award (Award) selection process. The agenda will include: Judges Panel roles and processes; Baldrige Program updates; new business/public comment; lessons learned from the 2016 judging process; and the 2017 Award process. A portion of this meeting is closed to the public in order to protect the proprietary data to be examined and discussed.

DATES: The Judges Panel meeting will be held on Wednesday, June 7, 2017 from 9:00 a.m. until 3:30 p.m. Eastern time. The portion of the meeting, from 9:00 a.m. to 11:30 a.m., will include discussions on the Judges Panel roles and processes and Baldrige program updates. This session is open to the public. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice. The portion of the meeting, from 12:30 p.m. to 3:30 p.m., will include discussions on lessons learned from the 2016 judging process and on the 2017 Award process. This session is closed to the public in order to protect the proprietary data to be examined and discussed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Building 101, Lecture Room D, 100 Bureau Drive, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, at telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Judges Panel of the Malcolm Baldrige National Quality Award will meet on Wednesday, June 7, 2017 from 9:00 a.m. to 3:30 p.m. Eastern time. The Judges Panel is composed of twelve members, appointed by the Secretary of Commerce, chosen for their familiarity with quality improvement operations and competitiveness issues of manufacturing companies, services companies, small businesses, health care providers, and educational institutions. Members are also chosen who have broad experience in for-profit and nonprofit areas. The Judges Panel will assemble to discuss and review the role and responsibilities of the Judges Panel and information received from NIST in order to ensure the integrity of the Malcolm Baldrige National Quality Award selection process. The agenda will include: Judges Panel roles and processes; Baldrige Program updates; new business/public comment; lessons learned from the 2016 judging process; and the 2017 Award process. A portion of this meeting is closed to the public in order to protect the proprietary data to be examined and discussed.

The portion of the meeting, from 9:00 a.m. to 11:30 a.m. Eastern time, will include discussions on the Judges Panel roles and processes and Baldrige program updates and is open to the public. Individuals and representatives of organizations who would like to offer comments related to the Panel of Judges' general process are invited to request a place on the agenda. Approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Performance Excellence Program Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, Attention Suzanne Sullivan, National

Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland, 20899–1020, via fax at 301–975–4967 or electronically by email to *suzanne.sullivan@nist.gov.*

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Nancy Young no later than 4:00 p.m. Eastern time, Thursday, June 1, 2017, and she will provide you with instructions for admittance. Non-U.S. citizens must submit additional information; please contact Suzanne Sullivan by email at *suzanne.sullivan@nist.gov* or by phone at (301) 975–2702. Also, please note that under the REAL ID Act of 2005 (P.L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Sullivan or visit: *http://www.nist.gov/public_affairs/visitor/.*

The portion of the meeting from 12:30 p.m. to 3:30 p.m. Eastern time, will include discussions on lessons learned from the 2016 judging process and on the 2017 Award process, and is closed to the public in order to protect the proprietary data to be examined and discussed. The Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the Assistant General Counsel for Administration and Transactions, formally determined on March 21, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in Sunshine Act, P.L. 94–409, that a portion of the meeting of the Judges Panel may be closed to the public in accordance with 5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential and 5 U.S.C. 552b(c)(9)(B) because for a government agency the meeting is likely to disclose information that could significantly frustrate implementation of a proposed agency action. Portions of the meeting involve examination of prior year Award applicant data. Award applicant data are directly related to the commercial activities and confidential information of the applicants.

Dated: May 17, 2017.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2017–10405 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: NOAA Fisheries Greater Atlantic Region Gear Identification Requirements.

OMB Control Number: 0648–0351.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 5,339.

Average Hours per Response: One minute per gear string.

Burden Hours: 18,592.

Needs and Uses: This request is for extension of a currently approved information collection. Regulations at 50 CFR 648.84(a), (b), and (d), 648.123(b)(3), 648.144(b)(1), 648.264(a)(5), and 697.21(a) and (b) require that Federal Fisheries permit holders using certain types of fishing gear, mark the gear with specified information for the purposes of vessel and gear identification (*e.g.,* hull identification number, Federal fishing permit number, etc.). The regulations also specify how the gear is to be marked for the purposes of visibility (*e.g.,* buoys, radar reflectors, etc.).

The quantity of gear in this collection is distinguished by the number of attached end lines associated with each string of hooks, pots, or traps. As such, a single Federal permit holder may be responsible for marking several strings of a given gear type, or may use multiple different gear types that require marking. These gear marking requirements aid in fishery law enforcement, make the gear more visible to other vessels to aid in navigation, and provide other fisherman with information regarding the gear type being used to help prevent gear conflicts.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 16, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–10293 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Greater Atlantic Region, Atlantic Sea Scallop Fishery Management Plan Data Collection.

OMB Control Number: 0648–0491.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 647.

Average Hours per Response: VMS trip declaration, trip termination, compensation trip identification, powerdown provision, daily catch reports, 2 minutes; access area trip exchange, 15 minutes; VMS purchase and installation, 2 hours; IFQ ownership cap forms, 5 minutes; vessel replacement, upgrade and permit history applications, 3 hours; VMS pre-landing notification form, 5 minutes; VMS state waters exemption program, 2 minutes; quota transfers, 10 minutes; cost recovery, 2 hours; sector proposals, 150 hours; sector operations plans, 100 hours; IFQ, Northern Gulf of Maine, and incidental catch vessel VMS requirements, 2 minutes.

Burden Hours: 2,843.

Needs and Uses: This request is for an extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) Greater Atlantic Region manages the Atlantic sea scallop (scallop) fishery of the Exclusive Economic Zone (EEZ) off the East Coast under the Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations implementing the FMP are at 50 CFR part 648. To successfully implement and administer components of the FMP, OMB Control No. 0648–0491 includes the following information collections for scallop vessel owners, operators, and fishery participants: Vessel monitoring system (VMS) trip declarations for all scallop vessels, including powerdown declarations; notification of access area trip termination for limited access scallop vessels; submission of access area compensation trip identification; submission of access area trip exchange forms; VMS purchase and installation for individuals that purchase a federally permitted scallop vessel; VMS daily catch reports; submission of ownership cap forms for individual fishing quota (IFQ) scallop vessels; submission of vessel replacement, upgrade and permit history applications for IFQ, Northern Gulf of Maine (NGOM), and Incidental Catch (IC) scallop vessels; submission of VMS pre-landing notification form by IFQ vessels and limited access vessels for access areas; enrollment into the state waters exemption program; submission of requests for IFQ transfers; payment of cost recovery bills for IFQ vessels; sector proposals for IFQ vessels and industry participants; and sector operations plans for approved sector proposals.

Data collected through these programs are incorporated into the NMFS database and are used to track and confirm vessel permit status and eligibility, scallop landings, and scallop vessel allocations. Aggregated summaries of the collected information will be used to evaluate the management program and future management proposals.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, monthly and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 16, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–10291 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF391

New England Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a correction of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish 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 Wednesday, May 24, 2017 at 9 a.m.

ADDRESSES: The meeting will be held at the Sheraton Harborside, 250 Market Street, Portsmouth, NH 03801; phone: (603) 431–2300.

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: The original notice published in the **Federal Register** on May 8, 2017 (82 FR 21372). An additional agenda item has been added to the original agenda. The entire new agenda is listed below. All other previously published information remains the same.

Agenda

The Advisory Panel will discuss Amendment 23/Groundfish Monitoring. They will receive a report from the Groundfish Plan Development Team (PDT), review public scoping comments and Discuss and make recommendations to the Groundfish Committee on the scope, purpose and need, and range of alternatives for Amendment 23. The Panel will also review 2017 Council Priorities with a discussion of Atlantic halibut management, receive a report from the PDT and make recommendations to the Groundfish Committee. They will also discuss a possible reclassification of windowpane flounder stocks with a report from the PDT and make recommendations to the Groundfish Committee. The advisory panel will consider comments on the Interim Final Rule for 2017 and 2018 Sector Operations Plans, including whether additional measures or restrictions should be recommended for Sector IX as a result of misreporting by sector vessels. Other business will be discussed as necessary.

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

Dated: May 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–10328 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF441

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet June 7–14, 2017. The Pacific Council meeting will begin on Friday, June 9, 2017 at 9 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. each day through Wednesday, June 14, 2017. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m., Friday, June 9 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be held at the Doubletree by Hilton Spokane City Center, 322 N. Spokane Falls Court, Spokane, Washington; telephone: (509) 455–9600.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland,

OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll-free; or access the Pacific Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The June 7–14, 2017 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PT Friday, June 9, 2017 and continue at 8 a.m. daily through Wednesday, June 14, 2017. Broadcasts end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the June Webinar ID, 897–986–459, and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio portion only of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–562–247–8422 (not a toll-free number), audio access code 862–846–290, and enter the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance June 2017 briefing materials and posted on the Pacific Council Web site at *www.pcouncil.org* no later than May 19, 2017.

A. Call to Order
  1. Opening Remarks
  2. Roll Call
  3. Executive Director's Report
  4. Approve Agenda
B. Open Comment Period
  1. Comments on Non-Agenda Items
C. Administrative Matters
  1. Council Coordination Committee Meeting Report
  2. Fiscal Matters
  3. Legislative Matters
  4. Approval of Council Meeting Records
  5. Stock Assessment Improvement Plan Comments
  6. National Marine Fisheries Service (NMFS) White Paper on Best Scientific Information Available (BSIA)
  7. Membership Appointments and Council Operating Procedures
  8. Future Council Meeting Agenda and Workload Planning
D. Coastal Pelagic Species Management
  1. Final Pacific Mackerel Stock Assessment and Management Measures
  2. Final Approval of Aerial Survey Methodology
E. Habitat
  1. Current Habitat Issues
F. Groundfish Management
  1. National Marine Fisheries Service Report
  2. Trawl Catch Shares Review Draft Report and Intersector Allocation Report
  3. Scoping of Trawl Catch Shares Discard Survival Credits for Sablefish and Lingcod
  4. Final Stock Assessments and Catch Reports
  5. Scoping of Multi-year Average Catch Policy
  6. Electronic Ticket Reporting Timeline Requirements
  7. Specifications and Management Measures Process for 2019–20 Fisheries
  8. Coastwide Non-whiting Midwater and Gear Modification Exempted Fishing Permit Progress Reports
  9. Final Action on Updated Coordinates for the 125 Fathom Rockfish Conservation Area Line in California
  10. Final Action on Inseason Adjustments
G. Pacific Halibut Management
  1. Scoping of Catch Sharing Plan Changes and International Pacific Halibut Commission (IPHC) Data Request Report
H. Highly Migratory Species Management
  1. National Marine Fisheries Service Report
  2. Amendment 4 to the Fishery Management Plan for West Coast Fisheries for Highly Migratory Species (HMS FMP)
  3. Authorization of Deep-Set Buoy Gear and Federal Permitting
  4. Proposed Deep-Set Buoy Gear Exempted Fishing Permits
  5. Recommendations for International Management Activities
I. Enforcement Issues
  1. National Marine Fisheries Service (NMFS) Office of Law Enforcement (OLE) Strategic Review

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council Web site *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Friday, May 19, 2017.

Schedule of Ancillary Meetings

Day 1—Wednesday, June 7, 2017

Scientific and Statistical Committee Groundfish Subcommittee, 8 a.m.

Day 2—Thursday, June 8, 2017

Habitat Committee, 8 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Scientific and Statistical Committee, 8 a.m.
Budget Committee, 10:30 a.m.
Legislative Committee, 1 p.m.

Day 3—Friday, June 9, 2017

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Scientific and Statistical Committee, 8 a.m.
Enforcement Consultants, 3 p.m.

Day 4—Saturday, June 10, 2017

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Highly Migratory Species Advisory Subpanel, 8 a.m.
Highly Migratory Species Management Team, 8 a.m.
Enforcement Consultants, Ad Hoc

Day 5—Sunday, June 11, 2017

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Highly Migratory Species Advisory Subpanel, 8 a.m.
Highly Migratory Species Management Team, 8 a.m.

Enforcement Consultants, Ad Hoc

Day 6—Monday, June 12, 2017

California State Delegation, 7 a.m.

Oregon State Delegation, 7 a.m.

Washington State Delegation, 7 a.m.

Groundfish Advisory Subpanel, 8 a.m.

Groundfish Management Team, 8 a.m.

Highly Migratory Species Advisory Subpanel, 8 a.m.

Highly Migratory Species Management Team, 8 a.m.

Enforcement Consultants, Ad Hoc

Day 7—Tuesday, June 13, 2017

California State Delegation, 7 a.m.

Oregon State Delegation, 7 a.m.

Washington State Delegation, 7 a.m.

Highly Migratory Species Advisory Subpanel, 8 a.m.

Highly Migratory Species Management Team, 8 a.m.

Enforcement Consultants, Ad Hoc

Day 8—Wednesday, June 14, 2017

California State Delegation, 7 a.m.

Oregon State Delegation, 7 a.m.

Washington State Delegation, 7 a.m.

Although non-emergency issues not contained in this agenda may come before the Pacific Council for discussion, those issues may not be the subject of formal Council 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 Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280, ext. 411 at least 10 business days prior to the meeting date.

Dated: May 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–10330 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Foreign Fishing Vessel Permits, Vessel, and Gear Identification, and Reporting Requirements.

OMB Control Number: 0648–0075.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 7.

Average Hours per Response: For permit applications: One and one half hours for an application for a directed fishery; two hours for a joint venture application, and 45 minutes for a transshipment permit; for fishing activity reporting: 6 minutes for a joint venture report; 30 minutes per day for joint venture record-keeping; and 7.5 minutes per day for record-keeping by transport vessels; for weekly reports, 30 minutes per response; for foreign vessel and gear identification marking: 15 minutes per marking.

Burden Hours: 82.

Needs and Uses: This request is for extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) issues permits, under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.;* MSA), to foreign fishing vessels fishing or operating in United States' (U.S.) waters. MSA and associated regulations at 50 CFR part 600 require that vessels apply for fishing permits, that vessels and certain gear be marked for identification purposes, that observers be embarked on selected vessels, and that permit holders report their fishing effort and catch or, when processing fish under joint ventures, the amount and locations of fish received from U.S. vessels. These requirements apply to all foreign vessels fishing, transshipping, or processing fish in U.S. waters.

Information is collected from persons who operate a foreign fishing vessel in U.S. waters to participate in a directed fishery or joint venture operation, transship fish harvested by a U.S. vessel to a location outside the U.S., or process fish in internal waters. Each person operating a foreign fishing vessel under MSA authority may be required to submit information for a permit, mark their vessels and gear, or submit information about their fishing activities. To facilitate observer coverage, foreign fishing vessel operators must provide a quarterly schedule of fishing effort and upon request must also provide observers with copies of any required records. For foreign fishing vessels that process fish in internal waters, the information collected varies somewhat from other foreign fishing vessels that participate in a directed fishery or a joint venture operation. In particular, these vessels may not be required to provide a permit application or mark their vessels. The information submitted in applications is used to determine whether permits should be used to authorize directed foreign fishing, participation in joint ventures with U.S. vessels, or transshipments of fish or fish products within U.S. waters. The display of identifying numbers on vessels and gear aid in fishery law enforcement and allows other fishermen to report suspicious activity. Reporting of fishing activities allows monitoring of fish received by foreign vessels.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, weekly and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 16, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–10292 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF440

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

DATES: The meeting will be held on Tuesday, June 6 through Thursday, June 8, 2017. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meetings will be held at: Hilton Norfolk The Main, 100 East Main Street, Norfolk, VA 23510; telephone: (757) 763–6200.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their Web site at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's Web site when possible).

Agenda

Tuesday, June 6, 2017

SARC Presentation—Surfclam/Ocean Quahog Assessments

Surfclam/Ocean Quahog Specifications

Develop recommendations for 2018—2020 specifications.

Surfclam/Ocean Quahog Excessive Shares Amendment

Approve scoping document.

Lobster Standardized Bycatch Reporting Methodology Framework

Discuss alternatives.

Risk Policy Framework—First Meeting

Review and approve options for potential revision to current MAFMC Risk Policy and ABC Control Rules.

Climate Velocity Over the 21st Century and Its Implications for Fisheries Management in the Northeast U.S

Review climate-velocity-driven species distribution projections for 2020 through 2100 and identify potential propriety species for adaptation of fisheries management to climate change.

Cooperative Research in the Mid-Atlantic

Review of NEFSC Cooperative Research and response to MAFMC request and the Mid-Atlantic Council approach to collaborative research.

Wednesday, June 7, 2017

Mackerel, Squid, Butterfish Committee, Meeting as a Committee of the Whole—Specifications

Review fishery performance and make recommendations for 2018–20 specifications, including butterfish cap.

Shad/River Herring (RH/S) Committee, Meeting as a Committee of the Whole

Review RH/S cap operation and RH/S progress update and make recommendations for RH/S cap amount modification if necessary.

Mackerel, Squid, Butterfish Committee, Meeting as a Committee of the Whole—Squid Amendment

Review alternatives, public comments, and staff recommendations and select preferred alternatives and adopt amendment.

Law Enforcement Reports

NOAA Office of Law Enforcement and the U.S. Coast Guard.

Data Modernization in the Northeast Region

Habitat Update

EFH review progress and Mid-Atlantic fish habitat assessment project.

Thursday, June 8, 2017

Business Session

The day will conclude with the SSC Committee Report, the Executive Director's Report, the Science Report, brief reports from the National Marine Fisheries Service's GARFO and the Northeast Fisheries Science Center, NOAA's Office of General Counsel, the ASMFC, the New England and South Atlantic Fishery Council's liaisons and the Regional Planning Body Report, and discuss any continuing and/or new business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 17, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–10329 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on a Commercial Availability Request Under the U.S.-Bahrain Free Trade Agreement

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for modification of the U.S.-Bahrain Free Trade Agreement (USBFTA) rules of origin for certain knit and woven apparel made from certain knit and woven fabrics.

SUMMARY: The Government of the United States received a request from the Government of Bahrain, submitted on March 23, 2017, to initiate consultations under Article 3.2.3 of the USBFTA. The Government of Bahrain is requesting that the United States and Bahrain (''the Parties'') consider revising the rules of origin for certain knit and woven apparel to address availability of supply of certain knit and woven fabrics in the territories of the Parties. The President of the United States may proclaim a modification to the USBFTA rules of origin for textile and apparel products after the United States reaches an agreement with the Government of Bahrain on a modification under Article 3.2.5 of the USBFTA to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties. CITA hereby solicits public comments on this request, in particular with regard to whether certain knit and woven fabrics can be supplied by the U.S. domestic industry in commercial quantities in a timely manner.

DATES: Comments must be submitted by July 21, 2017 to the Chairman, Committee for the Implementation of Textile Agreements, Room 30003, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Homer Boyer, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–5156.

SUPPLEMENTARY INFORMATION:

Authority: Section 202(j)(2)(B) of the United States-Bahrain Free Trade Agreement Implementation Act (19 U.S.C. 3805 note) (USBFTA Implementation Act); Executive Order 11651 of March 3, 1972, as amended.

Background: Article 3.2.3 of the USBFTA provides that, on the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply

of fibers, yarns, or fabrics in the territories of the Parties. In the consultations, pursuant to Article 3.2.4 of the USBFTA, each Party shall consider all data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner. The USBFTA Implementation Act provides the President with the authority to proclaim as part of the HTSUS, modifications to the USBFTA rules of origin set out in Annex 3–A of the USBFTA as are necessary to implement an agreement with Bahrain under Article 3.2.5 of the USBFTA, subject to the consultation and layover requirements of Section 104 of the USBFTA Implementation Act. *See* Section 202(j)(2)(B)(i) of the USBFTA Implementation Act. Executive Order 11651 established CITA to supervise the implementation of textile trade agreements and authorizes the Chairman of CITA to take actions or recommend that appropriate officials or agencies of the United States take actions necessary to implement textile trade agreements. 37 FR 4699 (March 4, 1972), reprinted as amended in 7 U.S.C. Sec. 1854 note. The Government of the United States received a request from the Government of Bahrain, submitted on March 23, 2017, requesting that the United States consider whether the USBFTA rule of origin for certain knit and woven apparel should be modified to allow the use of certain knit and woven fabrics that are not originating under the USBFTA. The fabrics subject to this request, according to the fabric number in the request and organized by specific apparel end-use, are:

Knit apparel classified in chapter 61 of the Harmonized Tariff Schedule of the United States (HTSUS):

Fabric 26: Knit pile, looped fabric, 90% polyester and 10% elastomeric suede, yarn count: Brushed P105xP50D+SP40D, weight 300 grams per meter squared (g/m2), width CW57'', classified in subheading 6001.22 of the HTSUS;

Fabric 27: Knit fabric of polyester (85–97%) and elastomeric (5–15%), classified in subheading 6004.10 of the HTSUS;

Fabric 28: Knit fabric of polyester (45–60%), cotton (35–50%) and elastomeric (5–12%), classified in subheading 6004.10 of the HTSUS;

Fabric 29: Knit fabric of rayon (59–75%), nylon (20–37%), and elastomeric (0–10%), classified in subheading 6006.42 of the HTSUS; and

Fabric 35: Knit fabric of polyester (68–78%), rayon (19–29%), and elastomeric (0–8%), classified in subheading 6006.32 of the HTSUS.

Woven apparel classified in chapter 62 of the HTSUS:

Fabric 15: Bleached or dyed satin weave or twill weave fabric of at least 60% lyocell and up to 40% nylon, polyester, or elastomeric, that does not meet the National Fire Protection Association (NFPA) 2112 or ASTM 1506 protective standards, classified in heading 5516 of the HTSUS;

Fabric 16: Woven seersucker fabric of cotton, classified in subheadings 5208.42, 5208.52 or 5209.41 of the HTSUS;

Fabric 17: Woven fabric of rayon (60–75%), nylon (30–35%), and elastomeric (1–5%), bleached, dyed, printed or of yarns of different colors, weighing 200–350 g/m^{2,} classified in subheadings 5516.91, 5516.92, 5516.93 or 5516.94 of the HTSUS;

Fabric 18: Woven fabric of rayon (50–84%), polyester (6–49%), and elastomeric (1–10%), weighing less than 225 g/m2, classified in headings 5408 or 5516 of the HTSUS;

Fabric 19: Woven fabric of polyester (50–65%), rayon (34–49%), and elastomeric (1–10%), weighing less than 225 g/m2, classified in headings 5407, 5512, or 5515 of the HTSUS;

Fabric 20: Woven fabric of polyester (51–65%) and rayon (35–49%), weighing less than 225 g/m2, classified in headings 5407, 5512, or 5515 of the HTSUS;

Fabric 21: 100% rayon woven fabric, classified in headings 5408 or 5516 of the HTSUS; and

Fabric 22: Woven jacquard fabric of rayon staple fiber, weighing 375 g/m2 or less, classified in subheadings 5516.13 or 5516.23 of the HTSUS.

Men's or boys' suits, ensembles, suit-type jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), classified in heading 6203 of the HTSUS; and women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear), classified in heading 6204 of the HTSUS:

Fabric 1: Two-way stretch woven fabric of polyester (57–76%), rayon (18–37%), and elastomeric (1–11%), classified in subheading 5515.19 of the HTSUS;

Fabric 2: Dyed rayon blend herringbone twill fabric of rayon (65–75%) and polyester (25–35%), weighing more than 200 g/m^{2,}, classified in subheading 5516.92 of the HTSUS;

Fabric 3: Two-way stretch woven fabric of polyester (50–85%), viscose rayon (13–47%), and elastomeric (1–10%), classified in subheading 5515.11 of the HTSUS;

Fabric 4: One-way stretch woven fabric of polyester (50–85%), viscose rayon (13–47%), and elastomeric (1–10%), classified in subheading 5515.11 of the HTSUS;

Fabric 5: Woven fabric of polyester (60–90%), rayon (10–40%), and elastomeric (0–6%), classified in subheadings 5407.52, 5407.53, 5407.61, 5407.69, 5407.72, 5407.73, 5407.92, 5407.93, 5512.19, 5512.99, 5515.12, and 5515.19 of the HTSUS;

Fabric 6: Woven indigo dyed fabric of cotton (95–100%) and elastomeric (0–5%), classified in subheadings 5208.39.6090 and 5208.39.8090 of the HTSUS;

Fabric 7: Cotton corduroy woven fabric, classified in subheading 5801.22 of the HTSUS;

Fabric 8: Polyester corduroy woven fabric, classified in subheading 5801.32 of the HTSUS;

Fabric 9: Dyed sateen woven fabric of cotton (93%-100%) and elastomeric (0–7%), classified in subheading 5209.39.0020 of the HTSUS;

Fabric 10: Dobby weave fabric of cotton (93–99%) and elastomeric (1–7%), classified in subheading 5209.39.0080 of the HTSUS;

Fabric 11: Dobby weave fabric of 100% cotton, classified in subheading 5209.39 of the HTSUS;

Fabric 12: Woven fabric of spun modal rayon (50–95%), filament polyester (5–48%), and elastomeric (0–5%), classified in subheadings 5516.12, 5516.13, 5516.22 and5516.23 of the HTSUS;

Fabric 13: Yarn-dyed woven fabric of lyocell staple fiber (55–85%) and cotton (15–45%), classified in subheadings 5516.13 and 5516.43 of the HTSUS;

Fabric 14: Woven fabric of rayon (67–80%), nylon (15–35%), and elastomeric (2–6%), classified in subheadings 5516.22, 5516.23 and 5516.24 of the HTSUS;

Fabric 23: Two-way stretch woven twill fabric of cotton (85–98%) and elastomeric (2–15%), classified in subheading 5209.32 of the HTSUS;

Fabric 24: Two-way stretch woven twill fabric of cotton (63–73%), polyester (20–30%), and elastomeric (2–12%), classified in subheading 5211.43 of the HTSUS;

Fabric 25: Woven twill fabric of cotton (77–87%), polyester (12–22%), and elastomeric (0–6%), classified in subheading 5211.43 of the HTSUS;

Fabric 30: Woven twill fabric of viscose rayon (51–61%), cotton (34–44%), and elastomeric (0–10%), classified in subheading 5516.42.0060 of the HTSUS;

Fabric 31: Two-way stretch woven twill fabric of cotton (47–57%), rayon (36–46%), and elastomeric (2–12%), classified in subheading 5211.32 of the HTSUS;

Fabric 32: Woven fabric of cotton (92–100%) and elastomeric (0–8%), classified in subheading 5209.31 of the HTSUS;

Fabric 33: Woven sateen fabric of 100% polyester, classified in subheading 5407.69 of the HTSUS; and

Fabric 34: Woven twill fabric of polyester (40–50%), viscose rayon (38–48%), linen (3–13%), and elastomeric (0–9%), classified in subheading 5515.11 of the HTSUS.

CITA is soliciting public comments regarding this request, particularly with respect to whether the fabrics described above can be supplied by the U.S. domestic industry in commercialquantities in a timely manner. Comments must be received no later than July 21, 2017.

Interested persons are invited to submit such comments or information electronically to *OTEXA_Bahrain_FTA@trade.gov,* and/or in hard copy to: Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

If comments include business confidential information, commenters must submit a business confidential version in hard copy to the Chairman of CITA, and also provide a public version,either in hard copy or electronically. CITA will protect any information that is marked business confidential from disclosure to the full extent permitted by law. All public versions of thecomments will be posted on OTEXA's Web site for Commercial Availability proceedings under the Bahrain FTA: *http://otexa.trade.gov/Bahrain_CA.htm.*

Terry Labat,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2017–10360 Filed 5–19–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0003]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 21, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: DA Civilian Employment and Marketing Feedback; OMB Control Number 0702–XXXX.

Type of Request: New collection.

Number of Respondents: 128.

Responses per Respondent: 1.

Annual Responses: 128.

Average Burden per Response: 1.5 hours.

Annual Burden Hours: 192 hours.

Needs and Uses: The information collection requirement is necessary to provide the data needed to understand the best strategies and implementation tactics to build awareness of Army civilian opportunities and fill critical occupations.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID 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.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: May 16, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–10173 Filed 5–19–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Termination of Intent To Prepare a Draft Environmental Impact Statement for a Feasibility Study To Investigate Hydrologic and Hydraulic Problems Threatening Navigation, Aquatic Ecosystem Habitat, Recreation, Flood Damage Reduction and Existing Infrastructure at the Three Rivers Study Site in Arkansas and Desha Counties in Southeast Arkansas

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent; Withdrawal.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Little Rock District, is issuing this notice to advise Federal, state, local governmental agencies and the public that the USACE is withdrawing its Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (EIS) for the Feasibility Study to Investigate Hydrologic and Hydraulic Problems Threatening Navigation, Aquatic Ecosystem Habitat, Recreation, Flood Damage Reduction and Existing Infrastructure at the Three Rivers Study site in Arkansas and Desha Counties in Southeast Arkansas.

ADDRESSES: U.S. Army Corps of Engineers, Little Rock District, (Attn: Mr. Craig Hilburn), P.O. Box 867, Little Rock, AR 72203–0867.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Hilburn, Biologist, Regional Planning and Environmental Center. Email address: *david.c.hilburn@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The USACE published a NOI in the **Federal Register** on September 14, 2015 (80 FR 55013) to prepare a Draft EIS pursuant

to the National Environmental Policy Act (NEPA) for the Three Rivers Feasibility Study, Arkansas and Desha Counties, Arkansas. An agency scoping meeting and Planning Charette were held on August 11th and September 9–11, 2015, respectively, to gather input on the scope of the analysis, identify possible alternatives and significant issues to be evaluated in the Draft EIS, as well as, the identification of cooperating agencies. A public news release announcing an open comment period was released September 22, 2015 to solicit public comments from interested parties relating to navigation and ecosystem restoration opportunities within the study area. Since that time, in the course of project planning and preliminary impact analysis, it no longer appears that impacts associated with project implementation would rise to a level necessitating an EIS. In compliance with the NEPA, the Little Rock District will be preparing an Environmental Assessment to address the impacts of the proposed action and alternatives. Therefore, the Little Rock District is withdrawing the NOI to prepare a Draft EIS.

Robert G. Dixon,

Colonel, U.S. Army, District Engineer.

[FR Doc. 2017–10352 Filed 5–19–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—National Center for Improving Teacher and Leader Performance To Better Serve Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Personnel Development to Improve Services and Results for Children with Disabilities—National Center for Improving Teacher and Leader Performance to Better Serve Children with Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.325A.

DATES: *Applications Available:* May 22, 2017.

Deadline for Transmittal of Applications: July 6, 2017.

Deadline for Intergovernmental Review: September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Bonnie Jones, U.S. Department of Education, 400 Maryland Avenue SW., Room 5127, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–7395.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of this program are to: (1) Help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research and experience, to be successful in serving those children.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Center for Improving Teacher and Leader Performance to Better Serve Children with Disabilities.

Background:

Meeting the diverse needs of students with disabilities in inclusive classrooms and other school settings requires a complex combination of knowledge and skills, including the use of practices supported by evidence. Organizations such as the Council of Chief State School Officers and the Council for Exceptional Children, therefore, have developed model standards of essential knowledge and skills that they believe teachers need in order to customize learning and be effective in improving student achievement, including the achievement of students with disabilities. In 2015, the National Policy Board for Educational Administration adopted a new set of professional standards for leaders, known as the Professional Standards for Education Leaders. These standards describe the knowledge and skills education leaders need to ensure every student is prepared for the 21st century. The curricula in teacher and leader preparation programs must be better aligned with State standards that reflect current knowledge and skills and the use of practices supported by evidence.

Further, under the Higher Education Act of 1965, as amended (HEA), States must annually report on the quality of teacher preparation programs, identify low-performing programs, and provide them with technical assistance (TA). States will need high-quality TA for these activities.

Finally, under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), States must ensure that low-income and minority students are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers. In addition, teacher and school leader incentive programs are authorized under Title II of the ESSA, and the Title II set-aside allows a variety of activities, including reforming teacher and leader certification, teacher evaluation, alternative certification, recruitment and retention, professional development (PD), and the TA provided to local educational agencies (LEAs). State educational agencies (SEAs) and institutions of higher education (IHEs) need high-quality TA to carry out these reform efforts.

This competition will fund a national center to assist SEAs, IHEs, and LEAs, in addressing all of these needs to help ensure that teachers and leaders have the necessary knowledge and skills to successfully meet the diverse needs of students with disabilities.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate a national center for improving teacher and leader performance to better serve children with disabilities to achieve, at a minimum, the following outcomes:

(a) Improved capacity of States to review and strengthen certification or licensure standards and requirements, in collaboration with IHEs and LEAs that operate teacher and leader preparation programs, in order to ensure that these standards: (1) Are derived from frameworks and practices supported by evidence; and (2) reflect the knowledge and skills necessary for teachers and leaders to successfully serve students with disabilities in inclusive classrooms and school settings, including, at a minimum, competencies in evidence-based

interventions in reading, math, behavior, and school climate.

(b) Improved capacity of States to adopt and implement rigorous program approval standards for teacher and leader preparation programs.

(c) Increased capacity of IHEs to embed practices and frameworks supported by evidence and aligned to State licensure or certification requirements, into their preparation programs.

(d) Increased capacity of SEAs and IHEs to use data from a variety of sources, including student data attributed to teachers and leaders who successfully exit preparation programs, to inform continuous improvement of those programs.

(e) Increased capacity of SEAs to align and implement statewide plans (*e.g.,* Educator Equity Plans and State Systemic Improvement Plans, State Quality Rating and Improvement Systems) to include certification or licensure reform and IHE teacher and leader program reform to improve outcomes for students with disabilities.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Support States to reform certification or licensure standards and program approval standards, to include practices and frameworks supported by evidence, consisting of, at a minimum, competencies in evidence-based interventions in reading, math, behavior, and school climate; and identify effective strategies for achieving institutional change and reform in IHEs and LEAs that prepare teachers and leaders. To meet these requirements the applicant must—

(i) Present applicable national and State data demonstrating the current needs of States to reform teacher and leader certification or licensure standards and program approval standards to include practices and frameworks supported by evidence to ensure teachers and leaders are fully prepared to serve students with disabilities in inclusive classrooms and school settings;

(ii) Demonstrate knowledge of current certification and licensure issues, including portability and reciprocity, multi-tiered licensure systems, and credentialing structures; and

(iii) Demonstrate knowledge of the current need for preparation of teachers and leaders to address the complex roles they share in providing instruction in schoolwide frameworks such as Multi-Tiered Systems of Support (MTSS);

(2) Demonstrate knowledge of, and previous experience with, using effective approaches to disseminate knowledge, tools, and resources to SEAs, LEAs, and technical assistance (TA) providers; and

(3) Demonstrate knowledge of, and previous experience with, implementing TA strategies that are intensive and specialized.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and OSEP-specified outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes. A logic model used in connection with this priority communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: Rather than use the definition of ''logic model'' in 34 CFR 77.1(c), OSEP uses the definition in paragraph (b)(2)(ii) of these application requirements. This definition, unlike the definition in 34 CFR 77.1(c), differentiates between logic models and conceptual frameworks. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on systems change and capacity building within SEAs and IHEs that will inform the TA provided to SEAs and IHEs that undertake alignment and reform efforts;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and practices, strategies, and frameworks supported by evidence into the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed approach to universal, general TA,[1] which must identify the intended recipients of the products and services under this approach, and include a plan for ensuring SEAs and IHEs can easily access and use products and services developed by the proposed project;

(ii) Its proposed approach to targeted, specialized TA,[2] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of potential targeted TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity for ongoing reform and continuous improvement at the SEA and IHE levels;

(C) The process by which the project will select, and provide targeted TA to, SEAs and IHEs. This targeted TA must support SEA capacity to initiate, scale

[1] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[2] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

up, and sustain alignment and reform efforts; and

(D) The process the proposed project will use to collaborate with other relevant TA centers and national organizations, as appropriate, to develop and implement targeted TA strategies in order to reduce duplication of effort and maximize efficiency;

(iv) Its proposed approach to intensive, sustained TA,[3] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of the SEAs and IHE teacher and leader preparation programs to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at SEA and IHE levels; and

(C) The process by which the project will select, and provide ongoing intensive TA to, SEAs and IHEs that are positioned to engage in systemic reform efforts. This intensive TA must support SEA capacity to scale up and sustain ongoing alignment and reform of certification or licensure standards and initial program approval and reauthorization standards. Intensive TA must also support IHE capacity to scale up and sustain preparation program reform efforts to better serve students with disabilities, using data to inform ongoing improvement efforts;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration (including working from a single TA plan when appropriate). The description should include how the proposed project will provide PD to other TA centers on available tools and resources to leverage and extend the reach of its TA; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

[3] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project. The evaluation plan must describe: Measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have reached its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Four annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period.

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with and approved by the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility; and

(7) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period.

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project.

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Definitions:

For the purposes of this priority:

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Supported by evidence means supported by at least strong theory.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $83,700,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program for FY 2017, of which we intend to use an estimated $4,250,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applications from this competition.

Maximum Awards: We will reject any application that proposes a budget exceeding $4,250,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this competition must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the internet or from the Education Publications Center (ED Pubs). To obtain a copy via the internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a TDD or a TTY, call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.325A.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you—(1) limit Part III to no more than 50 pages, and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is either 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority

requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

3. *Submission Dates and Times:*

Applications Available: May 22, 2017.

Deadline for Transmittal of Applications: July 6, 2017.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to Other Submission Requirements in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 5, 2017.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov*.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Center for Improving Teacher and Leader Performance to Better Serve Children with Disabilities competition, CFDA number 84.325A, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Center for Improving Teacher and Leader Performance to Better Serve Children with Disabilities competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.325, not 84.325A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.

• You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a read-only Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.

• After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

• You do not have access to the internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Bonnie Jones, U.S. Department of Education, 400 Maryland Avenue SW., Room 5127, Potomac Center Plaza, Washington, DC 20202–5108. FAX: (202) 245–7590.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you

may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325A), 550 12th Street, SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are listed in the application package.

(a) *Significance (5 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will address specific gaps or weaknesses in services, infrastructure, or opportunities that have been identified.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of the project services (40 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the proposed products and services are of sufficient quality, intensity, and duration to lead to the outcomes to be achieved by the proposed project.

(v) The extent to which the products and services to be developed and provided by the proposed project involve the use of efficient strategies, including the use of technology, collaboration with appropriate partners, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation will provide data and performance feedback for examining the effectiveness of project implementation strategies and the progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation will produce quantitative and qualitative data that demonstrate the project has met intended outcomes.

(d) *Adequacy of project resources (15 points).*

(1) The Secretary considers the adequacy of resources, including the personnel who will carry out the proposed project.

(2) In determining the adequacy of resources, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel (*i.e.,* project director, project staff, and project consultants or subcontractors).

(ii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization and key partners.

(iii) The extent to which the costs are reasonable in relation to the anticipated results and benefits.

(e) *Quality of management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director,

project staff, and project consultants or subcontractors are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* (a) We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

(b) In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures are included in the application package and focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational policy and practice, and the use of products and services to improve educational policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project;

whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 17, 2017.

Ruth E. Ryder,

Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2017–10423 Filed 5–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Veterans Upward Bound Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for the Veterans Upward Bound Program, Catalog of Federal Domestic Assistance (CFDA) number 84.047V.

Dates:

Applications Available: May 22, 2017.

Deadline for Transmittal of Applications: June 21, 2017.

Deadline for Intergovernmental Review: August 21, 2017.

FOR FURTHER INFORMATION CONTACT: Kenneth Foushee, U.S. Department of Education, 400 Maryland Avenue SW., room 5E113, Washington, DC 20202. Telephone: (202) 453–7417 or by email: *Kenneth.Foushee@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Upward Bound (UB) Program is one of the seven programs known as the Federal TRIO Programs. The UB Program is a discretionary grant program that supports projects designed to provide students with the skills and motivation necessary to complete a program of secondary education and to enter into, and succeed in, a program of postsecondary education. There are three types of grants under the UB Program: UB; Veterans UB; and UB Math and Science (UBMS) grants. In this notice we invite applications for Veterans UB (VUB) grants only. The invitations to apply for UB and UBMS grants were published in an earlier issue of the **Federal Register**.

The VUB Program supports projects designed to prepare, motivate, and assist military veterans in the development of academic and other skills necessary for acceptance into and success in a program of postsecondary education.

VUB grantees are required to provide the services listed in section 402C(b) and (c) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070a-13), and in 34 CFR 645.15. Grantees may also provide the permissible services in section 402C(d) of the HEA.

Background:

The VUB Program is a critical component of the Department's efforts to improve college readiness, college access, college selection, and degree completion for veterans. To more strategically align the VUB Program with broader reform strategies intended to improve postsecondary access and completion, and consistent with the Department's increasing emphasis on promoting evidence-based practices through our grant competitions, the Secretary will also evaluate applications on the extent to which the components of the proposed project are supported by ''strong theory''—that is, a rationale for the proposed process, product, strategy, or practice that includes a logic model. We encourage applicants to read carefully the Selection Criteria section of this notice. Resources to assist applicants in creating a logic model can be found here: *http://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf.*

Definitions:

These definitions are from 34 CFR 77.1.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Program Authority: 20 U.S.C. 1070a–11 and 20 U.S.C. 1070a–13.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75 (except for 75.215 through 75.221), 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 645.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $14,220,358.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applications from this competition.

Estimated Range of Awards: $257,500 to $558,804.

Estimated Average Size of Awards: $288,842.

Maximum Award: We will fund a successful application only up to the applicable maximum award amount listed here for a single budget period of 12 months to serve the minimum number of applicable participants.

- For an applicant that is not currently receiving a VUB Program grant, the minimum number of participants is 125 for the maximum award amount of $257,500.
- For an applicant that is currently receiving a VUB Program grant, the minimum number of participants is the number of participants served in FY 2016 for the maximum award amount equal to the applicant's base award amount for FY 2016.

Estimated Number of Awards: 49.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education; public and private agencies; organizations including community-based organizations with experience in serving disadvantaged youth; combinations of such institutions, agencies, and organizations; and secondary schools.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other:* An applicant may submit more than one application for a VUB Program grant so long as each application describes a project that serves a different target area (34 CFR 645.20(a)). The term ''target area'' is defined as a discrete local or regional geographical area designated by the applicant as the area to be served by a VUB project (34 CFR 645.6(b)). The Secretary is not designating any additional populations for which an applicant may submit a separate application under this competition (34 CFR 645.20(b)).

IV. Application and Submission Information

1. *Address to Request Application Package:* Kenneth S. Foushee, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E113, Washington, DC 20202. Telephone: (202) 453–7417 or by email: *Kenneth.Foushee@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative, which includes the budget narrative, to no more than 65 pages and (2) use the following standards.

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin. Each page on which there is text or graphics will be counted as one full page.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including charts, tables, figures, and graphs. Titles, headings, footnotes, quotations, references, and captions may be singled spaced.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the Application for Federal Assistance Face Sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III, the VUB Program Profile form; Part III, the one-page Project Abstract form; and Part IV, the Assurances and Certifications. The recommended page limit also does not apply to a table of contents, which you should include in the application narrative. You must include your complete response to the selection criteria in Part III, the application narrative.

3. *Submission Dates and Times:*

Applications Available: May 22, 2017.

Deadline for Transmittal of Applications: June 21, 2017.

Applications for grants under this program must be submitted electronically using the *Grants.gov* Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 21, 2017.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 645.41. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/*

webform. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the VUB Program, CFDA number 84.047V, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the VUB Program at *www.Grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.047, not 84.047V).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov.*
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this program to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that

contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department then will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through *Grants.gov* because—

• You do not have access to the internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Gaby Watts, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E119, Washington, DC 20202. Fax: (202) 260–7464.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.047V), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.047V), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria are from 34 CFR

645.31 and 34 CFR 75.210. A maximum of 105 points may be awarded to an application based on the applicant's response to these selection criteria.

(a) *Need for the project* (24 points). The Secretary evaluates the need for a VUB project in the proposed target area on the basis of clear evidence that shows—

(1) The proposed target area lacks the services for eligible veterans that the applicant proposes to provide;

(2) A large number of veterans who reside in the target area are low income and potential first generation college students;

(3) A large number of veterans who reside in the target area who have not completed high school or have completed high school but have not enrolled in a program of postsecondary education; and

(4) Other indicators of need for a VUB project, including the presence of unaddressed academic or socio-economic problems of veterans in the area.

(b) *Objectives* (9 points). The Secretary evaluates the quality of the applicant's objectives and proposed targets (percentages) in the following areas on the basis of the extent to which they are both ambitious, as related to the need data provided under paragraph (a) of this section, and attainable, given the project's plan of operation, budget, and other resources:

(1) Academic performance (standardized test scores) (2 points);

(2) Education program retention and completion (3 points);

(3) Postsecondary enrollment (3 points); and

(4) Postsecondary completion (1 point).

(c) *Plan of operation* (30 points). The Secretary determines the quality of the applicant's plan of operation by assessing the quality of—

(1) The plan to inform the faculty and staff at the applicant institution or agency and the interested individuals and organizations throughout the target area of the goals and objectives of the project (3 points);

(2) The plan for identifying, recruiting, and selecting participants to be served by the project (3 points);

(3) The plan for assessing individual participant needs and for monitoring the academic progress of participants while they are in VUB (3 points);

(4) The plan for locating the project within the applicant's organizational structure (3 points);

(5) The curriculum, services and activities that are planned for participants in both the academic year and summer components (3 points);

(6) The planned timelines for accomplishing critical elements of the project (3 points);

(7) The plan to ensure effective and efficient administration of the project, including, but not limited to, financial management, student records management, and personnel management (3 points);

(8) The applicant's plan to use its resources and personnel to achieve project objectives and to coordinate the VUB project with other projects for disadvantaged students (3 points);

(9) The plan to work cooperatively with parents and key administrative, teaching, and counseling personnel at the target schools to achieve project objectives (3 points); and

(10) A follow-up plan for tracking graduates of VUB as they enter and continue in postsecondary education (3 points).

(d) *Applicant and community support* (16 points). The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which—

(1) The applicant is committed to supplementing the project with resources that enhance the project such as: space, furniture and equipment, supplies, and the time and effort of personnel other than those employed in the project (8 points).

(2) Resources secured through written commitments from community partners (8 points).

(i) An applicant that is an institution of higher education must include in its application commitments from the target schools and community organizations;

(ii) An applicant that is a secondary school must include in its application commitments from institutions of higher education, community organizations, and, as appropriate, other secondary schools and the school district;

(iii) An applicant that is a community organization must include in its application commitments from the target schools and institutions of higher education.

(e) *Quality of personnel* (8 points). To determine the quality of personnel the applicant plans to use, the Secretary looks for information that shows—

(1) The qualifications required of the project director, including formal training or work experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects (3 points);

(2) The qualifications required of each of the other personnel to be used in the project, including formal training or work experience in fields related to the objectives of the project (3 points); and

(3) The quality of the applicant's plan for employing personnel who have succeeded in overcoming barriers similar to those confronting the project's target population (2 points).

(f) *Budget and cost effectiveness* (5 points). The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support planned project services and activities (3 points); and

(2) Costs are reasonable in relation to the objectives and scope of the project (2 points).

(g) *Evaluation plan* (8 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project and include both quantitative and qualitative evaluation measures (4 points); and

(2) Examine in specific and measurable ways the success of the project in making progress toward achieving its process and outcomes objectives (4 points).

(h) *Quality of project design* (5 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the extent to which the proposed project is supported by strong theory (as defined in this notice).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria. The individual scores of the reviewers will be added and the sum divided by the number of reviewers

to determine the average peer reviewer score received in the review process. Additionally, in accordance with 34 CFR 645.32, the Secretary will award prior experience points to applicants that conducted a VUB Program project during budget periods 2013–14, 2014–15, and 2015–16, based on their documented experience. Prior experience points, if any, will be added to the application's averaged reader score to determine the total score for each application.

If there are insufficient funds for all applications with the same total scores, the Secretary will choose among the tied applications so as to serve geographic areas and eligible populations that have been underserved by the VUB Program.

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The success of the VUB Program will be measured by the percentage of VUB participants who enroll in and complete a postsecondary education program. The following performance measures have been developed to track progress toward achieving program success:

(a) The percentage of VUB participants who enrolled in a program of postsecondary education.

(b) The percentage of VUB participants who enrolled in a program of postsecondary education and who attained either an associate's degree within three years or a bachelor's degree within six years.

(c) The percentage of VUB participants who enrolled in a program of postsecondary education and who in the first year of the program placed into college-level math and English without the need for remediation.

(d) The percentage of VUB participants who enrolled in a program of postsecondary education and graduated on time—within four years for a bachelor's degree and within two years for an associate's degree.

(e) The cost per successful participant.

Note: To assess the fifth performance measure on efficiency of the program, the Department will track the average cost, in Federal funds, of achieving a successful outcome, where a successful outcome is defined as enrollment in postsecondary education by a VUB participant no later than one year after program completion. These performance measures constitute the Department's indicators of the success of the VUB program.

Grant recipients must collect and report data on the steps they have taken toward achieving these goals. Accordingly, we request that applicants include these performance measures in conceptualizing the design, implementation, and evaluation of their proposed projects.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance management requirements, the performance targets in the grantee's approved application.

In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large

print, audiotape, or computer disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced feature at this site, you can limit your search to documents published by the Department.

Dated: May 17, 2017.

Lynn B. Mahaffie,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2017–10461 Filed 5–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—National Center for the Development and Dissemination of Digital Open Educational Tools and Resources Supported by Evidence To Enhance Personnel Preparation and Professional Development for Educators of Students With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Personnel Development to Improve Services and Results for Children with Disabilities—National Center for the Development and Dissemination of Digital Open Educational Tools and Resources Supported by Evidence to Enhance Personnel Preparation and Professional Development for Educators of Students with Disabilities, Catalog of Federal Domestic Assistance (CFDA) number 84.325E.

DATES: Applications Available: May 22, 2017.

Deadline for Transmittal of Applications: July 6, 2017.

Deadline for Intergovernmental Review: September 5, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah Allen, U.S. Department of Education, 400 Maryland Avenue SW., Room 5144, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–7875. Email: *Sarah.Allen@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research and experience, to be successful in serving those children.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1462 and 20 U.S.C. 1481).

Absolute Priority: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Center for the Development and Dissemination of Digital Open Educational Tools and Resources Supported by Evidence to Enhance Personnel Preparation and Professional Development for Educators of Students with Disabilities (Center).

Background:

The purpose of this priority is to fund a cooperative agreement to establish and operate a center that will design, develop, and disseminate digital [1] open educational [2] tools and resources to build the capacity of educators to use practices supported by evidence (as defined in this notice) and improve results for students with disabilities.

Educators' [3] use of instructional and intervention practices supported by evidence is a critical factor in improving developmental and learning outcomes (*e.g.,* academic, social, emotional, behavioral) for all students, especially students with disabilities. Effective educators support students' growth toward improved outcomes and also tend to play an important role in supporting the families of students with disabilities (Jaquith, Mindich, Wei, & Darling-Hammond, 2010; Institute of Medicine and National Research Council, 2012).

While there are a wide range of proven strategies that may be used to support and enhance the overall effectiveness of educators, digital learning tools and resources are playing an increasingly important role in building the capacity of educators to use practices supported by evidence and improve results for students with disabilities. Educators need access to high-quality digital learning tools and resources that can be used to supplement both formal and informal pre-service and in-service training on best practices in improving results for students with disabilities. Resources are most effective when they are accessible and linked to clearly defined learning outcomes (U.S. Department of Education, 2016).

Since 2001, the Office of Special Education Programs (OSEP) has funded national centers dedicated to improving education outcomes for all children, especially those with disabilities birth through age 21 years, through the use of effective practices supported by evidence and interventions delivered through a variety of online means (*e.g., http://iris.peabody.vanderbilt.edu/*). These digital tools and resources (*e.g.,* modules, case studies) are widely used by faculty at institutions of higher education (IHEs) to enhance pre-service training courses for educators. However, the demand for high-quality digital learning tools and resources continues to grow, speaking to the need to develop more content addressing new topics and

[1] ''Digital'' means any instructional practice that effectively uses technology to strengthen a student's learning experience and encompasses a wide spectrum of tools and practices (*e.g.,* interactive learning resources, software, access to databases)(Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, 2015).

[2] ''Open educational resources'' (OER) are teaching and learning materials that are in the public domain or have been released under a license that permits their free use, reuse, modification, and sharing with others.

[3] For the purpose of this priority, ''educators'' refers to general and special education teachers and leaders (*e.g.,* principals and assistant principals), related services providers, and other personnel serving students with disabilities and their families.

to ensure that existing tools and resources remain up to date.

Through this Center, OSEP proposes to design, develop, and disseminate innovative digital open educational tools and resources that: (1) Are accessible to as wide a range of users as possible. This includes, but is not limited to, printed and online documents in all formats (*e.g.,* Word, PDF, HTML, videos, webinars, and podcasts). A resource that can provide information to accomplish this is Web AIM: Web Accessibility in Mind at Utah State University (see *http://webaim.org*); (2) use existing and emerging technologies to support pre-service and in-service training for educators; and (3) demonstrate multiple pathways to learning for educators.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate a center that will design, develop, and disseminate digital open educational tools and resources to build the capacity of educators to use practices supported by evidence and improve results for students with disabilities. The Center must achieve, at a minimum, the following outcomes:

(a) Design, develop, and deliver innovative accessible digital open educational tools and resources to enhance educators' knowledge, skills, and competencies in developing, delivering, and evaluating instruction and intervention supported by evidence to students with disabilities;

(b) Ensure that the tools and resources developed by the Center are licensed through an open access licensing authority;

(c) Increase the capacity of pre-service training programs to expand the range of instructional practices and interventions supported by evidence included in their curricula for educators who will serve students with disabilities and their families;

(d) Increase the capacity of State educational agencies (SEAs), local educational agencies (LEAs), and other professional development providers to select and deliver professional development supported by evidence, using digital learning tools and resources, and to certify knowledge or skill acquisition by participants; and

(e) Increase the capacity of educators to independently increase their knowledge, skills, and use of instructional practices and interventions supported by evidence.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Identify and address present and ongoing needs for educators to use instructional practices and interventions supported by evidence to improve outcomes for students with disabilities, including students with high-intensity needs [4] and their families. To meet this requirement, the applicant must—

(i) Demonstrate knowledge of current needs of personnel preparation programs, SEAs, LEAs and other professional development providers and challenges that they face in building the capacity of educators to use instructional practices and interventions supported by evidence in school settings to improve outcomes for students with disabilities;

(ii) Demonstrate knowledge of existing and emerging needs for digital learning tools and resources for use in pre-service and in-service training programs to expand the depth and breadth of coverage of instructional practices and interventions supported by evidence;

(iii) Identify existing needs and recent developments in using technology to enhance adult learning, and emerging pedagogical strategies in the use of technology for teaching and learning in conjunction with pre-service and in-service training programs. To meet this requirement, the applicant must—

(A) Demonstrate knowledge of and expertise developing accessible, digital open educational tools and resources to enhance pre-service or in-service training programs that build the capacity of educators to use instructional practices and interventions supported by evidence to improve outcomes for students with disabilities, which may include identifying experience and providing data showing outcomes from previous work in this area;

(B) Demonstrate knowledge of and expertise using emerging technologies to support teaching and learning of educators, which may include identifying experience and providing data showing outcomes from previous work with personnel preparation or ongoing professional development programs in this area;

(C) Demonstrate knowledge of and expertise using effective approaches to systematically disseminating knowledge using digital open educational tools and resources to a variety of entities such as IHEs, SEAs, LEAs, and other programs that provide pre-service preparation and in-service professional development for educators, which may include identifying experience and providing data showing outcomes from previous work in this area;

(D) Demonstrate knowledge of and expertise using digital tools and resources to assess learning and competence, track progress and accomplishments, and validate knowledge, skills, and competencies learned, which may include identifying experience and providing data showing outcomes from previous work in this area;

(E) Demonstrate knowledge of and expertise implementing technical assistance (TA) strategies supported by evidence to a variety of entities such as IHEs, SEAs, LEAs, and other programs that provide personnel preparation or professional development for educators, which may include identifying experience and providing data showing outcomes from previous work in this area; and

(F) Demonstrate knowledge of and expertise using technology for delivery of TA or digital teaching designed to support learning for faculty and professional development providers, which may include identifying experience, and providing data showing outcomes from previous work in this area.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access to digital learning tools and resources for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients including individuals enrolled in personnel preparation programs and educators seeking professional development; and

[4] For the purposes of this priority, ''high-intensity needs'' refers to a complex array of disabilities (*e.g.,* multiple disabilities, significant cognitive disabilities, significant physical disabilities, significant sensory disabilities, significant autism, significant emotional disabilities, significant learning disabilities, including dyslexia) or needs of children with these disabilities requiring intensive, individualized intervention(s) (*i.e.,* that are specifically designed to address persistent learning or behavior difficulties, implemented with greater frequency and for an extended duration than is commonly available in a typical classroom or early intervention setting, or which requires personnel to have knowledge and skills in identifying and implementing multiple interventions supported by evidence).

(ii) Ensure that digital tools and resources meet the needs of the intended recipients by creating materials in formats and languages accessible to the intended recipients served by IHE faculty, SEA and LEA professional development providers, and others, as appropriate;

(2) Achieve the intended outcomes. To meet this requirement, the applicant must provide—

(i) Measureable intended project goals and objectives consistent with the intended outcomes specified in this notice; and

(ii) The logic model by which the proposed project will achieve its intended outcomes. A logic model used in connection with this priority communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: Rather than use the definition of ''logic model'' in section 77.1(c) of EDGAR, OSEP uses the definition in paragraph (b)(2)(ii) of these application requirements. This definition, unlike the definition in 34 CFR 77.1(c), differentiates between logic models and conceptual frameworks. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on educators' use of instructional practices and interventions supported by evidence in school settings to improve outcomes for students with disabilities, including students with high-intensity needs, and their families;

(ii) The current research on use of digital learning tools and resources by structured programs and individual learners for pre-service preparation and in-service professional development;

(iii) The current research about adult learning principles and implementation science that will inform the proposed product design, development, dissemination, and TA services; and

(iv) How the proposed project will incorporate current practices supported by evidence in the design, development and delivery of its digital learning tools and resources;

(5) Develop and disseminate digital learning tools and resources, and deliver training and technical assistance services that are of high quality, and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed approach to universal, general TA,[5] which must identify how the project will design, develop, and disseminate accessible and high-quality digital learning tools and resources, at no cost to recipients, on topics addressing use of instructional practices and interventions supported by evidence in school settings to improve outcomes for students with disabilities that can be—

(A) Integrated into structured pre-service personnel preparation courses and curricula, in-service professional development programs, and personalized learning plans for educators;

(B) Used in both traditional and nontraditional learning environments (*e.g.,* teacher preparation academies, rural communities, charter schools);

(C) Used as a stand-alone learning opportunity, or connected and sequenced to provide multiple pathways to learning with clear, specific learning goals that are aligned to objectives in a personnel preparation program (*e.g.,* professional practice standards, professional licensure or certification), or strategic statewide (*e.g.,* State Systemic Improvement Plans), local, or personal professional learning plans for educators to increase knowledge, skills, and use of practices supported by evidence to improve outcomes for students with disabilities;

(D) Developed to expand the depth of digital learning tools and resources by covering content from basic knowledge to advanced skills and demonstrate different levels of pedagogical intensity (*i.e.,* requires personnel to have knowledge and skills in identifying and implementing multiple interventions at different levels of intensity, supported by evidence) based on students' needs; and

(E) Employed to assess learning and competence, track progress and accomplishment, and validate knowledge, skills and competencies learned, and potentially earn credentials.

(ii) A multi-tiered plan for disseminating these resources which should include, at a minimum, clear strategies for disseminating resources to targeted populations (*e.g.,* IHEs, SEAs, LEAs, and other programs that provide preparation or professional development for educators, parents) linked to measurable outcomes.

(iii) Its proposed approach to targeted, specialized TA,[6] which must identify how the project will—

(A) Identify potential recipients and their potential uses of Center digital learning tools and resources under this approach;

(B) Assist pre-service and in-service training programs in incorporating accessible, high-quality digital learning tools and resources into their curricula. To address this requirement, the applicant must describe how it will—

(*1*) Measure the readiness of potential targeted TA recipients to work with the project, assessing, at a minimum, their current technical capacity and proposed strategies for linking new and emerging technology resources to personnel preparation or professional development learning objectives, available resources and strategies for ensuring technology updates and improvements, and ability to build capacity for ongoing personnel preparation or professional development program reform and continuous improvement at the program level;

(*2*) Select and provide targeted, specialized TA to IHEs, SEAs, or other professional development providers on how to incorporate Center learning tools and resources into their curricula. To address this requirement, the applicant must describe—

(*i*) How the Center proposes to identify specific training needs or areas that would benefit a targeted group of IHEs, SEAs, or professional development providers; and

[5] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the center's Web site by independent users. Brief communication by center staff with recipients, either by telephone or email, also are considered universal, general TA.

[6] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It also can include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Delivering digital content using facilitated online professional development can be considered targeted, specialized TA.

(*ii*) How the Center proposes to develop and deliver customized training and TA in response to the identified needs;

(*3*) Collaborate with other federally funded projects on how to integrate Center digital open educational tools and resources into projects' TA and professional development activities.

(C) Implement TA services that maximize efficiency. To address this requirement, the applicant must describe—

(*1*) How the proposed project will use existing and emerging technologies, professional development strategies, and innovation to achieve the intended outcomes specified in the *Priority* section of this notice;

(*2*) With whom the proposed project will communicate and collaborate on an ongoing basis, including but not limited to other OSEP-funded investments (see *www.osepideasthatwork.org/find-center-or-grant/find-a-center*), and how the proposed collaborations will promote the use of this Center's digital tools and resources by other federally funded investments to achieve the intended outcomes of their projects; and

(*3*) If applicable, how the proposed project will use non-project resources to achieve the intended project outcomes;

(4) Develop and maintain an organizational structure needed to:

(i) Efficiently and effectively design, develop, and disseminate Center digital learning tools and resources;

(ii) Assess learning, track progress and accomplishments, and validate knowledge, skills, and competencies learned and potentially earn credentials;

(iii) Disseminate information and deliver training and technical support to users of Center digital learning tools and resources; and

(iv) Promote long-term sustainability of Center digital learning tools and resources by identifying reliable means to replace and upgrade content and its infrastructure.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the extent to which the project's digital learning tools and resources have reached its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIP3),[7] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to answer the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIP3, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIP3 staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Allocation of key project personnel and any consultants and subcontractors and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the project's products and services are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project.

(2) Include, in Appendix A, a conceptual framework for the project;

[7] The major tasks of CIP3 are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIP3 are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIP3 does not function as a third-party evaluator.

(3) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with and approved by the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(6) Maintain a high-quality Web site, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility; and

(7) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Year of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

References:

Institute of Medicine and National Research Council. 2012. *The early childhood care and education workforce: Challenges and opportunities: A workshop report.* Washington, DC: The National Academies Press.

Jaquith, A., Mindich, D., Wei, R.C., & Darling-Hammond, L. (2010). *Teacher professional learning in the United States: Case studies of State policies and strategies.* Oxford, OH: Learning Forward.

U.S. Department of Education, Office of Educational Technology. (2016). *Future ready learning: Reimagining the role of technology in education.* Washington, DC: Author. Retrieved from *http://tech.ed.gov/files/2015/12/NETP16.pdf.*

Definitions:

For the purposes of this priority:

Supported by evidence means supported by at least strong theory.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model. (34 CFR 77.1)

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested $83,700,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program for FY 2017, of which we intend to use an estimated $1,200,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applicants from this competition.

Maximum Awards: We will reject any application that proposes a budget exceeding $1,200,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this competition must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the internet or from the Education Publications Center (ED Pubs). To obtain a copy via the internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a TDD or a TTY, call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.325E.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you—(1) limit Part III to no more than 70 pages, and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is either 12 point or larger.
- *Use one of the following fonts:* Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

3. *Submission Dates and Times:*

Applications Available: May 22, 2017.

Deadline for Transmittal of Applications: July 6, 2017.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to Other Submission Requirements in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 5, 2017.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Center for the Development and Dissemination of Digital Open Educational Learning Tools and Resources Supported by Evidence to Enhance Personnel Preparation and Professional Development for Educators of Students with Disabilities competition, CFDA number 84.325E, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Center for the Development and Dissemination of Digital Open Educational Learning Tools and Resources Supported by Evidence to Enhance Personnel Preparation and Professional Development for Educators of Students with Disabilities competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.325, not 84.325E).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- *You must submit all documents electronically, including all information you typically provide on the following forms:* The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

• You do not have access to the internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Sarah Allen, U.S. Department of Education, 400 Maryland Avenue SW., Room 5144, Potomac Center Plaza, Washington, DC 20202–5108. FAX: (202) 245–7590.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325E), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325E), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are listed in the application package.

(a) *Significance (5 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the proposed project will address specific gaps or weaknesses in services, infrastructure, or opportunities that have been identified.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of the project services (40 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the proposed products and services are of sufficient quality, intensity, and duration to lead to the outcomes to be achieved by the proposed project.

(v) The extent to which the products and services to be developed and provided by the proposed project involve the use of efficient strategies, including the use of technology, collaboration with appropriate partners, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation will provide data and performance feedback for examining the effectiveness of project implementation strategies and the progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation will produce quantitative and qualitative data that demonstrate the project has met intended outcomes.

(d) *Adequacy of project resources (15 points).*

(1) The Secretary considers the adequacy of resources, including the personnel who will carry out the proposed project.

(2) In determining the adequacy of resources, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel (*i.e.,* project director, project staff, and project consultants or subcontractors).

(ii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization and key partners.

(iii) The extent to which the costs are reasonable in relation to the anticipated results and benefits.

(e) *Quality of management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director, project staff, and project consultants or subcontractors are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* (a) We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

(b) In addition, in making a competitive grant award, the Secretary also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. For purposes of this priority, the Center will use these measures, which focus on the extent to which projects provide high-quality open educational digital learning tools, resources, and services; the relevance of project digital learning tools, resources, and services to educational policy and practice; and the use of digital learning tools, resources, and services to improve educational policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 17, 2017.

Ruth E. Ryder,

Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2017–10450 Filed 5–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–74–000]

National Fuel Gas Supply Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Line YM28 & Line FM120 Modernization Project, and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Line YM28 & Line FM120 Modernization Project (Project) involving construction and operation of facilities by National Fuel Gas Supply Corporation (National Fuel) in Cameron, Elk, and McKean Counties, Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the Project. You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your

comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before June 15, 2017.

If you sent comments on this Project to the Commission before the opening of this docket on March 10, 2017, you will need to file those comments in Docket No. CP17–74–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

National Fuel provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* If you are filing a comment on a particular project, please select Comment on a Filing as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the Project docket number (CP17–74–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

National Fuel proposes to construct, operate, and abandon various facilities in connection with its proposed Line YM28 & Line FM120 Modernization Project located in Cameron, Elk, and McKean Counties, Pennsylvania. According to National Fuel, the Project would enhance the reliability and safety of the National Fuel system for distribution markets, storage, and local production. National Fuel states it would continue to provide the transportation services performed by the abandoned facilities, and that the Project would offer better connectivity for storage and transportation services to National Fuel's backbone transmission pipeline (Line K).

The Project would consist of the following:

- Approximately 14.4 miles of new 12-inch-diameter pipeline installed within existing rights-of-way in McKean County (designated Line KL);
- approximately 5.8 miles of new 6-inch-diameter pipeline installed via insertion into the existing 12-inch-diameter FM120 pipeline in McKean and Elk Counties;
- abandonment in place of approximately 7.7 miles of the existing Line YM28 in McKean County;
- approximately 12.5 miles of Line FM120 removed from service in McKean, Elk, and Cameron Counties;
- removal and relocation of a meter set to the proposed Line KL; and
- ancillary facilities including a new interconnect in McKean County and miscellaneous valve and piping modifications along pipeline routes.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed pipeline and aboveground facilities would disturb about 219 acres of land. Following construction, National Fuel would maintain about 132 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. The majority of the proposed Line KL route and the replacement/abandonment portions of the Project would parallel existing pipeline, utility, or road rights-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- vegetation and wildlife;
- endangered and threatened species;
- cultural resources;
- air quality and noise;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to page 6 of this notice.

[2] We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this Project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] We will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPO as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this Project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the Document-less Intervention Guide under the e-filing link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP17–74). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: May 16, 2017.

Kimberly D. Bose,

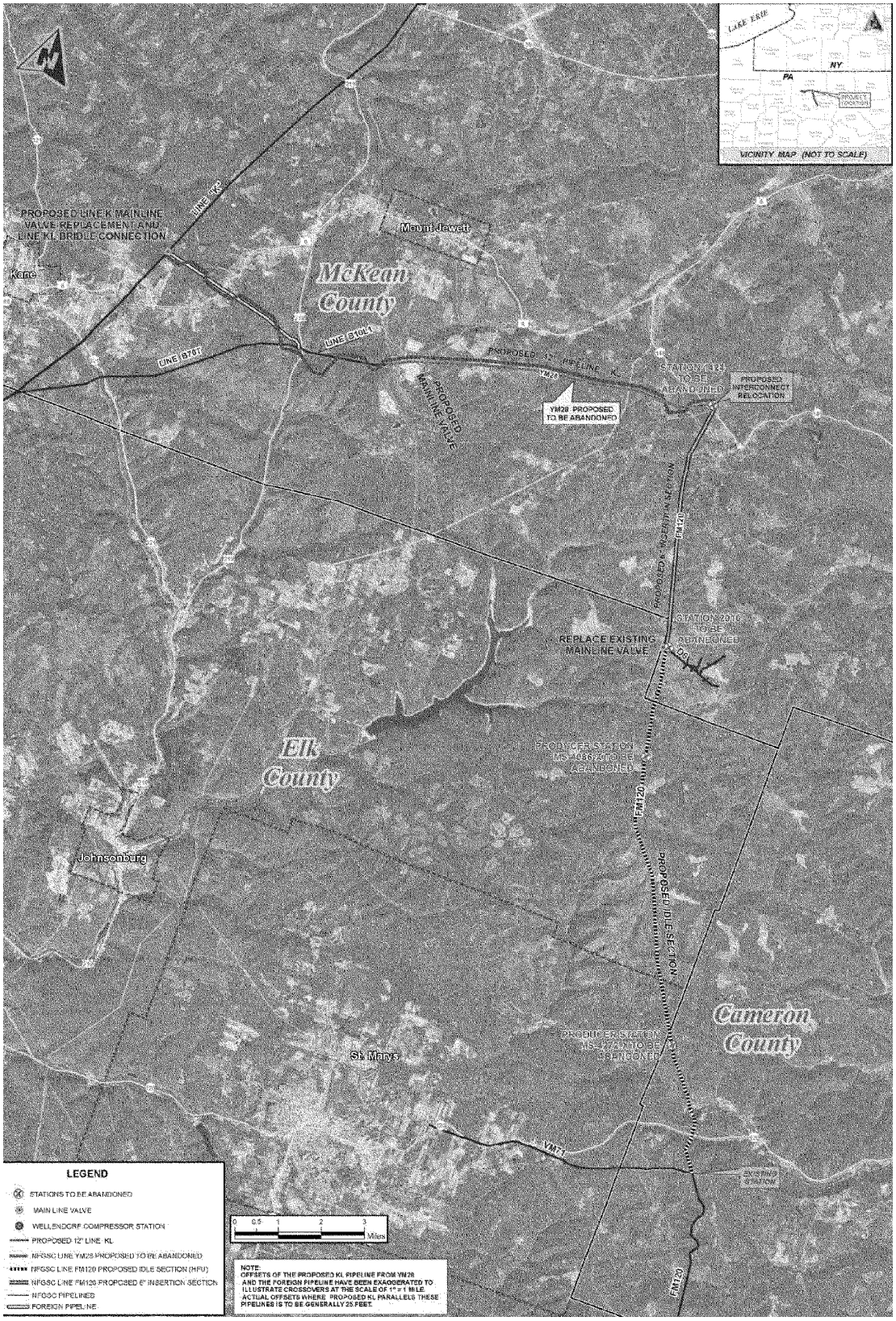
Secretary.

BILLING CODE 6717–01–P

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Appendix 1


LAKE ERIE
NY
PA
PROJECT LOCATION
VICINITY MAP (NOT TO SCALE)
PROPOSED LINE K MAINLINE VALVE REPLACEMENT AND LINE KL BRIDLE CONNECTION
LINE K-2
Kane
Mount Jewett
McKean County
LINE 6101
LINE 6101-1
PROPOSED 12" PIPELINE
YM28 PROPOSED TO BE ABANDONED
PROPOSED INTERCONNECT RELOCATION
PROPOSED MAINLINE VALVE
PROPOSED KL WELLENDORF STATION
REPLACE EXISTING MAINLINE VALVE
STATION 201 TO BE ABANDONED
Elk County
PRODUCER STATION MS-1 TO BE ABANDONED
FM120
PROPOSED IDLE SECTION
Johnsonburg
Cameron County
PRODUCER STATION MS-2 TO BE ABANDONED
St. Marys
YM27
LEGEND
STATIONS TO BE ABANDONED
MAIN LINE VALVE
WELLENDORF COMPRESSOR STATION
PROPOSED 12" LINE KL
NFGSC LINE YM28 PROPOSED TO BE ABANDONED
NFGSC LINE FM120 PROPOSED IDLE SECTION (HFU)
NFGSC LINE FM120 PROPOSED 6" INSERTION SECTION
NFGSC PIPELINES
FOREIGN PIPELINE
0 0.5 1 2 3 Miles
NOTE:
OFFSETS OF THE PROPOSED KL PIPELINE FROM YM28 AND THE FOREIGN PIPELINE HAVE BEEN EXAGGERATED TO ILLUSTRATE CROSSOVERS AT THE SCALE OF 1" = 1 MILE. ACTUAL OFFSETS WHERE PROPOSED KL PARALLELS THESE PIPELINES IS TO BE GENERALLY 25 FEET.

Appendix 2

INFORMATION REQUEST

Line YM28 & Line FM120 Modernization Project

Name_____

Agency_____

Address_____

City_____**State**_____ **Zip Code**_____

☐ **Please send me a paper copy of the published NEPA document**

☐ **Please remove my name from the mailing list**

FROM_____

_____

_____

_____

ATTN: OEP - Gas 4, PJ - 11.4
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

CP17-74-000, Line YM28 & Line FM120 Modernization Project

Staple or Tape Here

[FR Doc. 2017–10379 Filed 5–19–17; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

May 15, 2017.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–741–000.

Applicants: Great Lakes Gas Transmission Limited Par.

Description: Revenue Cap and Revenue Sharing Mechanism True-Up Report of Great Lakes Gas Transmission Limited Partnership.

Filed Date: 5/8/17.

Accession Number: 20170508–5223.

Comments Due: 5 p.m. ET 5/22/17.

Docket Numbers: RP17–742–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Volume No. 2—Enerplus Resources SP319104 Exhibit A Amendment to be effective 5/12/2017.

Filed Date: 5/11/17.

Accession Number: 20170511–5177.

Comments Due: 5 p.m. ET 5/23/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10378 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1933–007.

Applicants: Interstate Power and Light Company.

Description: Amendment to April 26, 2017 Notification of Change of Status of Interstate Power and Light Company.

Filed Date: 5/15/17.

Accession Number: 20170515–5199.

Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER15–2582–002; ER10–1851–007; ER10–1852–015; ER10–1930–007; ER10–1931–008; ER10–1966–008; ER10–1971–034; ER10–1976–008; ER10–1985–008; ER11–4462–025; ER12–2225–007; ER12–2226–007; ER14–2138–004; ER15–2101–004.

Applicants: Carousel Wind Farm, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Company, FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C, Golden West Power Partners, LLC, Limon Wind, LLC, Limon Wind II, LLC, Limon Wind III, LLC, Logan Wind Energy LLC, Northern Colorado Wind Energy, LLC, Peetz Table Wind Energy, LLC, NextEra Energy Power Marketing, LLC, NEPM II, LLC.

Description: Clarification to December 30, 2016 Triennial Market Power Update for the Northwest Region of NextEra Companies.

Filed Date: 5/15/17.

Accession Number: 20170515–5182.

Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–603–000.

Applicants: Bear Swamp Power Company LLC.

Description: Amendment to December 21, 2016 Bear Swamp Power Company LLC tariff filing (Change in Status) in response to April 13, 2017 Data Request.

Filed Date: 5/15/17.

Accession Number: 20170515–5217.

Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1609–000.

Applicants: Carroll County Energy LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 7/15/2017.

Filed Date: 5/15/17.

Accession Number: 20170515–5150.

Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1610–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Mountrail-Williams Electric Cooperative Formula Rate to be effective 7/1/2017.

Filed Date: 5/15/17.

Accession Number: 20170515–5157.

Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1611–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC-Prosperity RS No. 333 Revised PPA to be effective 7/1/2017.

Filed Date: 5/15/17.

Accession Number: 20170515–5171.

Comments Due: 5 p.m. ET 6/5/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10377 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL17–74–000; QF90–73–003]

EF Kenilworth LLC; Notice of Petition for Declaratory Order

Take notice that on May 12, 2017, pursuant to section 292.205(c) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 292.205(c)(2016) implementing the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended, EF Kenilworth LLC (petitioner) filed a petition for declaratory order requesting a waiver of the efficiency and operating standards for its qualifying cogeneration facility located at the Merck Sharp & Dohme Corp. (Merck) manufacturing and processing facility in Kenilworth,

New Jersey for calendar years 2016, 2017 and 2018 due to a decrease in steam consumption by the Kenilworth Facility's thermal host, as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on June 12, 2017.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10367 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1608–000]

Sunray Energy 3 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sunray Energy 3 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 5, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10373 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–437–000]

Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on May 5, 2017, Texas gas Transmission, LLC (Texas Gas), filed in Docket No. CP17–437–000 and pursuant to Sections 157.205 and 157.216 of the Commission's regulations, a prior notice under its blanket certificate issued in Docket No. CP82–407–000 that it intends to abandon certain natural gas pipeline assets and ancillary facilities and appurtenances located in Terrebonne Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Texas Gas proposes to (i) abandon in place approximately 4.4 miles and abandon by removal 2.4 miles of 8-inch pipeline designated as the Calliou Bay—Dog Lake (CBD) Pipeline, (ii) abandon in place approximately 10.1 miles and abandon by removal 1.7 miles of 10-inch pipeline designated as the Deep Saline—Peltex (DST) Pipeline, and (iii) abandon by removal two platforms including associated boat landings, tube turns, including risers, meter facilities, associated piping, and other auxiliary appurtenances (collectively Facilities), as described more fully herein. These Facilities have been inactive since December 2005 and abandonment avoids the ongoing maintenance costs of unused existing natural gas pipeline assets. Texas Gas avers that the proposed abandonment will not result in a material decrease in service to customers.

Any questions regarding this application should be directed to Alice

A. Curtiss, Deputy General Counsel for National Fuel, 6363 Main Street, Williamsville, New York 14221, or call at (716) 857–7075.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10383 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. CP14–497–000	5–9–2017	Irene Huhner.
Exempt		
1. CP16–9–000	5–3–2017	Town of Hingham, Office of the Selectmen.
2. CP15–554–000	5–4–2017	U.S. House Representative Jamie Raskin.
3. P–13239–002	5–9–2017	The Hobi Tribe.
4. P–1494–000	5–10–2017	U.S. House Representative Jim Bridenstine.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10375 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–335]

Union Electric Company, dba Ameren Missouri; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Shoreline Management Plan Update (SMP update).

b. *Project No:* 459–335.

c. *Date Filed:* March 28, 2017.

d. *Applicant:* Union Electric Company, dba Ameren Missouri (licensee).

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* The project is located on the Osage River in Benton, Camden, Miller, and Morgan counties, Missouri.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeff Green, Supervisor Shoreline Management, Union Electric Company, dba Ameren Missouri, 3000 S. Lindbergh Blvd., St. Louis, MO 63127; phone (573) 365–9214.

i. *FERC Contact:* Shana High at 202–502–8674, or *shana.high@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests: June 15, 2017.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–459–335. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee filed an (SMP update) pursuant to ordering paragraph (I) of the July 26, 2011 Order Modifying and Approving Shoreline Management Plan, which required an SMP update no later than March 31, 2017, and every 10 years thereafter. The SMP update details: Revisions to the Non-Conforming Structures sections to reflect the current status of the program; permitting guidance for proposed shoreline development on islands not owned by Ameren Missouri; permitting guidance for limited authorization of walkways, patios, and decks; a description of the current Dock Electrical Safety program; updates to Appendix B—Lake of the Ozarks Permit Requirements to reflect current permitting practices conforming to SMP policies; and removal of the consultation record supporting development of the prior versions of the SMP, and Appendix H that included the project's license.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling 202–502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call 202–502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title COMMENTS; PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10374 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Shaffer Mountain Pumped Storage Hydroelectric Project to be located in Bedford County, Pennsylvania. The sole purpose of a

preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 100 acres and a storage capacity of 1,500 acre-feet at a surface elevation of approximately 2,960 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-filled dam and/or dike; (2) excavating a new lower reservoir with a surface area of 33 acres and a total storage capacity of 1,800 acre-feet at a surface elevation of 1,800 feet msl; (3) a new 5,920-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 143 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point at the Shaffer Wind Farm; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from the nearby Raystown Branch Juniata River, including groundwater. The proposed project would have an annual generation of 520,671 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (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–14832–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14832) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10372 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1892–030; Project No. 1855–050; Project No. 1904–078]

Great River Hydro, LLC; Notice of Applications Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* New Major Licenses.

b. *Project Nos.:* 1892–030, 1855–050, and 1904–078.

c. *Date Filed:* May 1, 2017.

d. *Applicant:* Great River Hydro, LLC (Great River Hydro).

e. *Names of Projects:* Wilder, Bellows Falls, and Vernon Hydroelectric Projects.

f. *Location:* The existing projects are located on the Connecticut River in Orange, Windsor, and Windham Counties, Vermont, and Grafton, Cheshire, and Sullivan Counties, New Hampshire. There are no federal lands within the project boundaries.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Ragonese, FERC License Manager, Great River Hydro, LLC, One Harbour Place, Suite 330, Portsmouth, NH 03801; Telephone: (603) 559–5513 or *jragonese@greatriverhydro.com.*

i. *FERC Contact:* Brandon Cherry, (202) 502–8328 or *brandon.cherry@ferc.gov.*

j. These applications are not ready for environmental analysis at this time.

k. *Project Descriptions:*

Wilder Project

The existing Wilder Project consists of: (1) A 1,546-foot-long, 59-foot-high, concrete dam that includes: (a) A 400-foot-long non-overflow, earthen embankment (north embankment); (b) a 232-foot-long non-overflow, concrete bulkhead; (c) a 208-foot-long concrete forebay; (d) a 526-foot-long concrete, gravity spillway that includes: (i) six 30-foot-high, 36-foot-long tainter gates; (ii) four 17-foot-high, 50-foot-wide stanchion flashboards; (iii) a 15-foot-high, 20-foot-long skimmer gate (north gate); and (iv) a 10-foot-high, 10-foot-long skimmer gate (south gate); and (e) a 180-foot-long non-overflow, earthen embankment (south embankment); (2) a 45-mile-long, 3,100-acre impoundment with a useable storage volume of 13,350 acre-feet between elevations 380 and 385 feet National Geodetic Vertical Datum of 1929 (NGVD 29); (3) four approximately 25-foot-high, 20-foot-wide trashracks with 5-inch clear bar spacing and one approximately 28-foot-high, 20-foot-wide trashrack with 1.625-inch clear bar spacing; (4) a 181-foot-long, 50-foot-wide, 50-foot-high steel frame, brick powerhouse containing two 16.2-megawatt (MW) adjustable-blade Kaplan turbine-generator units and one 3.2–MW vertical Francis turbine-generator unit for a total project capacity of 35.6 MW; (5) three concrete draft tubes ranging from 9.5 to 20.5 feet in diameter; (6) 13.8-kilovolt (kV) generator leads that connect the turbine-generator units to two substation transformers; (7) an approximately 580-foot-long, 6-foot-wide fishway; and (8) appurtenant facilities.

Bellows Falls Project

The existing Bellows Falls Project consists of: (1) A 643-foot-long, 30-foot-high concrete dam that includes: (a) two 18-foot-high, 115-foot-wide steel roller gates; (b) two 13-foot-high, 121-foot-wide stanchion flashboards; and (c) a 13-foot-high, 100-foot-wide stanchion flashboard; (2) a 26-mile-long, 2,804-acre impoundment with a useable storage volume of 7,467 acre-feet between elevations 288.63 and 291.63 feet NGVD 29; (3) a 1,700-foot-long, 36- to 100-foot-wide, 29-foot-deep stone-lined power canal; (4) a 130.25-foot-wide concrete forebay that includes trashracks with 4-inch clear bar spacing; (5) a 186-foot-long, 106-foot-wide, 52-foot-high steel frame, brick powerhouse containing three 13.6–MW vertical Francis turbine-generator units for a total project capacity of 40.8 MW; (6) three approximately 20-foot-high, 31-foot-wide concrete draft tubes; (7) a 900-

foot-long tailrace; (8) a 12-foot-wide, 10-foot-high ice sluice; (9) three 80-foot-long, 6.6-kV generator leads that connect the turbine-generator units to two step-up transformers; (10) a 920-foot-long, 8-foot-wide fishway; (11) a concrete fish barrier dam in the bypassed reach; and (12) appurtenant facilities.

Vernon Project

The existing Vernon Project consists of: (1) a 956-foot-long, 58-foot-high concrete dam that includes: (a) 356-foot-long section integral to the powerhouse; and (b) a 600-foot-long overflow spillway section that includes: (i) a 9-foot-high, 6-foot-wide fishway sluice; (ii) a 13-foot-high, 13-foot-wide trash/ice sluice; (iii) two 20-foot-high, 50-foot-wide tainter gates; (iv) four 10-foot-high, 50-foot-wide tainter gates; (v) two 10-foot-high, 50-foot-wide hydraulic panel bays; (vi) two 10-foot-high, 50-foot-wide stanchion bays; (vii) a 10-foot-high, 42.5-foot-wide stanchion bay; and (viii) eight 7-foot-high, 9-foot-wide hydraulic flood gates; (2) a 26-mile-long, 2,550-acre impoundment with a useable storage volume of 18,300 acre-feet between elevations 212.13 and 220.13 feet NGVD 29; (3) eight approximately 30-foot-high trashracks with 1.75-inch clear bar spacing and two approximately 30-foot-high trashracks with 3.625-inch clear bar spacing; (4) a 356-foot-long, 55-foot-wide, 45-foot-high reinforced concrete, steel, and brick powerhouse containing four 2–MW vertical Francis turbine-generator units, four 4–MW vertical Kaplan turbine-generator units, and two 4.2–MW vertical Francis turbine-generator units for a total project capacity of 32.4 MW; (5) ten concrete draft tubes ranging from 16 to 27 feet in diameter; (6) a 500-foot-long, 13.8-kV underground generator lead that connects the turbine-generator units to two step-up transformers; (7) a 984-foot-long, 15-foot-wide fishway; (8) downstream fish passage facilities; and (9) appurtenant facilities.

Great River Hydro operates all three projects in coordination and in a peaking mode. Average annual generation is approximately 161,739; 247,373; and 162,557 MW-hours at the Wilder, Bellows Falls, and Vernon Projects, respectively. Great River Hydro is not proposing any new project facilities or changes to operation of these projects at this time.

l. *Locations of the Applications:* Copies of the applications are 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). Copies are also available for inspection and reproduction at the address in item (h) above.

m. 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 these or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* In the final license applications, Great River Hydro states that it will file amended final license applications after it completes additional field work for two studies, conducts additional consultation with stakeholders on the study results, and models operational alternatives. After Great River Hydro completes and files the revised study reports and amended final license applications, Commission staff will issue a revised procedural schedule with target dates for the post-filing milestones listed below.

Milestone	Target date
Amended Final License Applications.	TBD.
Notice of Acceptance/Notice of Ready for Environmental Analysis.	TBD.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	TBD.
Commission issues Draft Environmental Impact Statement (EIS).	TBD.
Comments on Draft EIS	TBD.
Modified terms and conditions	TBD.
Commission issues Final EIS	TBD.

o. Final amendments to the applications must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10385 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14831–000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing And Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Savage Mountain Pumped Storage Hydroelectric Project to be located in Allegany County, Maryland. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 75 acres and a storage capacity of 1,125 acre-feet at a surface elevation of approximately 2,800 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-filled dam and/or dike; (2) excavating a new lower reservoir with a surface area of 50 acres and a total storage capacity of 1,350 acre-feet at a surface elevation of 1,820 feet msl; (3) a new 6,762-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 90 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point at the Savage Mountain Wind Farm; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from the nearby Casselman River, including groundwater. The proposed project would have an annual generation of 329,908 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of

intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (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–14831–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14831) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10371 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–438–000]

Algonquin Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on May 5, 2017, Algonquin Gas Transmission, LLC (Algonquin), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP17–438–000 a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), as amended, requesting authorization to replace a segment of 24-inch-diameter pipeline at a crossing of the Mystic River with an offset located adjacent to the existing pipeline at the confluence of the Mystic River and Alewife Brook (Mystic River Project). Specifically, Algonquin proposes to install a new, approximate 1,300-foot section of 24-inch-diameter pipeline on its J–1 System underneath the channel of the Mystic River and Alewife Brook in Somerville, Medford, and Arlington, Massachusetts. Algonquin states that the Mystic River Project will have no impact on the certificated capacity of Algonquin system, and there will be no abandonment or reduction in service to any customer of Algonquin as a result of the project. Algonquin estimates the cost of the Mystic River Project to be approximately $15 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Lisa A. Connolly, Director, Rates and Certificates, Algonquin Gas Transmission, LLC, P.O. Box 1642, Houston, Texas 77251–1642, by telephone at (713) 627–4102, by fax at (713) 627–5947, or by email at *lisa.connolly@enbridge.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10384 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1594–000]

Archer Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Archer Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR

part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 5, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10368 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14752–001]

Rivertec Partners LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14752–001.

c. *Date Filed:* April 6, 2017.

d. *Submitted By:* Rivertec Partners LLC.

e. *Name of Project:* Sherman Hydroelectric Project.

f. *Location:* On the Columbia River near Rufus in Sherman County, Oregon. The project is located at the U.S. Corps of Engineers' John Day Dam Juvenile Fish Sampling and Monitoring Facility.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Mark Steinley, Rivertec Partners LLC, 521 Thorn Street, #331, Sewickley, PA 15143; email—*msteinley@bkmcapital.com;* (480) 435–0846.

i. *FERC Contact:* Kim Nguyen at (202) 502–6105; or email at *kim.nguyen@ferc.gov.*

j. Rivertec Partners LLC filed its request to use the Traditional Licensing Process on April 6, 2017. Rivertec Partners LLC provided public notice of its request on May 8, 2017. In a letter dated May 16, 2017, the Director of the Division of Hydropower Licensing approved Rivertec Partners LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Oregon State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Rivertec Partners LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Rivertec Partners LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*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 at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10381 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–117–000.

Applicants: Dynegy Zimmer, LLC, Dynegy Miami Fort, LLC, The Dayton Power and Light Company, AES Ohio Generation, LLC.

Description: Joint Application for Authorization of Disposition of Jurisdictional Assets Under Section 203(a)(1) of the Federal Power Act of Dynegy Buyers and AES Sellers.

Filed Date: 5/12/17.

Accession Number: 20170512–5219.

Comments Due: 5 p.m. ET 6/2/17.

Docket Numbers: EC17–118–000.

Applicants: Meadow Lake Wind Farm V LLC, Quilt Block Wind Farm LLC, Redbed Plains Wind Farm LLC.

Description: Application for Authorization for Disposition of

Jurisdictional Facilities and Request for Expedited Action of Meadow Lake Wind Farm V LLC, et. al.

Filed Date: 5/12/17.

Accession Number: 20170512–5220.

Comments Due: 5 p.m. ET 6/2/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1530–000.

Applicants: Pennsylvania Grain Processing, LLC.

Description: Supplement to May 2, 2017 Pennsylvania Grain Processing, LLC tariff filing under ER17–1530.

Filed Date: 5/12/17.

Accession Number: 20170512–5233.

Comments Due: 5 p.m. ET 6/2/17.

Docket Numbers: ER17–1595–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits First Quarter 2017 Capital Budget Report under ER17–1595.

Filed Date: 5/12/17.

Accession Number: 20170512–5226.

Comments Due: 5 p.m. ET 6/2/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–18–000.

Applicants: Consumers Energy Company.

Description: Supplement to April 27, 2017 Application for Authorization to Issue Securities [Exhibit B] of Consumers Energy Company.

Filed Date: 5/11/17.

Accession Number: 20170511–5089.

Comments Due: 5 p.m. ET 6/1/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10376 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–440–000]

Equitrans, LP; Notice of Request Under Blanket Authorization

Take notice that on May 10, 2017, Equitrans, LP (Equitrans), 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania 15222–3111, filed in Docket No. CP17–440–000 a prior notice request pursuant to sections 157.205, 157.213 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Equitrans' blanket certificate issued in Docket No. CP96–532–000, to (i) modify and abandon in part an injection and withdrawal well in Equitrans' Rhodes Storage Field Complex (Rhodes Complex) and Skin Creek Storage Field located in Lewis County, West Virginia, and (ii) abandon in-place approximately 2,553 feet of the associated natural gas storage pipeline.

Equitrans states that the 2⅞-inch tubing currently in place in the Rhodes Complex/Skin Creek Storage Field Well 8215 prevents the use of casing evaluation tools necessary to perform corrosion monitoring required to comply with new regulations adopted by the Pipeline and Hazardous Materials Safety Administration (PHMSA). In order to facilitate compliance with PHMSA's new regulations, Equitrans is proposing to perform certain modifications to Storage Well 8215 and as a result, access to the Rhodes Complex via this well will be abandoned, but access to the Skin Creek Storage Field will not be affected. The proposed modification will result in Storage Well 8215 serving as a single completion well, which will allow the use of-high resolution casing logging tools and will have no impact on the well's overall deliverability. Equitrans affirms that there will be no impact on the certificated parameters of either the Rhodes Complex or the Skin Creek Storage Field, and that there will be no elimination or decrease in service to customers as a result of the proposed abandonment of facilities. Equitrans estimates the cost of the project to be $166,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Paul W. Diehl, Counsel—Midstream, Equitrans, LP, 625 Liberty Avenue, Suite 1700, Pittsburgh, PA 15222, by telephone at (412) 395–5540, by facsimile at (412) 553–7781, or by email at *pdiehl@eqt.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be

required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10380 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–107–000.
Applicants: Clenera, LLC.
Description: Notice of Self-Certification Of Exempt Wholesale Generator Status of Clenera, LLC.
Filed Date: 5/15/17.
Accession Number: 20170515–5139.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: EG17–108–000.
Applicants: Carroll County Energy LLC.
Description: Notice of Self-Certification of Carroll County Energy LLC.
Filed Date: 5/15/17.
Accession Number: 20170515–5141.
Comments Due: 5 p.m. ET 6/5/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2307–002.
Applicants: Vista Energy Marketing, L.P.
Description: Notice of change in status of Vista Energy Marketing, L.P.
Filed Date: 5/10/17.
Accession Number: 20170510–5127.
Comments Due: 5 p.m. ET 5/31/17.

Docket Numbers: ER17–527–001.
Applicants: InterGen Energy Solutions, LLC.
Description: Notice of Change in Status of InterGen Energy Solutions, LLC.
Filed Date: 5/15/17.
Accession Number: 20170515–5092.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1596–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Cancellation of Concurrence to Operating Agreement to be effective 12/7/2015.
Filed Date: 5/15/17.
Accession Number: 20170515–5074.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1597–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Cancellation of Concurrence to Facilities Agreement to be effective 12/7/2015.
Filed Date: 5/15/17.
Accession Number: 20170515–5082.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1598–000.
Applicants: International Transmission Company.
Description: § 205(d) Rate Filing: Cancellation of Operating Agreement to be effective 12/7/2015.
Filed Date: 5/15/17.
Accession Number: 20170515–5085.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1599–000.
Applicants: International Transmission Company.
Description: § 205(d) Rate Filing: Cancellation of Facilities Agreement to be effective 12/7/2015.
Filed Date: 5/15/17.
Accession Number: 20170515–5087.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1600–000.
Applicants: Union Leader Corporation.
Description: Tariff Cancellation: Cancellation of Union Leader MBR Tariff to be effective 5/15/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5090.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1601–000.
Applicants: Naniwa Energy LLC.
Description: Tariff Cancellation: Cancellation Filing to be effective 5/16/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5091.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1602–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEP TX-The Energy Authority ERCOT Regional TSA to be effective 4/17/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5093.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1603–000.
Applicants: Dominion Energy Marketing, Inc.
Description: Compliance filing: Compliance Filing—Name Change to Dominion Energy Generation Marketing, Inc. to be effective 5/12/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5099.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1604–000.
Applicants: Dominion Nuclear Connecticut, Inc.
Description: Compliance filing: Compliance Filing—Name Change to Dominion Energy Nuclear Connecticut, Inc. to be effective 5/12/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5103.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1605–000.
Applicants: Fairless Energy, LLC.
Description: Compliance filing: Compliance Filing—Name Change to Dominion Energy Fairless, LLC to be effective 5/12/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5108.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1606–000
Applicants: Wabash Valley Power Association, Inc.
Description: § 205(d) Rate Filing: WVPA—Amendments to Rate Schedules—Solar Delivery Points to be effective 7/15/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5130.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1607–000.
Applicants: Sunray Energy 2, LLC.
Description: Baseline eTariff Filing: Sunray 2—MBR Application to be effective 5/19/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5138.
Comments Due: 5 p.m. ET 6/5/17.

Docket Numbers: ER17–1608–000.
Applicants: Sunray Energy 3 LLC.
Description: Baseline eTariff Filing: Sunray 3—MBR Application to be effective 6/2/2017.
Filed Date: 5/15/17.
Accession Number: 20170515–5140.
Comments Due: 5 p.m. ET 6/5/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern

time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 15, 2017..

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10382 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1607–000]

Sunray Energy 2, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sunray Energy 2, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 5, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10369 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5362–000]

Kennebunk Light and Power District; Notice of Existing Licensee's Notice of Intent To Not File a Subsequent License Application, and Soliciting Pre-Application Documents and Notices of Intent To File a License Application

At least five years before the expiration of a license for a minor water power project not subject to sections 14 and 15 of the Federal Power Act (*i.e.,* a project having an installed capacity of 1.5 megawatts or less), the licensee must file with the Commission a letter that contains an unequivocal statement of the licensee's intent to file or not to file an application for a subsequent license.[1]

If such a licensee informs the Commission that it does not intend to file an application for a subsequent license, nonpower license, or exemption for the project, the licensee may not file an application for a subsequent license, nonpower license, or exemption for the project, either individually or in conjunction with an entity or entities that are not currently licensees of the project.[2]

[1] 18 CFR 16.19(b) (2016) (citing 18 CFR 16.6(b)). Section 16.19(b) applies to licenses not subject to Parts 14 and 15 of the Federal Power Act.

[2] 18 CFR 16.24(b)(1) (2016).

On March 29, 2017, Kennebunk Light and Power District (Kennebunk Light), the existing licensee for the Lower Mousam Project No. 5362, filed notice of its intent to not file an application for a subsequent license. Therefore, pursuant to section 16.24(b)(1) of the Commission's regulations, Kennebunk Light may not file an application for a subsequent license for the project, either individually or in conjunction with an entity or entities that are not currently licensees of the project.

The 600-kilowatt (kW) Lower Mousam Project is located on the Mousam River, in York County, Maine. No federal lands are affected. The existing minor license for the project expires on March 31, 2022.

The project consists of the following three developments:

Dane Perkins Development

The Dane Perkins Development consists of: (1) a 12-foot-high, 83-foot-long concrete gravity dam with a 50-foot-long spillway section that has a crest elevation of 81.8 feet mean sea level (msl) and 2.5-foot-high flashboards; (2) a 25-acre impoundment with a normal maximum elevation of 84.3 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kW; (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

Twine Mill Development

The Twine Mill Development is located approximately 0.5 miles downstream from the Dane Perkins Development and consists of: (1) an 18-foot-high, 223-foot-long concrete gravity dam with an 81-foot-long spillway section that has a crest elevation of 68.8 feet msl and 3.0-foot-high flashboards; (2) a 12-acre impoundment with a normal maximum elevation of 71.8 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 300 kW; (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

Kesslen Development

The Kesslen Development is located approximately 2.5 miles downstream from the Twine Mill Development and consists of: (1) an 18-foot-high, 140-foot-long concrete gravity dam with a 114-foot-long spillway section that has a crest elevation of 42.2 feet msl and 1.5-foot-high flashboards; (2) a 20-acre impoundment with a normal maximum elevation of 43.7 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kW; (4) a

generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

Any party interested in filing a license application (*i.e.,* potential applicant) for the Lower Mousam Project No. 5362 must file a Notice of Intent (NOI) [3] and pre-application document (PAD).[4] Additionally, while the integrated licensing process (ILP) is the default process for preparing an application for a subsequent license, a potential applicant may request to use alternative licensing procedures when it files its NOI.[5]

The deadline for potential applicants, other than the existing licensee, to file NOIs, PADs, and requests to use an alternative licensing process is 120 days from the issuance date of this notice.

Applications for a subsequent license from potential applicants, other than the existing licensee, must be filed with the Commission at least 24 months prior to the expiration of the existing license.[6] Because the existing license expires on March 31, 2022, applications for license for this project must be filed by March 31, 2020.[7]

Questions concerning this notice should be directed to Michael Watts (202) 502–6123 or *michael.watts@ferc.gov.*

Dated: May 15, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10370 Filed 5–19–17; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 5.5 (2016).

[4] 18 CFR 5.6 (2016).

[5] 18 CFR 5.3(b) (2016).

[6] 18 CFR 16.20 (2016).

[7] To the extent an interested applicant files an NOI and PAD and elects or is required to use the Commission's ILP, a process plan will be issued within 180 days of this notice, which accelerates the steps of the ILP to allow for filing a subsequent license application by the March 31, 2020, deadline.

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 10–112; DA 17–409]

Wireless Telecommunications Bureau Seeks To Update the Record in the Wireless Radio Services Reform Proceeding

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) invites interested parties to update the record in the *WRS Reform NPRM and Order* proceeding, which the Commission initiated in May 2010.

DATES: Comments are due on or before June 1, 2017. Reply Comments are due on or before June 16, 2017.

ADDRESSES: You may submit comments, identified by WT Docket No. 10–112, by any of the following methods:

• *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Joyce Jones at (202) 418–1327 or via email at *Joyce.Jones@fcc.gov.*

SUPPLEMENTARY INFORMATION: In the Notice, the Wireless Telecommunications Bureau invites interested parties to update the record in the WRS Reform NPRM and Order proceeding, which the Commission initiated in May 2010. In the NPRM, the Commission proposed new renewal standards designed to ''create consistent requirements for renewal of licenses and consistent consequences for discontinuance of service, and to clarify construction obligations for spectrum licenses that have been divided, by geographic partitioning or disaggregation of the spectrum.'' In addition, the Commission proposed to prohibit the filing of mutually exclusive, *i.e.,* competing, renewal applications and imposed a freeze on the filing of such competing applications. While the Commission already has a robust record in this proceeding, including filings made during the initial comment and reply period, it provided an opportunity for stakeholders to update the record with new information or arguments that may be relevant to the Commission's consideration of what action may be appropriate in this proceeding.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

▪ Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

▪ Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

The proceeding to which this Notice pertains shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[1] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and

[1] 47 CFR 1.1200 *et seq.*

arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Kathy Harris,

Deputy Chief, Mobility Division.

[FR Doc. 2017–10269 Filed 5–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to all Interested Parties of the Termination of the Receivership of 10403—First State Bank, Cranford, New Jersey

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for First State Bank, Cranford, New Jersey (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of First State Bank on October 14, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: May 16, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–10268 Filed 5–19–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, May 25, 2017 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Audit Division Recommendation Memorandum on Ted Cruz for Senate (TCFS) (A13–05)

Audit Division Recommendation Memorandum on the Colorado Republican Committee (CRC) (A13–12)

Draft Advisory Opinion 2017–02: War Chest LLC

REG 2014–10: Implementing the Consolidated and Further Continuing Appropriations Act, 2015

REG 2016–03: Political Party Rules

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–10552 Filed 5–18–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: May 24, 2017; 10:00 a.m.

PLACE: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The first portion of the meeting will be held in Open Session; the second in Closed Session.

MATTERS TO BE CONSIDERED:

Open Session

1. Briefing by Acting Chairman Khouri on Global Regulatory Summit
2. Briefing by Commissioner Maffei on Global Liner Shipping Conference
3. Development of 5- year Strategic Plan and Regulatory Reform Task Force Update
4. Staff Update on Global Ocean Carrier Alliances

Closed Session

1. Staff Update on Global Ocean Carrier Alliances

CONTACT PERSON FOR MORE INFORMATION: Rachel E. Dickon, Assistant Secretary, (202) 523 5725.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–10482 Filed 5–18–17; 11:15 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also

includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 15, 2017.

A. *Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Treynor Bancshares, Inc.,* Treynor, Iowa; to acquire additional voting shares for a total of 40 percent of TS Contrarian Bancshares, Inc., Treynor, Iowa and thereby indirectly acquire additional voting shares of Bank of Tioga, Tioga, North Dakota and First National Bank & Trust Company, Clinton, Illinois.

Board of Governors of the Federal Reserve System, May 16, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–10253 Filed 5–19–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 16, 2017.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *Farmers National Banc Corp.,* Canfield, Ohio; to acquire 100 percent of the voting shares of Monitor Bancorp, Inc., Big Prairie, Ohio, and thereby indirectly acquire voting shares of The Monitor Bank, Big Prairie, Ohio.

Board of Governors of the Federal Reserve System, May 17, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–10365 Filed 5–19–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 7, 2017.

A. *Federal Reserve Bank of Minneapolis* (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Joel LaFrance,* Elysian, Minnesota; to acquire additional shares of Elysian Inc., Elysian, Minnesota, and thereby indirectly acquire additional shares of Elysian Bank, Elysian, Minnesota. Notificant will join the group comprised of Michael LaFrance and Judith LaFrance, both of Elysian, Minnesota.

Board of Governors of the Federal Reserve System, May 16, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–10254 Filed 5–19–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 8, 2017.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *Berkshire Hathaway Inc. and National Indemnity Company,* both of Omaha, Nebraska; to acquire shares of American Express Company, New York, New York, and thereby acquire shares of American Express Centurion Bank, Salt Lake City, Utah.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Kirk Enevoldsen and Jett Enevoldsen,* both of Potter, Nebraska; each to retain voting shares of Enevoldsen Management Company, Potter, Nebraska, individually and as member of the Enevoldsen Family Group. The Enevoldsen Management Company, controls The Potter State Bank of Potter, Potter, Nebraska.

Board of Governors of the Federal Reserve System, May 17, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–10366 Filed 5–19–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the voluntary Ongoing Intermittent Survey of Households (FR 3016; OMB No. 7100–0150).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

DATES: Comments must be submitted on or before July 21, 2017.

ADDRESSES: You may submit comments, identified by FR 3016, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposed revisions prior to giving final approval.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following report:

Report title: Ongoing Intermittent Survey of Households.

Agency form number: FR 3016.

OMB control number: 7100–0150.

Frequency: Monthly.

Respondents: Households and individuals.

Estimated number of respondents: 500.

Estimated average hours per response: 1.58 minutes.

Estimated annual burden hours: 158 hours.

General Description of Report: The Board uses this voluntary survey to obtain household-based information specifically tailored to the Board's policy, regulatory, and operational responsibilities. The Board primarily uses the survey to study consumer financial decisions, attitudes, and payment behavior. Currently, the University of Michigan's Survey Research Center (SRC) includes survey questions on behalf of the Board in an addendum to their regular bi-weekly Survey of Consumer Attitudes and Expectations. The SRC conducts the survey by telephone with a sample of 500 households and asks questions of special interest to the Board.

Proposed revisions: The Board proposes to eliminate the Division of Consumer and Community Affairs and other divisions' SRC surveys, as well as non-SRC surveys, as these surveys have not been conducted since 2010 and are not expected to be utilized in the next several years.

Legal authorization and confidentiality: The Board's Legal Division has determined that Section 2A of the Federal Reserve Act (''FRA'') requires that the Federal Reserve Board and the Federal Open Market Committee maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates (12 U.S.C. 225a). Under section 12A of the FRA, the Federal Open Market Committee is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country (12 U.S.C. 263). Because the Board and the Federal Open Market Committee use the information obtained on the FR 3016 to fulfill these

obligations, these statutory provisions provide the legal authorization for the collection of information on the FR 3016. The FR 3016 is a voluntary survey. No issue of confidentiality normally arises under the FR 3016, as names and any other characteristics that would permit personal identification of respondents are not reported to the Board. However, should the Board obtain such information, it would likely be exempt under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)) to the extent that it includes ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.''

Board of Governors of the Federal Reserve System, May 17, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–10331 Filed 5–19–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 10:30 a.m.–5:00 p.m., EDT, June 27, 2017.

Place: Audio Conference Call via FTS Conferencing.

Status: Open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the teleconference at the USA toll-free, dial-in number at 1–866–659–0537 and the pass code is 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered on March 22, 2016 pursuant to Executive Order 13708, and will expire on September 30, 2017.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters for Discussion: The agenda for the Subcommittee meeting includes the following dose reconstruction program quality management and assurance activities: Dose reconstruction cases under review from Sets 14–23, including the Oak Ridge sites (Y–12, K–25, Oak Ridge National Laboratory), Hanford, Feed Materials Production Center (''Fernald''), Mound Plant, Rocky Flats Plant, Nevada Test Site, Idaho National Laboratory, Savannah River Site, and other Department of Energy and ''Atomic Weapons Employer'' facilities.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Theodore Katz, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1(800)CDC–INFO, Email *ocas@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–10332 Filed 5–19–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR), Lead Poisoning Prevention (LPP) Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the CDC, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR) announces the following meeting of the aforementioned committee:

Time and date: 9:00 a.m.–12:00 p.m. EDT, June 23, 2017.

Place: The meeting will be accessible by teleconference. Please dial toll free 1–888–790–2009 Passcode: 7865774.

Status: Open to the public, via teleconference line. No limit on number of lines. The public is welcome to participate during the Public Comment period which is scheduled from 11:00 a.m. until 11:15 a.m. EST (15 minutes). Individuals wishing to make a comment during Public Comment period, please email your name, organization, and phone number by Monday, June 15, 2017 to Amanda Malasky at *AMalasky@cdc.gov*.

Purpose: The subcommittee will discuss strategies and options on ways to prioritize NCEH/ATSDR's activities, improve health outcomes, and address health disparities as it relates to lead exposures. The subcommittee will deliberate on ways to evaluate lead exposure and how to best conduct health evaluations through exposure

and epidemiologic studies. Subcommittee proposals on lead prevention practices and national lead poisoning prevention efforts will be provided to the Board of Scientific Counselors for deliberation and possible adoption as formal recommendations to NCEH/ATSDR.

Matters for Discussion: Agenda items will include the following: Lead Poisoning Prevention Program (status), Flint Registry (status), Revision of Blood Lead Level reference value (status), Discussion of legislative requirements of a new Lead Exposure and Prevention Federal Advisory Committee, Federal partnership efforts.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Amanda Malasky, Coordinator, Lead Poisoning Prevention Subcommittee, BSC, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F–45, Chamblee, Georgia 30345; telephone 770/488–7699, Fax: 770/488–3377; Email: *AMalasky@cdc.gov*.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–10333 Filed 5–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns the Centers for Disease Control and Prevention (CDC) initial review of applications in response to Funding Opportunity Announcement (FOA) GH16–006, Conducting Public Health Research in Kenya; GH17–004, Conducting Public Health Research Activities in Egypt; GH17–005, Conducting Public Health Research in China.

This publication corrects a notice that was published in the **Federal Register** on May 4, 2017, Volume 82, Number 85, pages 20894–20895. The meeting announcement and matters for discussion should read as follows:

The meeting announced below concerns the Centers for Disease Control and Prevention (CDC) initial review of applications in response to Funding Opportunity Announcement (FOA) GH17–005, Conducting Public Health Research in China.

Time and Date: 9:00 a.m.–2:00 p.m., EDT, May 24, 2017

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Conducting Public Health Research in China'', GH17–005.

FOR FURTHER INFORMATION CONTACT: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road, NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone: (404) 639–4796, *CGHERPO@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–10334 Filed 5–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1988]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Endocrinologic and Metabolic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on June 20, 2017, from 8 a.m. to 5 p.m. Comments received on or before June 6, 2017, will be provided to the committee. Comments received after that date will be taken into consideration by the Agency.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Avenue, Building. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–1988. All submissions received must include the Docket No. FDA–2017–N–1988 for ''Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' For detailed instructions on sending comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. 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'' in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Building 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION: Public Participation: FDA will close docket FDA 2017–N–1988 on June 19, 2017. Submit either electronic or written comments on this public meeting by that date. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 19, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 19, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Instructions: All submissions received must include the Docket No. FDA–2017–N–1988 for ''Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the 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: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Agenda: The committee will discuss a supplemental new drug application for VICTOZA (liraglutide) injection (sNDA 022341), sponsored by Novo Nordisk, for the proposed additional indication of: As an adjunct to standard treatment of cardiovascular risk factors to reduce the risk of major adverse cardiovascular events (cardiovascular death, non-fatal myocardial infarction, or non-fatal stroke) in adults with type 2 diabetes mellitus and high cardiovascular risk.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before June 6, 2017, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 26, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 30, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact LaToya Bonner at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 16, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10326 Filed 5–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Tribal Self-Governance; Negotiation Cooperative Agreement

Announcement Type: New—Limited Competition.

Funding Announcement Number: HHS–2017–IHS–TSGN–0001.

Catalog of Federal Domestic Assistance Number: 93.444.

Key Dates

Application Deadline Date: June 23, 2017.

Review Date: July 17–21, 2017.

Earliest Anticipated Start Date: August 15, 2017.

Tribal Resolutions Due Date: June 23, 2017.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Tribal Self-Governance (OTSG) is accepting applications for Negotiation Cooperative Agreements for the Tribal Self-Governance Program (TSGP). This program is authorized under: Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5383(e). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the government-to-government relationship between the United States (U.S.) and Indian Tribes. Through the TSGP, Tribes negotiate with the IHS to assume Programs, Services, Functions, and Activities (PSFAs), or portions thereof, which gives Tribes the authority to manage and tailor health care programs in a manner that best fits the needs of their communities.

Participation in the TSGP affords Tribes the most flexibility to tailor health care PSFAs and is one of three ways that Tribes can choose to obtain health care from the Federal Government for their citizens. Specifically, Tribes can choose to: (1) Receive health care services directly from the IHS, (2) contract with the IHS to administer individual programs and services the IHS would otherwise provide (referred to as Title I Self-Determination Contracting, and (3) compact with the IHS to assume control over health care programs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive and Tribes may choose to combine options based on their individual needs and circumstances.

The TSGP is a Tribally-driven initiative, and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the OTSG to implement the Tribal Self-Governance authorities under the ISDEAA. The primary OTSG functions are to: (1) Serve as the primary liaison and advocate for Tribes participating in the TSGP, (2) develop, direct, and implement TSGP policies and procedures, (3) provide information and technical assistance to Self-Governance Tribes, and (4) advise the IHS Director on compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator (ALN), designated by the IHS Director to act on his or her behalf, who has authority to negotiate Self-Governance Compacts and Funding Agreements. Prospective Tribes interested in participating in the TSGP should contact their respective ALN to begin the self-governance planning process. Also, Tribes currently participating in the TSGP, who are interested in expanding existing or adding new PSFAs, should also contact their respective ALN to discuss the best methods for expanding or adding new PSFAs.

Purpose

The purpose of this Negotiation Cooperative Agreement is to provide Tribes with resources to help defray the costs associated with preparing for and engaging in TSGP negotiations. TSGP negotiations are a dynamic, evolving, and Tribally-driven process that requires careful planning and preparation by both Tribal and Federal parties, including the sharing of precise, up-to-date information. Because each Tribal situation is unique, a Tribe's successful transition into the TSGP, or expansion of its current program, requires focused discussions between the Federal and Tribal negotiation teams about the Tribe's specific health care concerns and plans. One of the hallmarks of the TSGP is the collaborative nature of the negotiations process, which is designed to: (1) Enable a Tribe to set its own priorities when assuming responsibility for IHS PSFAs, (2) observe and respect the government-to-government relationship between the U.S. and each Tribe, and (3) involve the active participation of both Tribal and IHS representatives, including OTSG. Negotiations are a method of determining and agreeing upon the terms and provisions of a Tribe's Compact and Funding Agreement (FA), the implementation documents required for the Tribe to enter into the TSGP. The Compact sets forth the general terms of the government-to-government relationship between the Tribe and the Secretary of Health and Human Services (HHS). The FA: (1) Describes the length of the agreement (whether it will be annual or multi-year); (2) identifies the PSFAs, or portions thereof, the Tribe will assume; (3) specifies the amount of funding associated with the Tribal assumption; and (4) includes terms required by Federal statute and other terms agreed to by the parties. Both the Compact and the Funding Agreement are required to participate in the TSGP and they are mutually negotiated agreements that become legally binding and mutually enforceable after both parties sign the documents. Either document can be renegotiated at the request of the Tribe.

The negotiations process has four major stages: (1) Planning, (2) pre-negotiations, (3) negotiations, and (4) post-negotiations. Title V of the ISDEAA requires that a Tribe or Tribal organization complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organizational preparation relating to the administration of health care programs. *See* 25 U.S.C. 5383(d). The planning phase is critical to negotiations and helps Tribes make informed decisions about which PSFAs to assume and what organizational changes or modifications are necessary to support those PSFAs. A thorough planning phase improves timeliness and efficient negotiations and ensures that the Tribe is fully prepared to assume the transfer of IHS PSFAs to the Tribal health program.

During pre-negotiations, the Tribal and Federal negotiation teams review and discuss issues identified during the planning phase. Pre-negotiations provide an opportunity for the Tribe and the IHS to identify and discuss issues directly related to the Tribe's Compact, FA and Tribal shares. They may take the form of a formal meeting or a series of informal meetings or conference calls.

In advance of final negotiations, the Tribe should work with IHS to secure the following: (1) Program titles and

descriptions, (2) financial tables and information, (3) information related to the identification and justification of residuals, and (4) the basis for determining Tribal shares (distribution formula). The Tribe may also wish to discuss financial materials that show estimated funding for next year, and the increases or decreases in funding it may receive in the current year, as well as the basis for those changes.

Having reviewed the draft documents and funding tables, at final negotiations both negotiation teams work together in good faith to determine and agree upon the terms and provisions of the Tribe's Compact and FA. Negotiations are not an allocation process; they provide an opportunity to mutually review and discuss budget and program issues.

As issues arise, both negotiations teams work through the issues to reach agreement on the final documents.

There are various entities involved throughout the negotiations process. For example, a Tribal government selects its representative(s) for negotiations and the Tribal negotiations team, which may include a Tribal leader from the governing body, a Tribal health director, technical and program staff, legal counsel, and other consultants. Regardless of the composition of the Tribal team, Tribal representatives must have decision making authority from the Tribal governing body to successfully negotiate and agree to the provisions within the agreements. The Federal negotiations team is led by the ALN and may include area and headquarters staff, including staff from the OTSG, the Office of Finance and Accounting, and the Office of the General Counsel. The ALN is the only member of the Federal negotiations team with delegated authority to negotiate on behalf of the IHS Director. The ALN is the designated official that provides Tribes with self-governance information, assists Tribes in planning, organizes meetings between the Tribe and the IHS, and coordinates the Agency's response to Tribal questions during the negotiations process. The ALN role requires detailed knowledge of IHS, awareness of current policy and practice, and understanding of the rights and authorities available to a Tribe under Title V of the ISDEAA.

In post-negotiations, after the Compact, FA, and all negotiations are complete, the documents are signed by the authorizing Tribal official and submitted to the ALN who reviews the final package to ensure each document accurately reflects what was negotiated. Once the ALN completes this review, then the final package is submitted to the OTSG to be prepared for the IHS Director's signature, provided that no outstanding issues delay or prevent signature. After the Compact and FA have been signed by both parties, they become legally binding and enforceable agreements. A signed Compact and FA are necessary for the payment process to begin. The negotiating Tribe then becomes a ''Self-Governance Tribe'' and a participant in the TSGP.

Acquiring a Negotiation Cooperative Agreement is not a prerequisite to enter the TSGP. A Tribe may use other resources to develop and negotiate its Compact and FA. *See* 42 CFR 137.26. Tribes that receive a Negotiation Cooperative Agreement are not obligated to participate in Title V and may choose to delay or decline participation or expansion in the TSGP.

Limited Competition Justification

There is limited competition under this announcement because the authorizing legislation restricts eligibility to Tribes that meet specific criteria identified in Section III. Eligibility Criteria, 1. Eligibility, A. *See* 25 U.S.C. 5383(e); 42 CFR 137.10 and 42 CFR 137.24–26.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2017 is approximately $240,000. Individual award amounts are anticipated to be $48,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Project Period

The project period is for one year and runs from August 15, 2017 to August 14, 2018.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. However, the funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for the TSGP Negotiation Cooperative Agreement

A. IHS Programmatic Involvement

(1) Provide descriptions of PSFAs and associated funding at all organizational levels (Service Unit, Area, and Headquarters), including funding formulas and methodologies related to determining Tribal shares.

(2) Meet with Negotiation Cooperative Agreement recipients to provide program information and discuss methods currently used to manage and deliver health care.

(3) Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

(4) Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Determine the PSFAs that will be negotiated into the Tribe's Compact and FA. Prepare and discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(2) Identify Tribal shares associated with the PSFAs that will be included in the FA.

(3) Develop the terms and conditions that will be set for in both the Compact and FA to submit to the ALN prior to negotiations.

III. Eligibility Information

1. Eligibility

To be eligible for the New Limited Competition Negotiation Cooperative Agreement under this announcement, an applicant must:

A. Be an ''Indian Tribe'' as defined in 25 U.S.C. 5304(e); a ''Tribal Organization'' defined in 25 U.S.C. 5304(l); or an ''Inter-Tribal Consortium: As defined at 42 CFR 137.10. However, Alaska Native Villages or Alaska Native Village Corporations are not eligible if they are located within the area served by an Alaska Native regional health entity. See Consolidated Appropriations Act, 2014, Public Law 113–76. By statute, the Native Village of Eyak, Eastern Aleutian Tribes, and the Council for Athabascan Tribal Governments have also been deemed Alaska Native regional health entities and therefore are eligible to apply.

Those Alaska Tribes not represented by a Self-Governance Tribal consortium FA within their area may still be considered to participate in the TSGP.

B. Submit Tribal resolution(s) from the appropriate governing body of each Indian Tribe to be served by the ISDEAA Compact authorizing the submission of the Negotiation Cooperative Agreement. Tribal consortia applying for a TSGP Negotiation Cooperative Agreement shall submit Tribal Council resolutions from each Tribe in the consortium. Tribal resolutions can be attached to the electronic online application.

Applications by Tribal organizations will not require a specific resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

C. Demonstrate for three fiscal years, financial stability and financial management capability. The Indian Tribe must provide evidence that, for the three fiscal years prior to requesting participation in the TSGP, the Indian Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal Agency. *See* 25 U.S.C. 5383; 42 CFR 137.15–23.

For Tribes or Tribal organizations (T/TO) that expended $750,000 or more ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse.

For T/TO that expended less than $750,000 ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the T/TO must provide evidence of the program review correspondence from IHS or Bureau of Indian Affairs officials. *See* 42 CFR 137.21–23.

Meeting the eligibility criteria for a Negotiation Cooperative does not mean that a T/TO is eligible for participation in the IHS TSGP under Title V of the ISDEAA. *See* 25 U.S.C. 5383; 42 CFR 137.15–23. For additional information on the eligibility for the IHS TSGP, please visit the ''Eligibility and Funding'' page on the OTSG Web site located at: *http://www.ihs.gov/SelfGovernance.*

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

Tribal Resolution(s)

Submit Tribal resolution(s) from the appropriate governing body of the Indian Tribe to be served by the ISDEAA Compact authorizing the submission of a Negotiation Cooperative Agreement application. Tribal consortia applying for a TSGP Negotiation Cooperative Agreement shall submit Tribal Council resolutions from each Tribe in the consortium. Tribal resolutions can be attached to the electronic online application. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

An official signed Tribal resolution must be received by the DGM prior to a Notice of Award being issued to any applicant selected for funding. However, if an official signed Tribal resolution cannot be submitted with the electronic application submission prior to the official application deadline date, a draft Tribal resolution must be submitted by the deadline in order for the application to be considered complete and eligible for review. The draft Tribal resolution is not in lieu of the required signed resolution, but is acceptable until a signed resolution is received. If an official signed Tribal resolution is not received by DGM when funding decisions are made, then a Notice of Award will not be issued to that applicant and they will not receive any IHS funds until such time as they have submitted a signed resolution to the Grants Management Specialist listed in this Funding Announcement.

An applicant submitting Tribal resolution(s) after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.,* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single-spaced and not exceed five pages).
- Project Narrative (must be single-spaced and not exceed ten pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution(s).
- Letters of Support from organization's Board of Directors.
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

  - Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination Policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages and must be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 points, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section of the Evaluation Criteria (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first ten pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative. The page limitations below are for each narrative and budget submitted.

Part A: Program Information (4 Page Limitation)

Section 1: Needs

Introduction and Need for Assistance

Demonstrate that the Tribe has conducted previous Self-Governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the: (1) Knowledge and expertise to assume or expand PSFAs, and (2) the administrative infrastructure to support the assumption of PSFAs. Identify the need for assistance and how the Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

Part B: Program Planning and Evaluation (4 Page Limitation)

Section 1: Program Plans

Project Objective(s), Work Plan and Approach

State in measureable terms the objectives and appropriate activities to achieve the following Negotiation Cooperative Agreement recipient award activities:

(a) Determine the PSFAs that will be negotiated into the Tribe's Compact and FA. Prepare and discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(b) Identify Tribal shares associated with the PSFAs that will be included in the FA.

(c) Develop the terms and conditions that will be set forth in both the Compact and FA to submit to the ALN prior to negotiations.

(d) Describe fully and clearly how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded. Include how the Tribe plans to demonstrate improved health services to the community and incorporate the proposed timelines for negotiations.

Organizational Capabilities, Key Personnel, and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 2: Program Evaluation

Describe fully and clearly how the improvements that will be made by the Tribe to manage the health care system and identify the anticipated or expected benefits for the Tribe. Define the criteria to be used to evaluate objectives associated with the project.

Part C: Program Report (2 Page Limitation)

Section 1: Describe major accomplishments over the last 24 months associated with the goals of this announcement. Please identify and describe significant health-related program accomplishments associated with the delivery of quality health services.

Section 2: Describe major activities over the last 24 months. Please provide an overview of significant program activities associated with the delivery of quality health services over the last 24 months. This section should address significant program activities and include those related to the accomplishments listed in the previous section.

B. Budget Narrative (5 Page Limitation)

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant per grant cycle. Tribes cannot apply for both the Planning Cooperative Agreement and the Negotiation Cooperative Agreement within the same grant cycle.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must (1) be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the OTSG will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006 (''Transparency Act''), as amended, to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10-page narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well-organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (25 Points)

Demonstrate that the Tribe has conducted previous self-governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the: (1) Knowledge and expertise to assume or expand PSFAs, and (2) the administrative infrastructure to support the assumption of PSFAs. Identify the need for assistance and how the

Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

B. Project Objective(s), Work Plan and Approach (25 Points)

State in measurable terms the objectives and appropriate activities to achieve the following Planning Cooperative Agreement recipient award activities:

(1) Determine the PSFAs that will be negotiated into the Tribe's Compact and FA. Prepare and discuss each PSFA in comparison to the level of services provided so that an informed decision can be made on new or expanded program assumption.

(2) Identify Tribal shares associated with the PSFAs that will be included in the FA.

(3) Develop the terms and conditions that will be set forth in both the Compact and FA to submit to the ALN prior to negotiations. Clearly describe how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded. Include how the Tribe plans to demonstrate improved health care services to the community and incorporate the proposed timelines for negotiations.

C. Program Evaluation (25 Points)

Describe fully the improvements that will be made by the Tribe to manage the health care system and identify the anticipated or expected benefits for the Tribe. Define the criteria to be used to evaluate objectives associated with the project.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (10 Points)

Submit a budget with a narrative describing the budget request and matching the scope of work described in the project narrative. Justify all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS Program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2017 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75, which can be found at the U.S. Government Publishing Office Web site address: *http://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75.*

C. Grants Policy:

• HHS Grants Policy Statement, Revised 01/07, located at: *http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* It is recommended that the applicant also send a copy of the (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the Office of Management and Budget to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *http://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under Federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further

guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following Web site: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the *Federal Awardee Performance and Integrity Information System* (*FAPIIS*) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in *FAPIIS* in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857 (Include ''Mandatory Grant Disclosures'' in subject line)
Office: (301) 443–5204,
Fax: (301) 594–0899,
Email: Robert.Tarwater@ihs.gov

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/report-fraud/index.asp* (Include ''Mandatory Grant Disclosures'' in subject line)
Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or
Email: MandatoryGranteeDisclosures@oig.hhs.gov.

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Anna Johnson, Program Officer, Office of Tribal Self-Governance, 5600 Fishers Lane, Mail Stop: 08E05, Rockville, MD 20857, Phone: (301) 443–7821, Email: *Anna.Johnson2@ihs.gov,* Web site: *www.ihs.gov/self-governance.*

2. Questions on grants management and fiscal matters may be directed to: Vanietta Armstrong, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–4792, Fax: (301) 594–0899, Email: *Vanietta.Armstrong@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: May 12, 2017.

Chris Buchanan,

RADM, Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.

[FR Doc. 2017–10468 Filed 5–19–17; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment 30 Day Proposed Information Collection: Mashpee Wampanoag Indian Health Service Unit Community Health Assessment

AGENCY: Indian Health Service, HHS.

ACTION: Notice and request for comments.

SUMMARY: In compliance the Paperwork Reduction Act of 1995, the Indian Health Service (IHS) invites the general public to take this opportunity to comment on the new information collection Office of Management and Budget (OMB) Control Number 0917–XXXX, titled, ''Mashpee Wampanoag Community Health Assessment.'' This proposed information collection project was recently published in the **Federal Register** (82 FR 11361) on February 22, 2017, and allowed 60 days for public comment, as required by law. The IHS received no comments regarding this collection. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB. A copy of the supporting statement is available at *www.regulations.gov* (see Docket ID IHS_FRDOC_0001–0293).

DATES: June 21, 2017. Your comments regarding this information collection are

best assured of having full effect if received within 30 days of the date of this publication.

ADDRESSES: Send your comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Evonne Bennett-Barnes by one of the following methods:

- *Mail:* Evonne Bennett-Barnes, Management Analyst/Information Collection Clearance Officer, Indian Health Service, 5600 Fisher Lane, Mail stop: 09E21B, Rockville, MD 20857.
- *Phone:* 301–443–4750.
- *Email: Evonne.Bennett-Barnes@ihs.gov.*
- *Fax:* 301–594–0899.

SUPPLEMENTARY INFORMATION: The IHS Mashpee Wampanoag Service Unit is submitting the proposed information collection to OMB for review, as required by section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995. This notice is soliciting comments from members of the public and affected agencies as required by 44 U.S.C. 3506(c)(2)(A) concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Title of Proposal: Mashpee Wampanoag Indian Health Service Unit Community Health Assessment.

Type of Information Collection Request: Three year approval of this new information collection.

OMB Control Number: To be assigned.

Need and Use of Information Collection: The Mashpee Wampanoag IHS Unit seeks to conduct a health assessment of the Mashpee Wampanoag Tribe. The collection of information will be used to evaluate the health care needs of the Mashpee Wampanoag tribal community. As a healthcare organization, the Mashpee Wampanoag Health Service Unit has questions regarding a respondent's health status, behavior and social practices as well as environmental concerns. These answers will help the organization assess healthcare needs of the community and guide the implementation of programs. The Mashpee Wampanoag Health Service Unit will be able to assess the community's needs and plan our programs accordingly to improve the health and well-being of the community.

Status of the Proposed Information Collection: New request.

Form(s): IHS Mashpee Wampanoag Community Health Assessment Questionnaire.

Agency Form Numbers: None.

Members of Affected Public: The Mashpee Wampanoag tribal community members in the Mashpee Wampanoag tribal service area.

The table below provides: Type of data collection instrument, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hour(s).

Data collection instrument	Type of respondents	Number of responses per respondent	Total annual response	Average burden per response (hours)	Estimated burden hours
Community Health Assessment	Individuals	1	469	25/60	195
Total		1	469	25/60	195

There are no direct costs to respondents to report.

Dated: May 12, 2017.

Chris Buchanan

RADM, Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.

[FR Doc. 2017–10425 Filed 5–19–17; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Announcement Number: HHS–2017–IHS–TSGP–0001]

Office of Tribal Self-Governance Planning Cooperative Agreement; Announcement Type: New—Limited Competition

Catalog of Federal Domestic Assistance Number: 93.444

Key Dates

Application Deadline Date: June 23, 2017.

Review Date: July 17–21, 2017.

Earliest Anticipated Start Date: August 15, 2017.

Tribal Resolutions Due Date: June 23, 2017.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) Office of Tribal Self-Governance (OTSG), is accepting applications for Planning Cooperative Agreements for the Tribal Self-Governance Program (TSGP). This program is authorized under: Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5383(e). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the government-to-government relationship between the United States (U.S.) and Indian Tribes. Through the TSGP, Tribes negotiate with the IHS to assume Programs, Services, Functions, and Activities (PSFAs), or portions thereof, which gives Tribes the authority to manage and tailor health care programs in a manner that best fits the needs of their communities. Participation in the TSGP affords Tribes the most flexibility to tailor health care PSFAs and is one of three ways that Tribes can choose to obtain health care from the Federal Government for their citizens. Specifically, Tribes can choose to: (1) Receive health care services directly from the IHS, (2) contract with the IHS to administer individual programs and services the IHS would otherwise provide (referred to as Title I Self-

Determination Contracting, and (3) compact with the IHS to assume control over health care programs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive and Tribes may choose to combine options based on their individual needs and circumstances.

The TSGP is a Tribally-driven initiative, and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the OTSG to implement the Tribal Self-Governance authorities under the ISDEAA. The primary OTSG functions are to: (1) Serve as the primary liaison and advocate for Tribes participating in the TSGP, (2) develop, direct, and implement TSGP policies and procedures, (3) provide information and technical assistance to Self-Governance Tribes, and (4) advise the IHS Director on compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator (ALN), designated by the IHS Director to act on his or her behalf, who has authority to negotiate Self-Governance Compacts and Funding Agreements. Prospective Tribes interested in participating in the TSGP should contact their respective ALN to begin the self-governance planning process. Also, Tribes currently participating in the TSGP, who are interested in expanding existing or adding new PSFAs should also contact their respective ALN to discuss the best methods for expanding or adding new PSFAs.

Purpose

The purpose of this Planning Cooperative Agreement is to provide resources to Tribes interested in entering the TSGP and to existing Self-Governance Tribes interested in assuming new or expanded PSFAs. Title V of the ISDEAA requires a Tribe or Tribal organization complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organizational preparation relating to the administration of health care programs. See 25 U.S.C. 5383(d).

The planning phase is critical to negotiations and helps Tribes make informed decisions about which PSFAs to assume and what organizational changes or modifications are necessary to successfully support those PSFAs. A thorough planning phase improves timeliness and efficient negotiations and ensures that the Tribe is fully prepared to assume the transfer of IHS PSFAs to the Tribal health program.

A Planning Cooperative Agreement is not a prerequisite to enter the TSGP and a Tribe may use other resources to meet the planning requirement. Tribes that receive Planning Cooperative Agreements are not obligated to participate in the TSGP and may choose to delay or decline participation based on the outcome of their planning activities. This also applies to existing Self-Governance Tribes exploring the option to expand their current PSFAs or assume additional PSFAs.

Limited Competition Justification

There is limited competition under this announcement because the authorizing legislation restricts eligibility to Tribes that meet specific criteria identified in Section III. Eligibility Criteria, 1. Eligibility, A. See 25 U.S.C. 5383(e); 42 CFR 137.10 and 137.24–26.

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2017 is approximately $600,000. Individual award amounts are anticipated to be $120,000. The amount of funding available for this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Project Period

The project period is for one year and will run from August 15, 2017 to August 14, 2018.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as a grant. However, IHS is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. The IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for the TSGP Cooperative Agreement

A. IHS Programmatic Involvement

(1) Provide descriptions of PSFAs and associated funding at all organizational levels (service unit, area, and headquarters), including funding formulas and methodologies related to determining Tribal shares.

(2) Meet with Planning Cooperative Agreement recipients to provide program information and discuss methods currently used to manage and deliver health care.

(3) Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

(4) Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

B. Grantee Cooperative Agreement Award Activities

(1) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and to determine which PSFAs the Tribe may elect to assume or expand.

(2) Establish a process by which Tribes may approach the IHS to identify PSFAs and associated funding that may be incorporated into their current programs.

(3) Determine the Tribe's share of each PSFA and evaluate the current level of healthcare services being provided to make an informed decision on new or expanded program assumption(s).

III. Eligibility Information

1. Eligibility

To be eligible for the New Limited Competition Planning Cooperative Agreement under this announcement, an applicant must:

A. Be an ''Indian Tribe'' as defined in 25 U. S. C. 5304(e); a ''Tribal Organization'' defined in 25 U.S.C. 5304(l); or an ''Inter-Tribal Consortium: As defined at 42 CFR 137.10. However, Alaska Native Villages or Alaska Native Village Corporations are not eligible if they are located within the area served by an Alaska Native regional health entity. See Consolidated Appropriations Act, 2014, Public Law 113–76. By statute, the Native Village of Eyak, Eastern Aleutian Tribes, and the Council for Athabascan Tribal Governments have also been deemed Alaska Native regional health entities and therefore are eligible to apply. Those Alaska Tribes not represented by a Self-Governance Tribal consortium FA

within their area may still be considered to participate in the TSGP.

B. Submit Tribal resolution(s) from the appropriate governing body of each Indian Tribe to be served by the ISDEAA Compact authorizing the submission of the Planning Cooperative Agreement. Tribal consortia applying for a Planning Cooperative Agreement shall submit Tribal Council resolutions from each Tribe in the consortium. Tribal resolutions can be attached to the electronic online application. Applications by Tribal organizations will not require a specific resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

C. Demonstrate for three fiscal years, financial stability and financial management capability. The Indian Tribe must provide evidence that, for the three fiscal years prior to requesting participation in the TSGP, the Indian Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal Agency. See 25 U.S.C. 5383; 42 CFR 137.15–23.

For Tribes or Tribal organizations (T/TO) that expended $750,000 or more ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse. For T/TO that expended less than $750,000 ($500,000 for Fiscal Years ending after December 31, 2003) in Federal awards, the T/TO must provide evidence of the program review correspondence from IHS or Bureau of Indian Affairs officials. *See* 42 CFR 137.21–23.

Meeting the eligibility criteria for a Planning Cooperative does not mean that a T/TO is eligible for participation in the IHS TSGP under Title V of the ISDEAA. *See* 25 U.S.C. 5383; 42 CFR 137.15–23. For additional information on the eligibility for the IHS TSGP, please visit the ''Eligibility and Funding'' page on the OTSG Web site located at: *http://www.ihs.gov/SelfGovernance.*

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

Tribal Resolution(s)

Submit Tribal resolution(s) from the appropriate governing body of the Indian Tribe to be served by the ISDEAA Compact authorizing the submission of the Planning Cooperative Agreement application. An Indian Tribe or Tribal organization that is proposing a project affecting another Indian Tribe must include *resolutions from all affected Tribes to be served.* Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

An official signed Tribal resolution must be received by the DGM prior to a Notice of Award being issued to any applicant selected for funding. However, if an official signed Tribal resolution cannot be submitted with the electronic application submission prior to the official application deadline date, a draft Tribal resolution must be submitted by the deadline in order for the application to be considered complete and eligible for review. The draft Tribal resolution is not in lieu of the required signed resolution, but is acceptable until a signed resolution is received. If an official signed Tribal resolution is not received by DGM when funding decisions are made, then a Notice of Award will not be issued to that applicant and they will not receive any IHS funds until such time as they have submitted a signed resolution to the Grants Management Specialist listed in this funding announcement.

An applicant submitting Tribal resolution(s) after the initial application submission due date is required to ensure the information was received by the IHS by obtaining documentation confirming delivery (*i.e.,* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/.* Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single-spaced and not exceed five pages).
- Project Narrative (must be single-spaced and not exceed ten pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution(s).
- Letters of Support from organization's Board of Directors.
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

  - Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination Policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than ten pages and must be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper. Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section of the Evaluation Criteria (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first ten pages will be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

The page limitations below are for each narrative and budget submitted.

Part A: Program Information (4 Page Limitation)

Section 1: Needs

Introduction and Need for Assistance

Describe the Tribe's current health program activities, including: How long it has been operating, what programs or services are currently being provided, and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit the health activities the Tribe is currently administering or looking to expand.

Part B: Program Planning and Evaluation (4 Page Limitation)

Section 1: Program Plans

Project Objective(s), Work Plan and Approach

State in measureable terms the objectives and appropriate activities to achieve the following Planning Cooperative Agreement recipient award activities:

(a) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and determine which PSFAs the Tribe may elect to assume or expand.

(b) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(c) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new or expanded program assumption.

(d) Describe how the objectives are consistent with the purpose of the program, the needs of the people to be served, and how they will be achieved within the proposed time frame. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

Organizational Capabilities, Key Personnel, and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 2: Program Evaluation

Define the criteria to be used to evaluate planning activities. Describe fully and clearly the methodology and parameters that will be used to determine if the needs identified are being met and if the outcomes are being achieved. This section must address the following questions:

(A) Are the goals and objectives measurable and consistent with the purpose of the program and the needs of the people to be served?

(B) Are they achievable within the proposed time frame?

Part C: Program Report (2 Page Limitation)

Section 1: Describe major accomplishments over the last 24 months associated with the goals of this announcement. Please identify and describe significant health-related program activities and achievements associated with the delivery of quality health services. Provide a comparison of the actual accomplishments to the goals established for the project period or, if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 24 months. Please provide an overview of significant program activities associated with the delivery of quality health services over the last 24 months. This section should address significant program activities and include those related to the accomplishments listed in the previous section.

B. Budget Narrative (5 Page Limitation)

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant per grant cycle. Tribes cannot apply for both the Planning Cooperative Agreement and the Negotiation Cooperative Agreement within the same grant cycle.

• IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must (1) be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Senior Policy Analyst of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application. Please be aware of the following:

• Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.

• If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).

• Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.

• Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.

• Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.

• All applicants must comply with any page limitation requirements described in this funding announcement.

• After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the OTSG will notify the applicant that the application has been received.

• Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge.

Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *http://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10-page narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well-organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (25 Points)

Describe the Tribe's current health program activities, including: How long it has been operating, what programs or services are currently being provided, and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit

the health activities the Tribe is currently administering and/or looking to expand.

B. Project Objective(s), Work Plan and Approach (25 Points)

State in measurable terms the objectives and appropriate activities to achieve the following Planning Cooperative Agreement recipient award activities:

(1) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and determine which PSFAs the Tribe may elect to assume or expand.

(2) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(3) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new or expanded program assumption.

(4) Describe how the objectives are consistent with the purpose of the program, the needs of the people to be served, and how they will be achieved within the proposed time frame. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

C. Program Evaluation (25 Points)

Define the criteria to be used to evaluate planning activities. Clearly describe the methodologies and parameters that will be used to determine if the needs identified are being met and if the outcomes identified are being achieved. Are the goals and objectives measurable and consistent with the purpose of the program and meet the needs of the people to be served? Are they achievable within the proposed time frame? Describe how the assumption of PSFAs enhances sustainable health delivery. Ensure the measurement includes activities that will lead to sustainability.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (10 Points)

Submit a budget with a narrative describing the budget request and matching the scope of work described in the project narrative. Justify all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional Documents can be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS Program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application submitted. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2017 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75, which can be found

at the U.S. Government Publishing Office Web site address: *http://www.ecfr.gov/cgi-bin/text-idx?node=pt45.1.75.*

C. Grants Policy:

• HHS Grants Policy Statement, Revised 01/07, located at *http://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM. Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the Office of Management and Budget to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *http://www.ihs.gov/dgm/policytopics/.*

D. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html;* and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under Federal civil rights laws at *https://www.hhs.gov/ocr/about-*

us/index.html or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following Web site: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the *Federal Awardee Performance and Integrity Information System* (*FAPIIS*) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in *FAPIIS* in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857 (Include ''Mandatory Grant Disclosures'' in subject line) Office: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/report-fraud/index.asp* (Include ''Mandatory Grant Disclosures'' in subject line) Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or, Email: *MandatoryGranteeDisclosures@oig.hhs.gov*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR part 180 and part 376, and 31 U.S.C. 3321).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Anna Johnson, Program Officer, Office of Tribal Self-Governance or, 5600 Fishers Lane, Mail Stop: 08E05, Rockville, MD 20857, Phone: (301) 443–7821, Email: *Anna.Johnson2@ihs.gov*, Web site: *www.ihs.gov/self-governance*.

2. Questions on grants management and fiscal matters may be directed to: Vanietta Armstrong, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–4792, Fax: 301–594–0899, Email: *Vanietta.Armstrong@ihs.gov*.

3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: May 12, 2017.

Chris Buchanan,

Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.

[FR Doc. 2017–10424 Filed 5–19–17; 8:45 am]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Division of Behavioral Health; National Urban Indian Behavioral Health Awareness

Announcement Type: New/Competing Continuation.

Funding Announcement Number: HHS–2017–IHS–UIHP3–0001.

Catalog of Federal Domestic Assistance Number: 93.193.

Key Dates

Application Deadline Date: June 23, 2017.

Review Date: June 27, 2017.

Earliest Anticipated Start Date: July 15, 2017.

Signed Tribal Resolutions Due Date: June 23, 2017.

Proof of Non-Profit Status Due Date: June 23, 2017.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS), Office of Clinical and Preventive Services (OCPS), Division of Behavioral

Health (DBH), is accepting applications for a cooperative agreement for Urban Indian Behavioral Health. This program is authorized under: Snyder Act, codified at 25 U.S.C. 13; the Transfer Act, codified at 42 U.S.C. 2001; the Consolidated Appropriations Act, 2016, Public Law 114–113, 129 Stat. 2242 (2015). This program is described in the Catalog of Federal Domestic Assistance (CFDA) under 93.193.

Background

The DBH serves as the primary source of national advocacy, policy development, management and administration of behavioral health, alcohol and substance abuse, and family violence prevention programs. Working in partnership with Tribes, Tribal organizations, and Urban Indian organizations, DBH coordinates national efforts to share knowledge and build capacity through the development and implementation of evidence/practice based and cultural-based practices in Indian Country.

Purpose

The purpose of this IHS cooperative agreement is to further the awareness, visibility, advocacy, and education for behavioral health issues on a national scale and in the interest of improving urban Indian health care.

Limited Competition Justification

Competition for the one award included in this announcement is limited to national organizations with at least ten years of experience providing national awareness, visibility, advocacy, education and outreach related to urban Indian health care on a national scale. This limitation ensures that the awardee will have: (1) A national information-sharing infrastructure which will facilitate the timely exchange of information between IHS and urban Indian organizations on a broad scale; (2) a national perspective on the needs of urban Indian communities that will ensure the information developed and disseminated through the projects is appropriate and useful and addresses the most pressing needs of urban Indian communities; and (3) established relationships with urban Indian organizations that will foster open and honest participation by urban Indian communities. Regional or local organizations will not have the mechanisms in place to conduct communication on a national level, nor will they have an accurate picture of the health care needs facing urban Indians nationwide. Organizations with less experience will lack the established relationships with urban Indian organizations throughout the country that will facilitate participation and the open and honest exchange of information between urban Indian organizations and IHS. With the limited funds available for these projects, IHS must ensure that the education and outreach efforts described in this announcement reach the widest audience possible in a timely fashion, are appropriately tailored to the needs of urban Indian communities throughout the country, and come from a source that urban Indians recognize and trust. For these reasons, this is a limited competition announcement.

Pre-Conference Grant Requirements

The awardee is required to comply with the ''HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting Space, Food, Promotional Items, and Printing and Publications,'' dated December 16, 2013 (''Policy''), as applicable to conferences funded by grants and cooperative agreements. The Policy is available at *https://www.hhs.gov/grants/contracts/contract-policies-regulations/efficient-spending/index.html?language=es.*

The awardee is required to:

Provide a separate detailed budget justification and narrative for each conference anticipated. The cost categories to be addressed are as follows: (1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration Web site, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other (explain in detail and cost breakdown). For additional questions please contact Andrea Czajkowski on 301–443–2038 or email her at *andrea.czajkowski@ihs.gov.*

II. Award Information

Type of Award

Cooperative Agreement.

Estimated Funds Available

The total amount of funding identified for Year 1 of the cooperative agreement is $75,000. The amount of funding identified for Year 2 and Year 3 of the cooperative agreement is $75,000. The amount of funding available for competing and continuation awards issued under this announcement are subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

One award will be issued under this program announcement.

Project Period

The project period is for three years and will run consecutively from July 15, 2017, to July 14, 2020.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as a grant. However, the funding agency (IHS) is required to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for both IHS and the grantee. IHS will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

The IHS assigned program official will monitor the overall progress of the awardee's execution of the requirements of the award: IHS award noted below as well as their adherence to the terms and conditions of the cooperative agreements. This includes providing guidance for required reports, developing of tools, and other products, interpreting program findings, and assisting with evaluations and overcoming any difficulties or performance issues encountered. The IHS assigned program official must approve all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to these awards and any supplemental awards prior to the presentation or dissemination of such materials to any party.

B. Grantee Cooperative Agreement Award Activities

(1) Facilitate a forum at which concerns can be heard that are representative of all urban Indian organizations in the area of behavioral health care policy, service delivery, and program development.

(2) Provide urban Indian leadership for the National Action Alliance for Suicide Prevention's American Indian/Alaska Native Task Force.

(3) Raise awareness and visibility of urban Indian behavioral health issues at an appropriate national conference.

(4) Increase capacity of urban Indian organizations on grant writing to increase the likelihood of awards from various sources.

(5) Develop, maintain, and disseminate comprehensive information on urban Indian organizations providing

behavioral health programs, best practices, service delivery, quality improvement, and strategies to all urban Indian organizations.

III. Eligibility Information

I.

1. Eligibility

To be eligible for this ''New/Competing Continuation Announcement'' under this announcement, an applicant must:

Be a national organization with at least ten years of experience providing representation, advocacy, awareness, and visibility of behavioral health issues related to urban Indian health care on a national scale.

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

An applicant submitting any of the above additional documentation after the initial application submission due date is required to ensure the information was received by the IHS DGM by obtaining documentation confirming delivery (*i.e.* FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/dgm/funding/.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single-spaced and not exceed 5 pages).
- Project Narrative (must be single-spaced and not exceed 20 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Letters of Support from organization's Board of Directors.
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than 20 pages and must: Be single-spaced, type written, have consecutively numbered pages, use black type not smaller than 12 points, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly but completely answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the Evaluation criteria section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming familiar with the applicant's activities and accomplishments prior to this possible cooperative agreement award. If the narrative exceeds the page limit, only the first 20 pages will be reviewed. The 20-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

The page limitations below are for each narrative and budget submitted.

Part A: Program Information 5 pages

Section 1: Need for Assistance

Describe the organization's current behavioral health program activities, how long it has been operating, what programs or services are currently being provided, and how the organization has determined it has the administrative infrastructure to support the grantee cooperative agreement award activities on page 6 of this announcement. This section must succinctly but completely answer the questions listed under the evaluation criteria listed in Section V.1.A. Need for Assistance.

Part B: Program Planning and Evaluation 10 pages

Section 1: Program Plan and Approach

Describe fully and clearly the direction the organization plans to take in including how it plans to demonstrate raise the awareness and visibility of behavioral health issues and deliver each activity outlined under the Grantee Cooperative Agreement Award Activities on page 6 of this announcement. Include proposed timelines for activities. This section

must succinctly but completely answer the questions listed under the evaluation criteria listed in Section V.1.B. Program Plan and Approach.

Section 2: Program Evaluation

Describe fully and clearly the improvements that will be made by the organization to raise the awareness and visibility of behavioral health issues among urban Indians. Include how the grantee will provide an evaluation of their activities, demonstrate impact, and convey accomplishments. This section must succinctly but completely answer the questions listed under the evaluation criteria listed in Section V.1.C. Program Evaluation.

Part C: Program Report 5 pages

Section 1: Organizational Capabilities, Key Personnel, and Qualifications

Describe your organization's significant program activities and accomplishments over the past five years associated with the outlined goals under the Grantee Cooperative Agreement Award Activities on page 6 of this announcement. This section must succinctly but completely answer the questions listed under the evaluation criteria listed in Section V.1.D. Organizational Capabilities, Key Personnel, and Qualifications.

B. Budget Narrative 5 pages

Section 1: Categorical Budget and Budget Justification

This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable allowable, allocable costs necessary to accomplish the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. This section must succinctly but completely answer the questions listed under the evaluation criteria listed in Section V.1.E. Categorical Budget and Budget Justification.

3. Submission Dates and Times

Applications must be submitted electronically through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact *Grants.gov* Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Gettys (*Paul.Gettys@ihs.gov*), DGM Grant Systems Coordinator, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant/cooperative agreement will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Follow the instructions for submitting an application under the Package tab. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant needs to submit a paper application instead of submitting electronically through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Robert Tarwater, Director, DGM, (see Section IV.6 below for additional information). A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Robert.Tarwater@ihs.gov.* The waiver must (1) be documented in writing (emails are acceptable), before submitting a paper application, and (2) include clear justification for the need to deviate from the required electronic grants submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions and the mailing address to submit the application. A copy of the written approval must be submitted along with the hardcopy of the application that is mailed to DGM. Paper applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed or considered for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Late applications will not be accepted for processing or considered for funding. Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact *Grants.gov* Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to fifteen working days.
- Please use the optional attachment feature in *Grants.gov* to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this funding announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The DGM will download the application from *Grants.gov* and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Clinical and Preventive Services Division of Behavioral Health will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site:http://www.ihs.gov/dgm/policytopics/.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 20 page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well-organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 65 points is required for funding. Points are assigned as follows:

1. Criteria

A. Need for Assistance (15 points)

- Which needs or problems is the organization currently addressing?
- Why is the project needed nationally?
- What are the current unmet needs/gaps in services? What are the inadequacies of not having a current national program with this scope?
- What would happen (or not happen) if your organization does not get this cooperative agreement?
- Why does your organization need this funding? How will it benefit *your* organization?
- Provide examples of current or previous related experience (grant funded or not) that supports the project and justifies the approach.
- Explain any unique opportunity.

B. Program Plan and Approach (40 points)

- What are the major activities/tasks?
- Who will do them?
- What is the timeframe for accomplishing them?
- Who needs to be involved (cooperate) for project success?
- How much/what will be delivered or produced?
- Why is this the best approach?
- What is the plan for sustaining the project after the project period?

C. Program Evaluation (5 points)

- What are the success indicators? How will you measure the degree to which the project has achieved its objectives?
- Describe both process and outcome indicators, where possible.
  - For example, process indicators may include items, such as:
    - ''Six training workshops will be delivered in the urban Indian centers of the country.''
    - ''A technical manual for implementing a grant writing workshop course will be produced.''
  - For example, outcome indicators may include items, such as:
    - ''Change in awareness of behavioral health issues impacting urban Indians.''
    - ''Change in urban Indian participation in suicide prevention activities (increased Hope for Life participation).''
- Identify the data to be collected and the method for collecting it (surveys, questionnaires, observations, focus groups).
- Identify which position(s) will be responsible for collecting data, measuring progress, and reporting.
- How will you apply evaluation findings to program modification/improvement?
- Include the cost of evaluation when developing the budget.

D. Organizational Capabilities, Key Personnel and Qualifications (25 points)

- Describe the management capability and experience of the applicant organization and other participating organizations in administering similar grants and projects.
- Discuss the organization's experience and capacity to provide culturally appropriate/competent services to the community and specific populations of focus.
- Describe the resources available for the proposed project (*e.g.,* facilities, equipment, IT systems, and financial management systems).
- Describe how program continuity will be maintained if/when there is a change in the operational environment (*e.g.,* staff turnover, change in project leadership, change in elected officials) to ensure stability over the life of the grant.
- Provide a complete list of staff positions for the project, including the Project Director (suggested at .75–1.0 FTE level of effort) and other key personnel, showing the role of each and their level of effort and qualifications.

E. Categorical Budget and Budget Justification (15 points)

- What resources are needed to successfully carry out and manage the program?
- What other resources are available from the organization to support the program?
- Will new staff be recruited?
- Will outside consultants be required?
- Show total cost as well as the amount being requested from funder.
- Provide itemized breakdown associated with major activities, not just salary.
- Attach estimates or quotes, where applicable. Check math in all calculations.

- Identify any discounts or cost savings:
  - In-kind services
  - Volunteer labor
- Make sure there's a close match-up between the scope of work and budget request.

Multi-Year Project Requirements

Projects requiring a second and third year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS Program to review and make recommendations on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Applicants will be notified by DGM, via email, to outline minor missing components (*i.e.,* budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 65 and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'', but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2017 the approved but unfunded application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/indian-tribes.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of

payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report (FFR or SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Post-Conference Grant Reporting

The following requirements were enacted in Section 3003 of the Consolidated Continuing Appropriations Act, 2013, and Section 119 of the Continuing Appropriations Act, 2014; *Office of Management and Budget Memorandum M–12–12:* All HHS/IHS awards containing grants funds allocated for conferences will be required to complete a mandatory post-award report for all conferences. Specifically: The total amount of funds provided in this award/cooperative agreement that were spent for ''Conference X'', must be reported in final detailed actual costs within 15 days of the completion of the conference. Cost categories to address should be: (1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration Web site, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, and (8) Other.

D. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy Web site at: *http://www.ihs.gov/dgm/policytopics/.*

E. Compliance With Executive Order 13166 Implementation of Services

Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age and, in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/.*

The HHS Office for Civil Rights (OCR) also provides guidance on complying with civil rights laws enforced by HHS. Please see *http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html*; and *http://www.hhs.gov/civil-rights/index.html.* Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/civil-rights/for-individuals/disability/index.html.* Please contact the HHS OCR for more information about obligations and prohibitions under federal civil rights laws at *https://www.hhs.gov/ocr/about-us/index.html* or call 1–800–368–1019 or TDD 1–800–537–7697. Also note it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at: *http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*

Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for benefits and services from the IHS.

Recipients will be required to sign the HHS–690 Assurance of Compliance form which can be obtained from the following Web site: *http://www.hhs.gov/sites/default/files/forms/hhs-690.pdf,* and send it directly to the: U.S. Department of Health and Human Services, Office of Civil Rights, 200 Independence Ave. SW., Washington, DC 20201.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS) before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of

performance. An applicant may review and comment on any information about itself that a federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, effective January 1, 2016, the IHS must require a non-federal entity or an applicant for a federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Robert Tarwater, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, Maryland 20857 (Include ''Mandatory Grant Disclosures'' in subject line), Office: (301) 443–5204, Fax: (301) 594–0899, Email: *Robert.Tarwater@ihs.gov*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW., Cohen Building, Room 5527, Washington, DC 20201, URL: *http://oig.hhs.gov/fraud/report-fraud/index.asp* (Include ''Mandatory Grant Disclosures'' in subject line), Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 U.S.C. 3321).

VII. Agency Contacts

1. *Questions on the programmatic issues may be directed to:* Andrea Czajkowski, Division of Behavioral Health, 5600 Fishers Lane, MAIL STOP: 08N34–A, Rockville, MD 20857, Phone: (301) 443–2038, Fax: (301) 594–6213, *andrea.czajkowski@ihs.gov.*

2. *Questions on grants management and fiscal matters may be directed to:* Donald Gooding, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2298, Fax: (301) 594–0899, Email: *Gooding.Donald@ihs.gov.*

3. *Questions on systems matters may be directed to:* Paul Gettys, Grant Systems Coordinator, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line: (301) 443–5204, Fax: (301) 594–0899, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: May 12, 2017.

Chris Buchanan,

Assistant Surgeon General, USPHS, Acting Director, Indian Health Service.

[FR Doc. 2017–10449 Filed 5–19–17; 8:45 am]

BILLING CODE 4165–16–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: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics B Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pathological Inflammation, Allergy and Asthma.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health (NIH), 6701 Rockledge Dr, Room 4203, Bethesda, MD 20817, (301) 435–3566, *alok.mulky@nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, 301–435–1146, *jig@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Genetic Variation and Evolution Study Section.
Date: June 15–16, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.
Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Cancer Diagnostics and Treatments (CDT).
Date: June 15–16, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Zhang-Zhi Hu, MD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.
Date: June 15, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bukhtiar H Shah, DVM, Ph.D., Scientific Review Officer, Vascular and Hematology IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Immune System Plasticity in Dental, Oral, and Craniofacial Diseases.
Date: June 15, 2017.
Time: 8:00 a.m. to 11:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Arlington/Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.
Date: June 15, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.
Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, 301–435–1850, *limc4@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.
Date: June 15, 2017.
Time: 8:30 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Embassy Row Hotel, 2015 Massachusetts Ave. NW., Washington, DC 20036.
Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Population Sciences and Epidemiology.
Date: June 15, 2017.
Time: 11:00 a.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: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychosocial Risks and Behavioral Medicine.
Date: June 15, 2017.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Auditory System.
Date: June 15, 2017.
Time: 2:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.
Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Adolescent—Centered Contraceptive Counseling.
Date: June 15, 2017.
Time: 2:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.
Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@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: May 16, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10271 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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: National Institute of Child Health and Human Development Initial Review Group Health, Behavior, and Context Subcommittee.
Date: June 12, 2017.
Time: 8:30 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Kimberly Lynette Houston, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6710B Bethesda Drive, Bethesda, MD 20892, 301.827.4902, *kimberly.houston@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: August 11, 2017.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review National Institute of Child Health and Human Development, NIH, 6710B Bethesda Drive, Bethesda, MD 20892, 301–496–1487, *anandr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 16, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10278 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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: Heart, Lung, and Blood Initial Review Group, NHLBI Institutional Training Mechanism Review Committee.
Date: June 15–16, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 16, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10275 Filed 5–19–17; 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, PAR Panel: Methodology and Measurement in Behavioral and Social Sciences.
Date: June 13, 2017.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Michael John McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301–480–1276, *mike.mcquestion@nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Dissemination and Implementation Research in Health Study Section.
Date: June 14–15, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.
Contact Person: Yvonne Owens Ferguson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3139, Bethesda, MD 20892, 301–827–3689, *fergusonyo@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.
Date: June 14–15, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroscience and Neurodegeneration Study Section.
Date: June 14–15, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Cellular Aspects of Diabetes and Obesity Study Section.
Date: June 14–15, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Solamar, 435 6th Avenue, San Diego, CA 92101.
Contact Person: Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892–7892, (301) 402–6297, *pileggia@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Cancer Biomarkers Study Section.
Date: June 14, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR15–359: Biomarker Studies for Diagnosing Alzheimer's Disease and Predicting Progression.
Date: June 14, 2017.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific

Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Neural Trauma and Stroke.

Date: June 14, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@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: May 16, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10270 Filed 5–19–17; 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; Small Business: Non-HIV Microbial Vaccines.

Date: June 12, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 3014351221, *andrea.keane-myers@nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative and Clinical Endocrinology and Reproduction Study Section.

Date: June 14–15, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular Aspects of Diabetes and Obesity.

Date: June 14, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree by Hilton Chicago Magnificent Mile, 300 E Ohio Street, Chicago, IL 60611.

Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Microenvironment Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Hotel San Francisco, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Angela Y Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5185, Bethesda, MD 20892, *ying-yee.kong@nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: William A Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington/Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Samantha Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3170, Bethesda, MD 20892, 301–827–5491, *samanthasmith@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: June 15–16, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301 435–2306, *boundst@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–041: Targeting Persistent HIV Reservoirs.

Date: June 15, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301–827–7480.

(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: May 16, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10272 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases: 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: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary Studies.

Date: June 9, 2017.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, R13 Conference Grant Applications.

Date: June 22, 2017.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Continuation of the Preventing Early Renal Loss in Diabetes (PERL) Study (UC4).

Date: June 22, 2017.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20817, 301–496–9010, *hoffertj@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Clinical Nephrology Small Business Applications.

Date: June 22, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–003: Therapeutic Targeting of the Human Islet Environment (UC4).

Date: June 23, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–5947682, *campd@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–17–004: Competitive Collaborative Projects for Human Islet Biology (UC4).

Date: July 6, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Residence Inn Downtown, 7355 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special, Emphasis Panel; Developmental Centers in Benign Urology (P20).

Date: July 19, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Arlington Capital View Hotel, 2800 South Potomac Ave, Arlington, VA 22202.

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20817, 301–496–9010, *hoffertj@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 16, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10279 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special

Emphasis Panel, CTSA Collaborative Innovation Award Review.

Date: June 28–29, 2017.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1068, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 16, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10273 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Institute of Child Health and Human Development Special Emphasis Panel.

Date: July 10, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion 4300 Military Road NW., Washington, DC 20015.

Contact Person: Kimberly Lynette Houston, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20892, 301.827.4902, *kimberly.houston@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 16, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10277 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine 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 materials, 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 Library of Medicine Special Emphasis Panel; G13 Scholarly Works.

Date: July 7, 2017.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 16, 2017.

Melanie J. Pantoja,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2017–10280 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Emerging Investigator Award (EIA).

Date: June 14, 2017.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–827–7953, *kristen.page@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Outstanding Investigator Award (OIA)—Blood and Vascular.

Date: June 15, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Melissa E Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892, 301–827–7951, *nagelinmh2@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Outstanding Investigator Award (OIA)—Heart, Lung and Sleep.

Date: June 15, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–827–7953, *kristen.page@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 16, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10274 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of 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: Heart, Lung, and Blood Initial Review Group, Heart, Lung, and Blood Program Project Review Committee.

Date: June 16, 2017.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Jeffrey H Hurst, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892, 301–435–0303, *hurstj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 16, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10276 Filed 5–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0018]

Agency Information Collection Activities: Ship's Store Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted (no later than July 21, 2017) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0018 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email. Submit comments to: CBP_PRA@cbp.dhs.gov.*

(2) Mail. Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street, NE., 10th Floor, Washington, DC 20229–1177, or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Ship's Stores Declaration.

OMB Number: 1651–0018.

Form Number: CBP Form 1303.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours. There is no change to the information collected or CBP Form 1303.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores (*e.g.* alcohol and tobacco products), controlled narcotic drugs or bunker fuel in a format that can be readily audited and checked by CBP. This form collects information about the ship, the ports of arrival and departure, and the articles on the ship. CBP Form 1303 form is provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85 and 4.87 and is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%201303.pdf.*

Estimated Number of Respondents: 8,000.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Total Annual Responses: 104,000.

Estimated Total Annual Burden Hours: 26,000.

Dated: May 17, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–10327 Filed 5–19–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0020]

Assistance to Firefighters Grant Program; Fire Prevention and Safety Grants

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of guidance.

SUMMARY: This Notice provides guidelines that describe the application process for grants and the criteria the Federal Emergency management Agency (FEMA) will use for awarding Fire Prevention and Safety (FP&S) grants in the fiscal year (FY) 2016 Assistance to Firefighters Grant (AFG) Program year. It explains the differences, if any, between these guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held November 9–10, 2015. The application period for the FY 2016 FP&S Grant Program year will be held April 17–May 19, 2017, and will be announced on the AFG Web site (*www.fema.gov/firegrants*), *www.grants.gov,* and U.S. Fire Administration Web site (*www.usfa.fema.gov*).

DATES: Grant applications for the FP&S Grant Program will be accepted electronically at *https://portal.fema.gov,* from April 17 at 8:00 a.m. EST—May 19 at 5:00 p.m. EST, 2017.

ADDRESSES: Assistance to Firefighters Grants Branch, DHS/FEMA, 400 C Street SW., 3N, Washington, DC 20472–3635.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Chief, Assistance to Firefighters Grants Branch, 1–866–274–0960.

SUPPLEMENTARY INFORMATION: The purpose of the AFG Program is to enhance the safety of the public and firefighters with respect to fire and fire-related hazards. The FEMA Grant Programs Directorate administers the FP&S Grant Program as part of the AFG Program.

FP&S Grants are offered to support projects in two activities:

1. Activities designed to reach high-risk target groups and mitigate the incidence of death and injuries caused by fire and fire-related hazards (''FP&S Activity'').

2. Projects aimed at improving firefighter safety, health and wellness through research and development that reduces firefighter fatalities and injuries (''R&D Activity'').

The grant program's authorizing statute requires that each year DHS publish in the **Federal Register** the guidelines that describe the application process and the criteria for grant awards. Approximately 1,000 applications for FP&S Grant Program funding are anticipated to be submitted electronically, using the application submission form and process available at the AFG e-Grant application portal: *https://portal.fema.gov.* Specific information about the submission of grant applications can be found in the FY 2016 Fire Prevention and Safety Program Notice of Funding Opportunity (NOFO), which will be available for download at *www.fema.gov/firegrants* and at *www.regulations.gov* under Docket ID FEMA–2017–0020.

Appropriations

Congress appropriated $345,000,000 for AFG in FY 2016 pursuant to the *Department of Homeland Security Appropriations Act,* 2016, Public Law 114–113. From this amount, $34,500,000 will be made available for FP&S Grant awards, pursuant to 15 U.S.C. 2229(h)(5), which states that not less than 10 percent of available grant funds each year are awarded under the FP&S Grant Program. Funds appropriated for all FY 2016 AFG awards, pursuant to Public Law 114–113 will be available for obligation and award until September 30, 2017.

From the approximately 1,000 applications that will be requesting assistance, FEMA anticipates that it will award approximately 100 FP&S Grants from available grant funding.

Background of the AFG Program

DHS awards grants on a competitive basis to the applicants that best address the FP&S Grant Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

Award Criteria

All applications for grants will be prepared and submitted through the AFG e-Grant application portal (*https://portal.fema.gov*).

The FP&S Grant Program panels will review the applications and score them using the following criteria areas:

- Vulnerability
- Implementation
- Evaluation Plan
- Cost Benefit
- Financial Need
- Funding Priorities
- Experience and Expertise

The applications submitted under the R&D Activity will be reviewed first by a panel of fire service members to identify those applications most relevant to the fire service. The following evaluation criteria will be used for this review:

- Purpose
- Potential Impact
- Implementation by the fire service
- Partners
- Barriers

The applications that are determined most likely to be implemented to enable improvement in firefighter safety, health, or wellness will be deemed to be in the ''competitive range'' and will be forwarded to the second level of application review, which is the scientific panel review process. This panel will be comprised of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

The Scientific Technical Evaluation Panel for the R&D Activity will review the application and evaluate it using the following criteria:

- Project purpose(s), goals and objectives, and specific aims
- Literature Review
- Project Methods
- Project Measurements
- Project Analysis
- Dissemination and Implementation
- Cost vs. Benefit (additional consideration)
- Financial Need (additional consideration)

Eligible Applicants

The following entities are eligible to apply directly to FEMA under this solicitation:

1. *Fire Prevention and Safety (FP&S) Activity:* Eligible applicants for this activity include fire departments, national, regional, state, local, tribal, and nonprofit organizations that are recognized for their experience and expertise in fire prevention and safety programs and activities. Both private and public non-profit organizations are eligible to apply for funding in this activity. For-profit organizations, federal agencies, and individuals are not

eligible to receive a FP&S Grant Award under the FP&S Activity.

2. *Firefighter Safety Research and Development (R&D) Activity:* Eligible applicants for this activity include national, state, local, tribal, and nonprofit organizations, such as academic (*e.g.,* universities), public health, occupational health, and injury prevention institutions. Both private and public non-profit organizations are eligible to apply for funding in this activity.

The aforementioned entities are encouraged to apply, especially those that are recognized for their experience and expertise in firefighter safety, health, and wellness research and development activities. Fire departments are not eligible to apply for funding in the R&D activity. Additionally, for-profit organizations, federal agencies, and individuals are not eligible to receive a grant award under the R&D Activity.

Statutory Limits to Funding

Applications and awards are limited to a maximum federal share of $1.5 million dollars, regardless of applicant type.

Cost Sharing

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with 2 CFR 200.101(b)(1), but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA will contact potential awardees to determine whether the grant recipient has the funding in hand or if the grant recipient has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking an FP&S grant to carry out an activity shall agree to make available non-federal funds to carry out such activity in an amount equal to, and not less than, five percent of the grant awarded. Cash match and in-kind matches are both allowable in the FP&S Grant Program. Cash (hard) matches include non-federal cash spent for project-related costs. In-kind (soft) matches include, but are not limited to, the valuation of in-kind services. In-kind is the value of something received or provided that does not have a cost associated with it. For example, where an in-kind match (other than cash payments) is permitted, then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the grant recipient receiving the contributions expends them as allowable costs in compliance with provisions listed above.

Grant recipients under this grant program must also agree to a maintenance of effort requirement as required by 15 U.S.C. 2229(k)(3) (referred to as a ''maintenance of expenditure'' requirement in that statute). Per this requirement, a grant recipient shall agree to maintain during the term of the grant, the grant recipient's aggregate expenditures relating to the activities allowable under the FP&S NOFO at not less than 80 percent (80%) of the average amount of such expenditures in the two (2) fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and on the application of the grant recipient, the Administrator of FEMA may waive or reduce certain grant recipient's cost share or maintenance of expenditure requirements. This policy applies to FP&S per § 33 of the *Federal Fire Prevention and Control Act of 1974* (Pub. L. 93–498, as amended) (15 U.S.C § 2229). For complete requirements concerning these waivers, including a description of how a grant recipient may demonstrate economic hardship and apply for a waiver, please refer to FEMA Policy FP 207–088–01, dated April 8, 2014, at: *http://www.fema.gov/media-library-data/1398109239435-ec23997d8351382710896fa77d02bc7d/AFG+Economic+Hardship+Waiver+Policy.pdf.* Per 15 U.S.C. 2229(k)(4)(C), FP&S grant recipients that are not fire departments are not eligible to receive a waiver of their cost share or economic hardship requirements.

System for Award Management (SAM)

On July 29, 2010, the Central Contractor Registration (CCR) was moved into the System for Award Management (SAM). The Office of Management and Budget (OMB) issued guidance to federal agencies requiring all prime recipients of federal grants to register in SAM. SAM is the primary vendor database for the Federal Government to collect, validate, store, and disseminate data from a secure centralized system. SAM consolidated the capabilities found in CCR and other federal procurement systems into one new system.

There is no charge to register in *SAM.gov.* Registrations must be completed on-line at *https://www.sam.gov/portal/public/SAM/.* The applicant organization is responsibile for having a valid Dun and Bradstreet (DUNS) number at the time of registration. Organizations with an active record in CCR have an active record in SAM, but may need to validate their information. For registration, go to *https://www.sam.gov/portal/public/SAM/.*

Application Process

Applicants may only submit one (1) application, but may submit for up to three (3) projects under each activity (FP&S and R&D). Any applicant that submits more than one (1) application may have *all* applications for any duplicated request(s) deemed ineligible.

Under the FP&S Activity, applicants may apply under the following categories:

- Community Risk Reduction
- Fire & Arson Investigation
- Code Enforcement/Awareness
- National/State/Regional Programs and Studies

Under the R&D Activity, applicants may apply under the following categories:

- Clinical Studies
- Technology and Product Development
- Database System Development
- Dissemination and Implementation Research
- Preliminary Studies

Prior to the start of the FY 2016 FP&S Grant Program application period, FEMA will provide applicants with technical assistance tools (available at the AFG Web site: *www.fema.gov/firegrants*) and other online information to help them prepare quality grant applications. AFG will also staff a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with any questions they have. Applicants can reach the AFG Help Desk through a toll-free telephone number (1–866–274–0960) or electronic mail (*firegrants@dhs.gov*).

Applicants are advised to access the application electronically at *https://portal.fema.gov.* The application also will be accessible from the grants.gov Web site (*http://www.grants.gov*). New applicants are required to register and establish a username and password for secure access to their application. Applicants that applied to any previous AFG or Staffing for Adequate Fire and Emergency Response (SAFER) funding opportunities were required to use their previously established usernames and passwords.

In completing an application under this funding opportunity, applicants will be asked to provide relevant information on their organization's characteristics and existing capabilities. Those applicants are asked to answer

questions about their grant request that reflect the funding priorities, described below. In addition, each applicant will complete narratives for each project or grant activity requested.

The following are the funding priorities for each category under the FP&S Activity:

- *Community Risk Reduction*—Under the Community Risk Reduction category there are two funding priorities:
  - Priority will be given to programs that target high risk population to conduct both door-to-door smoke alarm installations and provide home safety inspections (including sprinkler awareness), as part of a comprehensive home fire safety campaign.
  - Priority will also be given to programs that include sprinkler awareness that affect the entire community, such as educating the public about residential sprinklers, promoting residential sprinklers, and demonstrating working models of residential sprinklers.
- *Code Enforcement/Awareness*—projects that focus on first time or reinstatement of code adoption and code enforcement.
- *Fire & Arson Investigation*—projects that aim to aggressively investigate every fire.
- *National/State/Regional Programs and Studies*—projects that focus on residential fire issues and/or firefighter behavior and decision-making.

Under the R&D Activity, in order to identify and address the most important elements of firefighter safety, FEMA looked to the fire service for its input and recommendations. In June 2005, the National Fallen Firefighters' Foundation (NFFF) hosted a working group to facilitate the development of an agenda for the nation's fire service, and in particular for firefighter safety. In November 2015, the NFFF hosted their third working group to update the agenda with current priorities. A copy of the research agenda is available on the NFFF Web site at *http://www.everyonegoeshome.com/resources/research-symposium-reports/.*

Projects that meet the intent of this research agenda with respect to firefighter health and safety, as identified by the NFFF working group, will be given consideration under the R&D Activity. However, the applicant is not limited to these specific projects. All proposed projects, regardless of whether they have been identified by this working group, will be evaluated on their relevance to firefighter health and safety, and scientific rigor.

The electronic application process will permit the applicant to enter and save the application data. The system does not permit the submission of incomplete applications. Except for the narrative textboxes, the application will use a ''point-and-click'' selection process or require the entry of data (*e.g.,* name and address). Applicants will be encouraged to read the FP&S Funding Opportunity Announcement for more details.

Criteria Development Process

Each year, DHS convenes a panel of fire service professionals to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is comprised of representatives from nine major fire service organizations who are charged with making recommendations to FEMA regarding the creation of new funding priorities, the modification of existing funding priorities, and the development of criteria for awarding grants. The nine major fire service organizations represented on the panel are:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2016 criteria development panel meeting occurred November 9–10, 2015. The content of the FY 2016 FP&S Notice of Funding Oportunity reflects the implementation of the Criteria Development Panel's recommendations with respect to the priorities, direction, and criteria for awards. All of the funding priorities for the FY 2016 FP&S Grant Program are designed to address the following:

- First responder safety
- Enhancing national capabilities
- Risk
- Interoperability

Changes for FY 2016

FY 2016 FP&S Notice of Funding Opportunity Announcement

(1) Under the Fire Prevention and Safety Activity, the General Education Awareness Category has been revised and is now called the Community Risk Reduction Category. The priorities and eligible activities remain the same.

Application Review Process and Considerations

The program's authorizing statute requires that each year DHS publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

DHS will review and evaluate all FP&S applications submitted using the funding priorities and evaluation criteria described in this document, which are based on recommendations from the AFG Criteria Development Panel.

Peer Review Process

Technical Evaluation Process—Fire Prevention and Safety Activity

All eligible applications will be evaluated by a Technical Evaluation Panel (TEP). The TEP is comprised of a panel of Peer Reviewers. The TEP will assess each application's merits with respect to the detail provided in the Narrative Statement on the activity, including the evaluation elements listed in the Evaluation Criteria identified above.

The panel of Peer Reviewers will independently score each project within the application, discuss the merits and/or shortcomings of the application, and document the findings. A consensus is not required. The highest ranked applications will receive further technical review to assess strengths and weaknesses, how readily weaknesses may be resolved, and the likely impact of the proposed activities on the safety of the target audience.

Technical Evaluation Process—Research and Development Activity

R&D applications will go through a two-phase review process. First, all applications will be reviewed by a panel of fire service experts to assess relevance, meaning the likely impact of the proposed R&D application to enable improvement in firefighter safety, health, or wellness. They will also assess the need for the research results and the likelihood that the results would be implemented by the fire service in the United States. Applications that are deemed likely to be implemented to enable improvement in firefighter safety, health, or wellness will then receive further consideration by a science review panel. This panel will be comprised of scientists and technology experts who have expertise pertaining to the subject matter of the proposal.

Reviewers will independently score applications and, if necessary, discuss the merits or shortcomings of the

application in order to reconcile any major discrepancies identified by the reviewers. A consensus is not required.

With input from these panels, for the highest ranked applications, FEMA will review each application's strengths and weaknesses, how best the strengths fit the priorities of the FP&S Grant Program, and how readily the weaknesses may be resolved to support likely impact of the project to improve firefighter safety, heath, or wellness.

Technical Review Process

Projects receiving the highest scores then will undergo a technical review by a subject matter specialist to assess the technical feasibility of the project and a programmatic review to assess eligibility and other factors.

After the completion of the technical reviews, DHS will select a sufficient number of awardees from this application period to obligate all of the available grant funding. It will evaluate and act on applications within 90 days following the close of the application period. Award announcements will be made on a rolling basis until all available grant funds have been committed. Awards will not be made in any specified order. DHS will notify unsuccessful applicants as soon as it is feasible.

Evaluation Criteria for Projects—Fire Prevention and Safety Activity

Funding decisions will be informed by an assessment of how well the application addresses the criteria and considerations listed below. Applications will be reviewed by the TEP using weighted evaluation criteria to score the project. These scores will impact the ranking of a project for funding.

The relative weight of the evaluation criteria in the determination of the grant award is listed below.

- *Financial Need (10%):* Applicants should provide details on the need for financial assistance to carry out the proposed project(s). Included in the description might be other unsuccessful attempts to acquire financial assistance or specific examples of the applicant's operational budget.
- *Vulnerability Statement (25%):* The assessment of fire risk is essential in the development of an effective project goal, as well as meeting FEMA's goal to reduce risk by conducting a risk analysis as a basis for action. Vulnerability is a ''weak link'' demonstrating high risk behavior, living conditions or any type of high risk situation or behavior. The Vulnerability Statement should include a description of the steps taken to determine the vulnerability (weak link) and identify the target audience. The methodology for determination of vulnerability (how you found the weak link) should be discussed in-depth in the application's Narrative Statement.
  - The specific vulnerability (weak link) that will be addressed with the proposed project can be established through a formal or informal risk assessment. FEMA encourages the use of local statistics, rather than national statistics, when discussing the vulnerability.
  - The applicant should summarize the vulnerability (weakness) the project will address in a clear, to-the-point statement that addresses who is at risk, what the risks are, where the risks are, and how the risks can be prevented.
  - For the purpose of the FY 2016 FP&S NOFO, formal risk assessments consist of the use of software programs or recognized expert analysis that assess risk trends.
  - Informal risk assessments could include an in-house review of available data (*e.g.,* National Fire Incident Reporting System) to determine fire loss, burn injuries or loss of life over a period of time, and the factors that are the cause and origin for each occurrence.
- *Implementation Plan (25%):* Projects should provide details on the implementation plan which discusses the proposed project's goals and objectives. The following information should be included to support the implementation plan:
  - Goals and objectives.
  - Details regarding the methods and specific steps that will be used to achieve the goals and objectives.
  - Timelines.
  - Where applicable, examples of marketing efforts to promote the project, who will deliver the project (*e.g.,* effective partnerships), and the manner in which materials or deliverables will be distributed.
  - Requests for props (*i.e.,* tools used in educational or awareness demonstrations), including specific goals, measurable results, and details on the frequency for which the prop will be utilized as part of the implementation plan. Applicants should include information describing the efforts that will be used to reach the high risk audience and/or the number of people reached through the proposed project.
- *Evaluation Plan (25%):* Projects should include an evaluation of effectiveness and should identify measurable goals. Applicants seeking to carry out awareness and educational projects, for example, should identify how they intend to determine that there has been an increase in knowledge about fire hazards, or measure a change in the safety behaviors of the audience. Applicants should demonstrate how they will measure risk at the outset of the project in comparison to how much the risk decreased after the project is finished. There are various ways to measure the knowledge gained including the use of surveys, pre- and post-tests or documented observations.
- *Cost-Benefit (10%):* Projects will be evaluated based on how well the applicant addresses the fire prevention needs of the department or organization in an economic and efficient manner. It should show how to maximize the level of funding that goes directly into the delivery of the project. The costs associated with the project must also be reasonable for the target audience that will be reached, and a description of how the anticipated benefit(s) of their projects outweighs the cost(s) of the requested item(s) should be included. Providing justification for costs assists the Technical Evaluation Panel with this review.
- *Funding Priorities (5%):* Applicants will be evaluated on whether or not the proposed project meets the stated funding priority (listed below) for the applicable category.
  - *Community Risk Reduction Priority:* Comprehensive home fire safety campaign with door-to-door smoke alarm installations or residential sprinkler awareness projects/activities.
  - *Fire/Arson Investigation Priority:* Projects that aim to aggressively investigate every fire.
  - *Code Enforcement/Awareness Priority:* Projects that focus on first time or reinstatement of code adoption and code enforcement.
  - *National/State/Regional Programs and Studies Priority:* Projects that focus on residential fire issues, and/or firefighter safety projects or strategies that are designed to measureably change firefighter behavior and decision-making.
- *Experience and Expertise (additional consideration):* Applicants that demonstrate their experience and ability to conduct fire prevention and safety activities, and to execute the proposed or similar project(s), will receive additional consideration.

Evaluation Criteria—Firefighter Safety Research and Development Activity

Funding decisions will be informed by an assessment of how well the application addresses the criteria and considerations listed below.

All applications will reviewed by a fire service expert panel using weighted evaluation criteria, and those

applications deemed to be in the ''competitive range'' will then be reviewed by a scientific peer review panel evaluation using weighted evaluation criteria to score the project. Scientific evaluations will impact the ranking of the project for funding.

In addition, other Science Panel considerations are indicated in the list below:

Fire Service Evaluation Criteria

- *Purpose (25%):* Applicants should clearly identify the benefits of the proposed research project to improve firefighter safety, health, or wellness, and identify specific gaps in knowledge that will be addressed.
- *Implementation by Fire Service (25%):* Applicants should discuss how the outcomes/products of this research, if successful, are likely to be widely/nationally adopted and accepted by the fire service as changes that enhance firefighter safety, health, or wellness.
- *Potential Impact (15%):* Applicants should discuss the potential impact of the research outcome/product on firefighter safety by quantifying the possible reduction in the number of fatal or non-fatal injuries, or on wellness by significantly improving the overall health of firefighters.
- *Barriers (15%):* Applicants should recognize that all research contains some level of risk and that the proposed outcomes may not be realized. The applicant needs to identify and discuss potential fire service and other barriers to successfully complete the study on schedule, including contingencies and strategies to deal with barriers if they materialize. This may include barriers that could inhibit the proposed fire service participation in the study or the adoption of successful results by the fire service when the project is completed.
- *Partners (20%):* Applicants should recognize that participation of the fire service as a partner in the research, from development to dissemination, is regarded as an essential part of all projects. Applicants should describe the fire service partners and contractors that will support the project to accomplish the objectives of the study. The specific roles and contributions of the partners should be described. Partnerships may be formed with local and regional fire departments, and also with national fire-related organizations. Letters of support and letters of commitment to actively participate in the project should be included in the appendix of the application. Generally, participants of a diverse population, including both career and volunteer firefighters, are expected to facilitate acceptance of results nationally. In cases where this is not practical, due to the nature of the study or other limitations, these circumstances should clearly be explained.

Science Panel Evaluation Criteria

- *Project goals, objectives, and specific aims (15%):* Applicants should address how the purpose, goals, objectives, and aims of the proposal will lead to results that will improve firefighter safety, health, or wellness. For multi-year projects, greater detail should be given for the first year.
- *Literature Review (10%):* Applicants should provide a literature review that is relevant to the project's goals, objectives, and specific aims. The citations should be placed in the text of the narrative statement, with references listed at the end of the Narrative Statement (and not in the Appendix) of the application. The review should be in sufficient depth to make it clear that the proposed project is necessary, adds to an existing body of knowledge, is different from current and previous studies, and offers a unique contribution.
- *Project Methods (20%):* Applicants should provide a description of how the project will be carried out, including demonstration of the overall scientific and technical rigor and merit of the project. This includes the operations to accomplish the purpose, goals and objectives, and the specific aims of the project. Plans to recruit and retain human subjects, where applicable, should be described. Where human subjects are involved in the project, the applicant should describe plans for submission to the Institutional Review Board (IRB) (for further guidance and requirements, see Appendix B—Programmatic Information and Priorities, Section IV of the FY 2016 FP&S NOFO. Other Eligible Project and Ineligible Projects and Costs, Section B. Research and Development Project Eligibility Information, Section i. Human Subject Research).
- *Project Measurements (20%):* Applicants should provide evidence of the technical rigor and merit of the project, such as data pertaining to validity, reliability, and sensitivity (where established) of the facilities, equipment, instruments, standards, and procedures that will be used to carry out the research. The applicant should discuss the data to be collected to evaluate the performance methods, technologies, and products proposed to enhance firefighter safety, health, or wellness. The applicant should demonstrate that the measurement methods and equipment selected for use are appropriate and sufficient to successfully deliver the proposed project objectives.
- *Project Analysis (20%):* The applicant should indicate the planned approach for analysis of the data obtained from measurements, questionnaires, or computations. The applicant should specify within the plan what will be analyzed, the statistical methods that will be used, the sequence of steps, and interactions as appropriate. It should be clear that the Principal Investigator (PI) and research team have the expertise to perform the planned analysis and defend the results in a peer review process.
- *Dissemination and Implementation (15%):* Applicants should indicate dissemination plans for scientific audiences (such as plans for submissions to specific peer review publications) and for firefighter audiences (such as Web sites, magazines, and conferences). Also, assuming positive results, the applicant should indicate future steps that would support dissemination and implementation throughout the fire service, where applicable. These steps are likely to be beyond the current study, so those features of the research activity that will facilitate future dissemination and implementation should be discussed. All applicants should specify how the results of the project, if successful, might be disseminated and implemented in the fire service to improve firefighter safety, health, or wellness. It is expected that successful R&D Activity Projects may give rise to future programs including FP&S Activity Projects.
- *Cost vs. Benefit (additional consideration):* Cost vs. benefit in this evaluation element refers to the costs of the grant for the research and development project as it relates to the benefits that are projected for firefighters who would have improved safety, health, or wellness. Applicants should demonstrate a high benefit for the cost incurred, and effective utilization of federal funds for research activities.
- *Financial Need (additional consideration):* In the Applicant Information section of the application, applicants should provide details on the need for federal financial assistance to carry out the proposed project(s). Applicants may include a description of unsuccessful attempts to acquire financial assistance. Applicants should provide detail about the organization's operating budget, including a high-level breakdown of the budget; describe the department's inability to address financial needs without federal assistance; and discuss other actions the

department has taken to meet their staffing needs (*e.g.,* state assistance programs, other grant programs, etc.).

Other Selection Information

Awards will be made using the results of peer-reviewed applications as the primary basis for decisions, regardless of activity. However, there are some exceptions to strictly using the peer review results. The applicant's prior AFG, SAFER, and FP&S grant management performance will also be taken into consideration when making recommendations for award. All final funding determinations will be made by the Administrator of FEMA, or the Administrator's designee.

Fire departments and other eligible applicants that have received funding under the FP&S Grant Program in previous years are eligible to apply for funding in the current year. However, DHS may take into account an applicant's performance on prior grants when making funding decisions on current applications.

Once every application in the competitive range has been through the technical evaluation phase, the applications will be ranked according to the average score awarded by the panel.

The ranking will be summarized in a Technical Report prepared by the AFG Program Office. A Grants Management Specialist will contact the applicant to discuss and/or negotiate the content of the application and *SAM.gov* registration before making final award decisions.

Authority: 15 U.S.C. 2229.

Robert J. Fenton, Jr.,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–10364 Filed 5–19–17; 8:45 am]

BILLING CODE 9111–64–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–18]

30-Day Notice of Proposed Information Collection: Evaluation of the Rental Assistance Demonstration Program, Phase 2

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* June 21, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 8, 2016 at 81 FR 62167.

A. Overview of Information Collection

Title of Information Collection: Evaluation of the Rental Assistance Demonstration, Phase 2.

OMB Approval Number: Pending.

Type of Request: 2528-New.

Form Number: No forms.

Description of the need for the information and proposed use: The Rental Assistance Demonstration program (RAD) was established in 2012 to stem the loss of Public Housing units and other subsidized housing arising from a backlog of capital needs. The program helps to convert at-risk Public Housing properties to two different forms of Project-Based Section 8 Housing Assistance Payments (HAP) contracts—either Project-Based Voucher (PBV) or Project-Based Rental Assistance (PBRA)—giving Public Housing Authorities (PHAs) more flexibility to access private and public funding sources, reducing their reliance on limited appropriations. The RAD authorizing statute requires HUD to assess the impact of the program on: (1) The preservation and improvement of former Public Housing units, in particular their physical and financial condition, (2) the amount of external capital leveraged as a result of such conversions, and (3) the residents living in properties at the time of conversion.

To comply with this statutory requirement and examine whether the program's objectives are being achieved, HUD will be collecting and analyzing quantitative and qualitative data from primary and secondary sources related to the following: (1) The physical and financial condition of 24 RAD properties selected for the study and 48 non-RAD properties selected for comparison; (2) the implementation of the program, including the capital needs and amount of external funding leveraged; and (3) the experience with, and effect on, residents.

The first phase of the evaluation has been completed, and relied on information collected in accordance with OMB control number 2528–0304. Under Phase 1, HUD surveyed PHAs about their experiences with RAD and began enrolling Public Housing residents to track them for Phase 2 of the study. The information collection effort occurred early in the RAD implementation process; while it provided useful information about how PHAs were approaching RAD, further information collection is necessary to understand the results of RAD.

The second phase of the evaluation is now under way to answer questions about effects of RAD three to four years after its launch. This notice announces HUD's intent to collect additional information: (1) A survey of residents of RAD properties and (2) follow-up interviews with PHA staff. This information will inform HUD, Congress, and other interested parties about how PHAs and residents are experiencing RAD now that projects have been converted, and whether or not it is achieving its intended objectives.

Respondents (i.e. affected public): This information collection will affect approximately 400 households that have been enrolled in the RAD tenant study (enrollment was approved under OMB control number 2528–0304) and approximately 100 PHA staff, including Executive Directors and other high-level staff at PHAs participating in RAD. The tenant survey is expected to take 1 hour and will be conducted once for each household. The PHA interviews are expected to take 1 hour and will be conducted one time.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Survey of RAD tenants	400	One time	1	0.50	400	$12.73	$2,546.00
Interviews with PHA staff	24	One time	1	1.50	36	$54.24	1,952.64
Total	424				500		$4,498.64

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(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 using appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: May 15, 2017.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–10362 Filed 5–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N047; FXES11140200000–178–FF02ENEH00]

Incidental Take Permit Application Received To Participate in American Burying Beetle Amended Oil and Gas Industry Conservation Plan in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, as amended (Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on federally listed American burying beetle incidental take permit applications. The applicants anticipate American burying beetle take as a result of impacts to habitat the species uses for breeding, feeding, and sheltering in Oklahoma. The take would be incidental to the applicants' activities associated with oil and gas well field and pipeline infrastructure (gathering, transmission, and distribution), including geophysical exploration (seismic), construction, maintenance, operation, repair, decommissioning, and reclamation. If approved, the permit would be issued under the approved *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.*

DATES: To ensure consideration, written comments must be received on or before June 21, 2017.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicants' incidental take permit (ITP) applications by one of the following methods. Please refer to the proposed permit number when requesting documents or submitting comments.

○ *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

○ *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at: U.S. Fish and Wildlife Service, Environmental Review Division, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.;* Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on incidental take permit (ITP) applications to take the federally listed American burying beetle (*Nicrophorus americanus*) during oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

If approved, the permits would be issued to the applicants under the *American Burying Beetle Amended Oil and Gas Industry Conservation Plan (ICP) Endangered Species Act Section 10(a)(1)(B) Permit Issuance in Oklahoma.* The original ICP was approved on May 21, 2014, and the ''no significant impact'' finding notice was published in the **Federal Register** on July 25, 2014 (79 FR 43504). The draft amended ICP was made available for comment on March 8, 2016 (81 FR 12113), and approved on April 13, 2016. The ICP and the associated environmental assessment/finding of no significant impact are available on the Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these finalized, approved documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications under the ICP, for incidentally taking the federally listed American burying beetle. Please refer to the appropriate permit number (*e.g.,* TE–123456) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted with this application are available for review, subject to Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552) requirements.

Permit TE23851C

Applicant: Targa SouthOK NGL Pipeline, LLC, Tulsa, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure

construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE23848C

Applicant: Targa Pipeline Mid-Continent, LLC, Tulsa, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit 19776C

Applicant: MV Purchasing, LLC, Wichita, KS.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE22132C

Applicant: TPL Arkoma, Inc, Tulsa, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE22139C

Applicant: TPL Arkoma Midstream, LLC, Tulsa, OK.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE24128C

Applicant: Paragon Geophysical Services, Inc, Wichita, KS.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Permit TE25117C

Applicant: Tenaska, Inc, Omaha, NE.

Applicant requests a permit for oil and gas upstream and midstream production, including oil and gas well field infrastructure geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning, as well as oil and gas gathering, transmission, and distribution pipeline infrastructure construction, maintenance, operation, repair, decommissioning, and reclamation in Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under the Act, Section 10(c) (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopolous,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2017–10417 Filed 5–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000 L1440000.ET0000 17X; CACA 35558]

Public Land Order No. 7862; Extension of Public Land Order No. 7260, Red Rock Canyon State Park; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order (PLO).

SUMMARY: This PLO extends the duration of the withdrawal created by PLO No. 7260, which would otherwise expire on May 12, 2017, for an additional 20-year period. This extension is necessary to continue to protect the remaining 830.07 acres until the lands can be conveyed to the State of California for inclusion in Red Rock Canyon State Park.

DATES: This PLO is effective on May 12, 2017.

FOR FURTHER INFORMATION CONTACT: Deanne Kidd, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825; *dykidd@blm.gov;* 916–978–4337. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to reach the above individual. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTAL INFORMATION: PLO No. 7260 withdrew 8,896 acres of public lands from all public land and mineral laws, except conveyances under Section 701 of the California Desert Protection Act (CDPA) of 1994, to protect the lands until they can be conveyed to the State of California for inclusion in Red Rock Canyon State Park. All of the lands except the 830.07 acres in this PLO have been conveyed to the State of California. The purpose for which the withdrawal was first made requires this extension in order to continue to protect the remaining lands until they can be conveyed.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, PLO No. 7260 (62 FR 26324 (1997)), which withdrew public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws and the mineral leasing

laws, but not from conveyance under Section 701 of the CDPA (108 Stat. 4471), is hereby extended for an additional 20-year period as to the following described lands:

Mount Diablo Meridian

T. 29 S., R. 38 E.,
Sec. 4, lot 1, SE¼NE¼, SW¼NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, and NW¼SE¼SE¼;
Sec. 5, S½SW¼NE¼, N½NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, NE¼SW¼SW¼, N½NW¼SE¼, and SE¼SE¼;
Sec. 7, lots 3 and 4, W½NE¼SW¼, and W½SE¼SW¼;
Sec. 8, NE¼NE¼, SW¼NE¼, and NW¼SE¼;
Sec. 18, lots 1 and 2;
Sec. 30, lots 4 and 6, N½NE¼, E½NW¼SW¼NE¼, E½SW¼SW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, S½NE¼SW¼, and N½SE¼SW¼.

The areas described aggregate 830.07 acres in Kern County.

2. The withdrawal extended by this order will terminate automatically upon issuance of patent or expire on May 12, 2037, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Dated: May 12, 2017.

Ryan K. Zinke,

Secretary of the Interior.

[FR Doc. 2017–10357 Filed 5–19–17; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–21619; PX.XPWRATP16.00.1]

Final Environmental Impact Statement for Scorpion Pier Replacement, Channel Islands National Park, Ventura and Santa Barbara Counties, California

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (EIS) for Replacement of the Scorpion Pier on Santa Cruz Island, Channel Islands National Park. The Final EIS identifies and analyzes the potential consequences of three alternatives: The *No Action Alternative; Alternative 1,* which would replace the existing pier in the current location and make extensive road improvements; and *Alternative 2,* which would construct a new replacement pier south of the existing location and make minor road improvements. It also proposes mitigation measures to minimize the adverse impacts from construction or operation of the alternatives where such impacts may occur.

DATES: The NPS will execute a Record of Decision no sooner than 30 days after the date of publication of the Notice of Availability published in the **Federal Register** by the Environmental Protection Agency.

ADDRESSES: The Final EIS is available for public inspection online at *http://parkplanning.nps.gov.chis,* in local public libraries, and in the office of the Superintendent, Channel Islands National Park, 1901 Spinnaker Dr., Ventura, CA 93001 (805) 658–5702.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Galipeau, Superintendent, Channel Islands National Park, 1901 Spinnaker Dr., Ventura, CA 93001; *russell_galipeau@nps.gov;* (805) 658–5702.

SUPPLEMENTARY INFORMATION: Santa Cruz Island is one of five remote islands spanning 2,228 square miles of land and sea comprising Channel Islands National Park. Given necessity for boat access to the island, need for the Project is driven by the following factors:

- Scorpion Pier should provide safe access to Santa Cruz Island. The existing pier is deteriorating and does not meet NPS requirements for administrative use or safe visitor access. The access road to the current location also requires frequent rebuilding. The current height of the pier cannot sufficiently accommodate high and low tides; as such, vessel operators have difficulty docking without compromising risk to individuals, vessels, and the pier itself. The embarkation process requires passengers to climb—one person at a time, often while carrying a backpack—a single unsteady ladder that is not compliant with standards for accessible design.
- Scorpion Pier should provide efficient access to Santa Cruz Island that accommodates visitor demand. The existing pier and access road significantly weaken the efficiency of NPS operations. The one-person ladder needed for embarkation, for example, lengthens the entire boarding process and increases visitor exposure to adverse weather conditions. The narrow width of the pier also causes delays because it cannot simultaneously accommodate visitors and large cargo (*i.e.,* maintenance vehicles); as such, passenger embarkation must occur separately from many maintenance activities. Additionally, the lack of adequate armoring in the area increases the need for regular and expensive repairs to the eroding access road. Improvement of the pier and access road is necessary to meet current and future visitor demands.
- Scorpion Pier and the access roadway should be operated in a manner that protects sensitive resources. The access road is extremely susceptible to harsh weather conditions, and is often washed out by Scorpion Creek when it floods. Maintenance of the existing pier access road currently requires repairing and re-grading several times per year due to wave and storm erosion. As a result of these ground-disturbing activities, sensitive archaeological resources may be threatened. Ongoing re-construction can also impact the environment through air emissions, erosion, and possible pollutants to waterways and sensitive habitats.
- Scorpion Pier should provide access to Santa Cruz Island in consideration of predicted sea level rise. The predicted rise in sea level due to global warming must also be considered in the new design for the pier. Current predictions range from 0.33 foot to 1.1 foot by the year 2050, and 0.74 foot to 3.2 feet by 2100. Anticipated sea level rise has implications for the new pier design, as well as for the dynamics of Scorpion Creek during large storm events.

Accordingly, key project objectives include: (1) Improve the visitor experience; (2) Improve the pier while protecting marine and terrestrial environments; (3) Improve access for NPS and concessioner boats; (4) Improve passenger, cargo, and operations circulation; (5) Protect archaeological resources; (6) Preserve the historic landscape qualities and visual character of Scorpion Ranch; and (7) Improve efficiency and sustainability.

The Draft EIS was made available for public review and comment from October 9, 2015, through December 18, 2015. The full text and graphics were also posted on the NPS Planning, Environment and Public Comment Web site (*http://parkplanning.nps.gov/chis*). During the review period, the NPS received only six separate pieces of correspondence—the majority of comments were in regards to the general planning process and project design, as well as concerns about protecting aquatic biological resources and air quality. There were no objections to the proposed actions. After considering all comments received, the NPS prepared the Final EIS. There are no substantive

changes to the range of alternatives considered. *Alternative 2* is deemed to be the ''environmentally preferred'' course of action, and is identified as the agency-preferred alternative.

Authority: 42 U.S.C. 4321 *et seq.*

Dated: February 27, 2017.

Laura E. Joss

Regional Director, Pacific West.

[FR Doc. 2017–10426 Filed 5–19–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2017–0013; MMAA104000]

Cook Inlet Planning Area Outer Continental Shelf Oil and Gas Lease Sale 244

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final Notice of Sale.

SUMMARY: On Wednesday, June 21, 2017, the Bureau of Ocean Energy Management (BOEM) will open and publicly announce bids received for blocks offered in the Cook Inlet Planning Area Outer Continental Shelf (OCS) Oil and Gas Lease Sale 244 (Cook Inlet Sale 244), in accordance with provisions of the Outer Continental Shelf Lands Act (OCSLA) and the implementing regulations issued thereto. The Cook Inlet Sale 244 Final Notice of Sale (NOS) package contains information essential to potential bidders.

DATES: Public opening and reading of the bids for Cook Inlet Lease Sale 244 will begin at 10 a.m. on Wednesday, June 21, 2017, in the Denali Room at the Bureau of Land Management, Alaska State Office, Anchorage Federal Office Building, 222 West Seventh Avenue, Anchorage, Alaska. The venue will not be open to the general public, media, or industry. Instead, the bid opening and reading will be available for public viewing on BOEM's Web site via video live-streaming at *www.boem.gov.* The use of live-streaming will provide greater access to a wider national and international audience. BOEM will also post the results on its Web site after bid opening and reading are completed. All times referred to in this document are Alaska time, unless otherwise specified.

Bid Submission Deadline: BOEM must receive all sealed bids during normal business hours, between 8:00 a.m. and 4:00 p.m., through June 19, 2017, and from 8:00 a.m. to the bid submission deadline of 10:00 a.m. on Tuesday, June 20, 2017, the day before the lease sale. For more information on bid submission, see Section VII, ''Bidding Instructions,'' of this document.

ADDRESSES: Interested parties, upon request, may obtain a compact disk (CD–ROM) containing the Final Notice of Sale (NOS) package by contacting the BOEM Alaska OCS Region at:

Bureau of Ocean Energy Management, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503, (907) 334–5200 or (800) 764–2627.

The Final NOS package can also be downloaded from the BOEM Web site at *http://www.boem.gov/Sale-244.*

FOR FURTHER INFORMATION CONTACT: David Diamond, Chief, Leasing Division, (703) 787–1776, *david.diamond@boem.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

This Final NOS includes the following sections:

I. Lease Sale Area
II. Statutes and Regulations
III. Lease Terms and Economic Conditions
IV. Lease Stipulations
V. Information to Lessees
VI. Maps
VII. Bidding Instructions
VIII. Bidding Rules and Restrictions
IX. Forms
X. The Lease Sale
XI. Delay of Sale

Lease Sale Area

BOEM will offer for bid in this lease sale all unleased whole blocks and partial blocks in the area of Cook Inlet identified on the map included as part of this notice, ''Final Notice of Sale, Cook Inlet Planning Area, OCS Oil Gas Lease Sale 244.'' The BOEM Official Protraction Diagrams (OPDs) and Supplemental Official OCS Block Diagrams are available online at *http://www.boem.gov/Oil-and-Gas-Energy-Program/Mapping-and-Data/Alaska.aspx.*

All of these blocks are shown on the following OPDs:

- Iliamna (OPD NO 05–01)
- Seldovia (OPD NO 05–02)
- Kenai (OPD NP 05–08)

The available Federal area of each whole and partial block in this lease sale are shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS Package. Some of these blocks, known as ''partial blocks,'' may be transected by administrative lines, such as the Federal/State jurisdictional line. A bid on a block must include all of the available Federal area of that block.

II. Statutes and Regulations

Each lease is issued pursuant to the Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331 *et seq.*), and is subject to OCSLA, its implementing regulations pursuant thereto (30 CFR part 556), and other applicable statutes and regulations in existence upon the effective date of the lease, as well as those applicable statutes enacted and regulations promulgated thereafter, except to the extent that the after-enacted statutes and regulations explicitly conflict with an express provision of the lease. Each lease is subject to amendments to the applicable statutes and regulations, including, but not limited to, OCSLA, that do not explicitly conflict with an express provision of the lease. The lessee expressly bears the risk that such new amended statutes and regulations (*i.e.,* those that do not explicitly conflict with an express provision of the lease) may increase or decrease the lessee's obligations under the lease.

III. Lease Terms and Economic Conditions

Lease Terms

OCS Lease Form

BOEM will use Form BOEM–2005 (February 2017) to convey leases issued as a result of this sale. This lease form may be viewed on the BOEM Web site at *http://www.boem.gov/BOEM-2005/.* The lease form will be amended to conform with the specific terms, conditions, and stipulations applicable to each individual lease. The terms, conditions, and stipulations applicable to this sale are set forth below.

Primary Term: The primary term will be 10 years.

Economic Conditions

Minimum Bonus Bid Amounts: $25 per hectare or fraction thereof for all blocks. BOEM will not accept a bonus bid unless it provides for a cash bonus in the amount equal to, or exceeding, the specified minimum bonus bid of $25 per hectare or fraction thereof for all blocks.

Rental Rates: An annual rental rate for all blocks of $13 per hectare or fraction thereof, until the start of year eight of the primary term or a discovery of oil and gas, whichever occurs first; then at an annual rate of $20 per hectare or fraction thereof.

Royalty Rates: 12.5%.

Minimum Royalty: $20 per hectare or fraction thereof per year. No royalty relief will be offered as part of any lease that may be issued as a result of Cook Inlet Sale 244.

IV. Lease Stipulations

One or more of the following stipulations may be applied to leases issued as a result of this lease sale. The detailed text of these stipulations is contained in the ''Lease Stipulations'' section of the Final NOS Package. Note that the Proposed NOS included Stipulation No. 10, ''Prohibition of Drilling Discharges.'' As BOEM has decided not to adopt Stipulation No. 10, it has been removed from the Final NOS, and therefore it will not be applied to any leases issued as a result of this lease sale.

(1) Protection of Fisheries
(2) Protection of Biological Resources
(3) Orientation Program
(4) Transportation of Hydrocarbons
(5) Protection of Beluga Whale Critical Habitat
(6) Protection of Beluga Whale Nearshore Feeding Areas
(7) Protection of Beluga Whales
(8) Protection of Northern Sea Otter Critical Habitat
(9) Protection of Gillnet Fishery

V. Information to Lessees

Information to Lessees (ITLs) provides detailed information on certain issues pertaining to specific oil and gas lease sales. The detailed text of the ITLs for this sale is contained in the ''Information to Lessees'' section of the Final NOS Package.

(1) Bird and Marine Mammal Protection
(2) Endangered and Threatened Species Protection
(3) Seismic Surveys: Environmental and Regulatory Review and Coordination Requirements
(4) Archaeological and Geological Hazards Reports and Surveys
(5) Sensitive Areas to be Considered in Oil Spill Response Plans
(6) Discharge Restrictions and Prohibitions
(7) Trash and Debris Awareness and Elimination
(8) Air Quality Regulations and Standards
(9) Navigation Safety
(10) Notice of Arrival on the Outer Continental Shelf
(11) Bidder/Lessee Notice of Obligations Related to Criminal/Civil Charges and Offenses, Suspension, or Debarment; Disqualification Due to a Conviction under the Clean Air Act or the Clean Water Act
(12) Oil Spill Response Preparedness
(13) Offshore Pipelines
(14) Bureau of Safety and Environmental Enforcement (BSEE) Inspection and Enforcement of Certain U.S. Coast Guard (USCG) Regulations

VI. Maps

Maps pertaining to this lease sale are available on the BOEM Web site at *http://www.boem.gov/Sale-244/.* The following maps also are included in the Final NOS Package:

(1) ''Final Notice of Sale, Cook Inlet Planning Area, OCS Oil Gas Lease Sale 244, June 21, 2017,'' which shows the blocks to be made available for leasing; and

(2) ''Final Notice of Sale, Cook Inlet Planning Area, Lease Sale 244, June 21, 2017, Stipulation Blocks,'' which shows the stipulations and the blocks to which they will apply.

VII. Bidding Instructions

Bids may be submitted in person or by mail at the address below in the ''Mailed Bids'' section. Bidders submitting their bid(s) in person are advised to contact Ms. Patricia LaFramboise at (907) 334–5200 to schedule a time to submit the bid(s) and to provide the names of the company representative(s) who will be submitting the bid(s).

Bidders are further advised that visitors seeking access to almost all Federal facilities, including the BOEM Alaska OCS Region Office, using their state-issued driver's licenses or identification cards must present proper identification issued by REAL ID compliant states or a state that has received an extension. See the Department of Homeland Security Web site *https://www.dhs.gov/real-id-public-faqs* for further information on identification requirements. BOEM will not admit you if you do not have the proper identification. If you have any questions as to forms of identification that will be accepted, please ask when contacting BOEM to schedule a time to submit bids.

Instructions on how to submit a bid, how to secure payment of an advanced bonus bid deposit (if applicable), and what information must be included with the bid are as follows:

Bid Form

For each block bid upon, a separate bid must be submitted in a sealed envelope (as described below) and must include the following:

- Total amount of the bid in whole dollars only;
- Sale number;
- Sale date;
- Each bidder's exact name;
- Each bidder's proportionate interest, stated as a percentage, using a maximum of five decimal places (*e.g.,* 33.33333%);
- Typed name and title, and signature of each bidder's authorized officer;
- Each bidder's qualification number;
- OPD name and number;
- Block number; and
- Statement acknowledging that the bidder(s) understands that this bid legally binds the bidder(s) to comply with all applicable regulations, including payment of one-fifth of the bonus bid amount on all apparent high bids.

The information required on the bid(s) is specified in the document ''Bid Form'' contained in the Final NOS Package. A blank bid form is provided therein for convenience and may be copied and completed with the necessary information described above.

Bid Envelope

Each bid must be submitted in a separate sealed envelope labelled as follows:

- ''Sealed Bid for Oil and Gas Lease Sale 244, not to be opened until 10 a.m., Wednesday, June 21, 2017'';
- OPD name and number;
- Block number for the block bid upon; and
- The exact name and qualification number of the submitting bidder only.

The Final NOS Package includes a sample bid envelope for reference.

Mailed Bids

If bids are mailed, please address the envelope containing the sealed bid envelope(s) as follows:

Attention: Chief, Leasing Section, BOEM Alaska OCS Region, 3801 Centerpoint Dr., Ste. 500, Anchorage, AK 99503–5823.

Contains Sealed Bids for Cook Inlet Oil and Gas Lease Sale 244.

Please deliver to Ms. Patricia LaFramboise, 5th Floor, Immediately.

Please Note: Bidders who are mailing bid(s) are advised to call Ms. Patricia LaFramboise, Chief, Leasing Section at (907) 334–5200, immediately after putting their bid(s) in the mail. If BOEM receives bids later than the Bid Submission deadline, the BOEM Alaska OCS Regional Director (RD) will return those bids unopened to bidders. Please see ''Section XI. Delay of Sale'' regarding BOEM's discretion to extend the Bid Submission Deadline in the case of an unexpected event (*e.g.,* earthquake or travel restrictions) and how bidders can obtain more information on such extensions.

Advance Bonus Bid Deposit

Bidders that are not currently an OCS oil and gas lease record title holder or designated operator, or those that have ever defaulted on a one-fifth bonus bid deposit, by Electronic Funds Transfer (EFT) or otherwise, must guarantee

(secure) the payment of the one-fifth bonus bid deposit prior to bid submission using one of the following four methods:

- Provide a third-party guarantee;
- Amend an area-wide development bond via bond rider;
- Provide a letter of credit; or
- Provide a lump sum payment in advance via EFT.

For more information on EFT procedures, see Section X of this document, entitled, ''The Lease Sale.''

Affirmative Action

Prior to bidding, each bidder should file Equal Opportunity Affirmative Action Representation Form BOEM–2032 (October 2011, *http://www.boem.gov/BOEM-2032/*) and Equal Opportunity Compliance Report Certification Form BOEM-2033 (October 2011, *http://www.boem.gov/BOEM-2033/*) with the Alaska OCS Region Leasing Section. This certification is required by 41 CFR part 60 and Executive Order No. 11246, issued on September 24, 1965, as amended by Executive Order No. 11375, issued on October 13, 1967, and by Executive Order 13672, issued on June 21, 2014. Both forms must be on file for the bidder(s) in the Alaska OCS Region Office prior to the execution of any lease contract.

Geophysical Data and Information Statement (GDIS)

The GDIS is composed of three parts:

(1) The ''Statement'' page includes the company representatives' information and lists of blocks bid on that used proprietary data and those blocks bid on that did not use proprietary data;

(2) the ''Table'' listing the required data about each proprietary survey used (see below); and

(3) the ''Maps'' being the live trace maps for each survey that are identified in the GDIS statement and table.

Every bidder submitting a bid on a block in Cook Inlet Sale 244, or participating as a joint bidder in such a bid, must submit at the time of bid submission all three parts of the GDIS. A bidder must submit the GDIS, even if a joint bidder or bidders on a specific block also have submitted a GDIS. Any speculative data that has been reprocessed externally or ''in-house'' is considered proprietary due to the proprietary processing and is no longer considered to be speculative.

The GDIS must be submitted in a separate and sealed envelope, and identify all proprietary data; reprocessed speculative data, and/or any Controlled Source Electromagnetic surveys, Amplitude Versus Offset (AVO), Gravity, or Magnetic data; or other information used as part of the decision to bid or participate in a bid on the block. The bidder and joint bidder must also include a live trace map for 3 dimensional seismic volumes and for 2 dimensional seismic, include the line segment, including the beginning and ending shot point locations and the individual line names (*e.g.,* .pdf and ArcGIS shape file) for each proprietary survey that they identify in the GDIS illustrating the actual areal extent of the proprietary geophysical data in the survey (see the ''Example of Preferred Format'' in the Final NOS Package for additional information). The shape file should not include cultural information; only the live trace map of the survey itself.

The GDIS statement must include the name, phone number, and full address of a contact person and an alternate who are both knowledgeable about the information and data listed and who are available for 30 days after the sale date. The GDIS statement also must include entries for all blocks bid upon that did not use proprietary or reprocessed pre- or post-stack geophysical data and information as part of the decision to bid or to participate as a joint bidder in the bid. The GDIS statement must be submitted, even if no proprietary geophysical data and information were used in bid preparation for the block.

The GDIS table should have columns that clearly state:

- The sale number;
- The bidder company's name;
- The block area and block number bid on;
- The owner of the original data set (*i.e.,* who initially acquired the data);
- The industry's original name of the survey (*e.g.,* E Octopus);
- The BOEM permit number for the survey;
- Whether the data set is a fast track version;
- Whether the data is speculative or proprietary;
- The data type (*e.g.,* 2–D, 3–D, or 4–D; pre-stack or post-stack; and time or depth);
- The migration algorithm (*e.g.,* Kirchhoff Migration, Wave Equation Migration, Reverse Migration, Reverse Time Migration) of the data and areal extent of bidder survey (*i.e.,* number of line miles for 2–D or number of blocks for 3–D).

Also, provide the computer storage size, to the nearest gigabyte, of each seismic data and velocity volume used to evaluate the lease block in question. This information will be used in estimating the reproduction costs for each data set, if applicable. The availability of reimbursement of production costs will be determined consistent with 30 CFR 551.13. Also indicate who reprocessed the data (*e.g.,* external company name or ''in-house'') and when the date of final reprocessing was completed (month and year). If the data was sent to BOEM for bidding in a previous lease sale, list the date the data was processed (month and year) and indicate if AVO data was used in the evaluation. BOEM reserves the right to query about alternate data sets, to quality check, and to compare the listed and alternative data sets to determine which data set most closely meets the needs of the fair market value determination process. An example of the preferred format of the table is included in the Final NOS Package, and a blank digital version of the preferred table may be accessed on the Lease Sale 244 sale Web page at *http://www.boem.gov/sale-244/.*

The GDIS maps are live trace maps (in .pdf and ArcGIS shape files) that should be submitted for each proprietary survey that is identified in the GDIS table. They should illustrate the actual areal extent of the proprietary geophysical data in the survey (see the ''Example of Preferred Format'' in the Final NOS Package for additional information). As previously stated, the shape file should not include cultural information; only the live trace map of the survey itself.

Pursuant to 30 CFR 551.12 and 30 CFR 556.501, as a condition of the lease sale, the BOEM Alaska OCS RD requests that all bidders and joint bidders submit the proprietary data identified on their GDIS within 30 days after the lease sale (unless they are notified after the lease sale that BOEM has withdrawn the request). This request only pertains to proprietary data that is not commercially available. Commercially available data is not required to be submitted to BOEM, and reimbursement will not be provided if such data is submitted by a bidder. The BOEM Alaska OCS RD will notify bidders and joint bidders of any withdrawal of the request, for all or some of the proprietary data identified on the GDIS, within 15 days of the lease sale.

Pursuant to 30 CFR part 551 and as a condition of this lease sale, all bidders required to submit data must ensure that the data is received by BOEM no later than the 30th day following the lease sale or the next business day if the submission deadline falls on a weekend or Federal holiday. The data must be submitted to BOEM at the following address:

Bureau of Ocean Energy Management, Office of Resource Evaluation, 3801

Centerpoint Drive, Ste. 500, Anchorage, AK 99508–5823.

BOEM recommends that bidders mark the submission's external envelope as ''Deliver Immediately to Office of Resource Evaluation—Digital Processing.'' BOEM also recommends that bidders submit the data in an internal envelope, or otherwise marked, with the following designation: ''Proprietary Geophysical Data Submitted Pursuant to Lease Sale 244 and used during <Bidder Name's> evaluation of Block <Block Number>.''

In the event a person supplies any type of data to BOEM, that person must meet the following requirements to qualify for reimbursement:

(1) Persons must be registered with the System for Award Management (SAM), formerly known as the Central Contractor Registration (CCR). Your CCR username will not work in SAM. A new SAM User Account is needed to register or update your entity's records. The Web site for registering is *https://www.sam.gov.*

(2) Persons must be enrolled in the Department of Treasury's Internet Payment Platform (IPP) for electronic invoicing. The person must enroll in the IPP at *https://www.ipp.gov.* Access then will be granted to use IPP for submitting requests for payment. When a request for payment is submitted, it must include the assigned Purchase Order Number on the request.

(3) Persons must have a current On-line Representations and Certifications Application at *https://www.sam.gov.*

Please Note: The GDIS Information Table must be submitted digitally, preferably as an Excel spreadsheet, on a CD, DVD, or any USB external drive (formatted for Windows) along with the seismic data map(s). If bidders have any questions, please contact the BOEM Regional Supervisor, Resource Evaluation at (907) 334–5200.

Bidders should refer to Section X of this document, ''The Lease Sale: Acceptance, Rejection, or Return of Bids,'' regarding a bidder's failure to comply with the requirements of the Final NOS, including any failure to submit information as required in the Final NOS or Final NOS Package.

Telephone Numbers/Addresses of Bidders

BOEM requests that bidders provide this information in the suggested format prior to, or at the time of, bid submission. The suggested format is included in the Final NOS Package. The form must not be enclosed inside the sealed bid envelope.

Additional Documentation

BOEM may require bidders to submit other documents in accordance with 30 CFR 556.107, 30 CFR 556.401, 30 CFR 556.501, and 30 CFR 556.513.

VIII. Bidding Rules and Restrictions

Restricted Joint Bidders

On April 28, 2017, BOEM published the most recent List of Restricted Joint Bidders in the **Federal Register** at 82 FR 19750. Potential bidders are advised to refer to the **Federal Register**, prior to bidding, for the most current List of Restricted Joint Bidders in place at the time of the lease sale. Please refer to joint bidding provisions at 30 CFR 556.511–515.

Authorized Signatures

All signatories executing documents on behalf of bidder(s) must execute the same in conformance with the BOEM qualification records. Bidders are advised that BOEM considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the one-fifth bonus bid amount on all high bids. A statement to this effect must be included on each bid form (see the document ''Bid Form'' contained in the Final NOS Package).

Unlawful Combination or Intimidation

BOEM warns bidders against violation of 18 U.S.C. part 1860, prohibiting unlawful combination or intimidation of bidders.

Bid Withdrawal

Bids may be withdrawn only by written request delivered to BOEM prior to the Bid Submission Deadline. The withdrawal request must be on company letterhead and must contain the bidder's name, its BOEM qualification number, the OPD name/number, and the block number(s) of the bid(s) to be withdrawn. The withdrawal request must be executed in conformance with the BOEM qualification records. Signatories must be authorized to bind their respective legal business entities (*e.g.,* a corporation, partnership, or LLC), and documentation must be on file with BOEM setting forth this authority to act on the business entity's behalf for purposes of bidding and lease execution under OCSLA (*e.g.,* business charter or articles, incumbency certificate, or power of attorney). The name and title of the authorized signatory must be typed under the signature block on the withdrawal request. The BOEM Alaska OCS Region RD, or the RD's designee, will indicate their approval by signing and dating the withdrawal request.

Bid Rounding

Minimum bonus bid calculations, including all rounding, for all blocks are shown in the document entitled, ''List of Blocks Available for Leasing,'' included in the Final NOS package. The bonus bid amount must be in whole dollars. If the acreage of a block contains a decimal figure, then prior to calculating the minimum bonus bid, BOEM has rounded up to the next whole hectare. The appropriate minimum rate per hectare was then applied to the whole (rounded up) acreage. If this calculation resulted in a fractional dollar amount, the minimum bonus bid was rounded up to the next whole dollar amount. The bonus bid must be greater than or equal to the minimum bonus bid in whole dollars.

IX. Forms

The Final NOS Package includes instructions, samples, and/or the preferred format for the items listed below. BOEM strongly encourages bidders to use these formats. Should bidders use another format, they are responsible for including all the information specified for each item in the Final NOS package.

(1) Bid Form
(2) Sample Completed Bid
(3) Sample Bid Envelope
(4) Sample Bid Mailing Envelope
(5) Telephone Numbers/Addresses of Bidders Form
(6) GDIS Form
(7) GDIS Envelope Form

X. The Lease Sale

Bid Opening and Reading

Sealed bids received in response to the Final NOS will be opened at the place, date, and hour specified under the **DATES** section of this Final NOS. The venue will not be open to the public. Instead, the bid opening and reading will be available for the public to view on BOEM's Web site at *www.boem.gov* via live-streaming video. The opening of the bids is for the sole purpose of publicly announcing and recording the bids received. No bids will be accepted or rejected at that time.

Bonus Bid Deposit for Apparent High Bids

Each bidder submitting an apparent high bid must submit a bonus bid deposit to the Office of Natural Resources Revenue (ONRR) equal to one-fifth of the bonus bid amount for each such bid. A copy of the notification of the high bidder's one-fifth bonus bid

may be obtained on the BOEM Web site at *http://www.boem.gov/Sale-244/* under the heading ''Notification of EFT ⅕ Bonus Liability'' after 1:00 p.m. on the day of the lease sale. All payments must be deposited electronically into an interest-bearing account in the U.S. Treasury by 11:00 a.m. Eastern Time the day following the bid reading (no exceptions). Account information is provided in the ''Instructions for Making Electronic Funds Transfer Bonus Payments'' found on the BOEM Web site identified above.

BOEM requires bidders to use EFT procedures for payment of the one-fifth bonus bid deposits for Cook Inlet Sale 244 following detailed instructions contained on the ONRR Payment Information Web page at *https://onrr.gov/ReportPay/payments.htm#EPO.* Acceptance of a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

Withdrawal of Blocks

The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids

The United States reserves the right to reject any and all bids. No bid will be accepted, and no lease for any block will be awarded to any bidder, unless:

(1) The bidder has complied with all requirements of the Final NOS, including those set forth in documents contained in the Final NOS Package and applicable regulations;

(2) the bid submitted is the highest valid bid; and

(3) the amount of the bid has been determined to be adequate by the authorized officer.

Any bid submitted that does not conform to the requirements of the Final NOS and Final NOS Package, OCSLA, or other applicable statute or regulations, will be rejected and returned to the bidder. The U.S. Department of Justice and Federal Trade Commission will review the results of the lease sale for antitrust issues prior to the acceptance of bids and issuance of leases.

Bid Adequacy Review Procedures for Cook Inlet Sale 244

To ensure that the U.S. Government receives a fair return for the issuance of leases from this lease sale, high bids will be evaluated in accordance with BOEM's bid adequacy procedures, which are available at *http://www.boem.gov/Bid-Adequacy-Procedures/.*

Lease Award

BOEM requires each bidder awarded a lease to:

(1) Execute all copies of the lease (Form BOEM–2005 (February 2017), as amended);

(2) pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 1218.155, 30 CFR 556.520(a)(2) and 30 CFR 556.520(a)(3); and

(3) satisfy the bonding requirements of 30 CFR part 556, subpart I, as amended.

ONRR requests that bidders use only one transaction for payment of the balance of the bonus bid amount and first year's rental.

XI. Delay of Sale

The BOEM Alaska OCS RD has the discretion to change any date, time, and/or location specified in the Final NOS Package in case of an event the BOEM Alaska OCS RD deems may interfere with the carrying out of a fair and orderly lease sale process. Such events could include, but are not limited to, natural disasters (*e.g.,* earthquakes or floods), wars, riots, acts of terrorism, fires, strikes, civil disorder, or other events of a similar nature. In case of such events, bidders should call (907) 334–5200, or access the BOEM Web site at *http://www.boem.gov* for information regarding any changes.

Dated: May 18, 2017.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2017–10509 Filed 5–19–17; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0001; MMAA104000]

Alaska Outer Continental Shelf, Cook Inlet Planning Area, Oil and Gas Lease Sale 244

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability of a Record of Decision.

SUMMARY: The Bureau of Ocean Energy Management is announcing the availability of the Record of Decision for the Cook Inlet Planning Area, Outer Continental Shelf (OCS) Oil and Gas Lease Sale 244 (Lease Sale 244). This Record of Decision identifies the Bureau's selected alternative for holding Lease Sale 244, which is analyzed in the *Alaska OCS: Cook Inlet Planning Area Oil and Gas Lease Sale 244 in the Cook Inlet, Alaska; Final Environmental Impact Statement* (FEIS) (OCS/EIS EA BOEM 2016–069). The Record of Decision and associated information are available on BOEM's Web site at *https://www.boem.gov/Sale-244/.*

FOR FURTHER INFORMATION CONTACT: For more information on the Record of Decision, you may contact Sharon Randall, Chief, Environmental Analysis Section, Bureau of Ocean Energy Management, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503, 907–334–5235.

SUPPLEMENTARY INFORMATION: The Cook Inlet Lease Sale Area is located offshore of the State of Alaska in the northern portion of the Federal waters of Cook Inlet and is comprised of 224 OCS blocks, which encompass an area of approximately 442,500 hectares or 1.09 million acres. There are currently no active OCS oil and gas leases in the Cook Inlet Planning Area. The unleased OCS blocks within Cook Inlet that BOEM will offer for lease are listed in the document entitled, ''List of Blocks Available for Leasing,'' which is included in the Final Notice of Sale for Cook Inlet Lease Sale 244. The estimated resource potential of the Lease Sale is 215 million barrels of oil and 571 billion cubic feet of natural gas.

Decision

After careful consideration, the Department of the Interior (DOI) has selected the Preferred Alternative identified and analyzed in the Lease Sale 244 FEIS. In selecting the Preferred Alternative for Lease Sale 244, BOEM will offer for lease 224 unleased OCS blocks subject to mitigation measures adopted to reduce potential impacts to sensitive biological resources and other uses of the OCS, including, but not limited to, the beluga whales and their critical habitat and feeding areas, sea otters and their critical habitat, and the gillnet fishery. The Preferred Alternative combines the Proposed Action (Alternative 1) with several mitigations analyzed as alternatives in the Lease Sale 244 FEIS. In holding Lease Sale 244, DOI is implementing Alternative 3B (Beluga Whale Critical Habitat Mitigation), Alternative 3C (Beluga Whale Nearshore Feeding Areas Mitigation), Alternative 4B (Northern Sea Otter Critical Habitat Mitigation) and Alternative 5 (Gillnet Fishery Mitigation), as described in the FEIS.

Lease Stipulations

The following mitigation measures will be applied to Lease Sale 244 as lease stipulations. The full text of the lease stipulations that will be included in leases issued as a result of the sale and the list of blocks to which they apply are available in the Final Notice of Sale Package for Lease Sale 244. The Final Notice of Sale Package is available on BOEM's Web site at: *https://www.boem.gov/Sale-244/.*

Beluga Whale Critical Habitat Mitigation: This mitigation measure applies to 10 OCS blocks that overlap with the ''Area 2'' beluga whale critical habitat at the northern tip of the Lease Sale Area. Lessees will be prohibited from conducting on-lease seismic surveys or exploration drilling from November 1 through April 1 in the affected blocks. The Protection of Beluga Whale Critical Habitat Stipulation will be included in any leases issued for those blocks. *Beluga Whale Nearshore Feeding Areas Mitigation:* This mitigation measure creates temporal restrictions for on-lease seismic survey activities within the Lease Sale Area. On all 224 OCS blocks, no on-lease marine seismic surveys will be conducted between November 1 and April 1, when beluga whales are most likely to be present and distributed across the Lease Sale Area. The Protection of Beluga Whales Stipulation will be included in any leases issued pursuant to Lease Sale 244.

Additionally, for blocks within 10 miles of major anadromous streams, lessees are prohibited from conducting on-lease marine seismic surveys between July 1 and September 30, when beluga whales are migrating to and from their summer feeding areas. The Protection of Beluga Whale Nearshore Feeding Areas Stipulation will be included in any leases issued for these blocks.

Northern Sea Otter Critical Habitat Mitigation: This mitigation measure prohibits lessees from discharging drilling fluids and cuttings and conducting seafloor disturbing activities (including anchoring and placement of bottom-founded structures) within 1,000 m of areas designated as northern sea otter critical habitat. The Protection of Northern Sea Otter Critical Habitat Stipulation will be included in any leases issued on the 14 OCS blocks within 1,000 m of areas designated as northern sea otter critical habitat.

Gillnet Fishery Mitigation: This mitigation measure applies to the 117 whole or partial OCS blocks located north of Anchor Point within the Lease Sale Area to reduce the potential for conflicts with the drift gillnet fishery. Lessees are prohibited from conducting on-lease seismic surveys during the drift gillnetting season as designated by the State of Alaska Department of Fish and Game (ADF&G) (approximately mid-June to mid-August). Lessees are required to notify the United Cook Inlet Drift Association (UCIDA) of any temporary or permanent structures planned during the drift gillnetting season. Lessees are required to coordinate with the UCIDA to avoid conflicts. The Protection of Gillnet Fishery Stipulation will be included in any leases issued for these blocks.

The above measures would be implemented through lease stipulations, which would apply to some or all of the OCS blocks offered for lease. For each of the mitigation measures described above, lessees may request a waiver or variance to these lease stipulations at the time of filing an ancillary activities notice, an exploration plan, or a development and production plan with BOEM's Alaska Regional Supervisor, Leasing and Plans. Such requests must identify alternative methods for providing commensurate protection and analyze the effectiveness of those methods.

While not analyzed as specific alternatives in the FEIS, DOI is implementing four additional lease stipulations in the Cook Inlet Lease Sale 244. These stipulations will be added as lease terms as applicable to all or a subset of the OCS blocks being offered for lease, and will therefore be enforceable as part of the lease.

Protection of Fisheries Stipulation: Exploration, development, and production operations must be conducted in a manner that minimizes or prevents conflicts with fishing communities and gear (including, but not limited to subsistence, sport, and commercial fishing). The lessee's Exploration Plan (EP) and Development and Production Plan (DPP) must include a summary of fishing activities in the area of proposed operations, an assessment of effects on fishing from the proposed activity, and measures to be taken by the lessee/operator to minimize or prevent conflicts. The assessment of effects and measures to minimize or prevent conflicts must be described under the environmental impact analysis, as required by 30 CFR 550.227 for EPs and 30 CFR 550.261 for DPPs. BOEM may restrict lease-related activities if the Regional Supervisor, Leasing and Plans (RSLP) determines that the lessee's/operator's proposed measures will not minimize or prevent conflicts. The RSLP will work with directly affected parties, if necessary, to ensure that potential conflicts are identified and efforts are taken to minimize or prevent these conflicts.

Protection of Biological Resources Stipulation: If biological populations or habitats that may require additional protection are identified by BOEM in the leased area, the RSLP may require the lessee/operator to conduct biological surveys to determine the extent and composition of such biological populations or habitats. Based on any surveys that the RSLP required of the lessee/operator, or based on other information available to the RSLP regarding special biological resources, the RSLP may require the lessee/operator to: relocate the site of operations; establish to the satisfaction of the RSLP, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; operate only during those periods of time, as established by the RSLP, that do not adversely affect the biological resources; and/or modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If populations or habitats of biological significance are discovered during the conduct of any operations on the lease, the lessee/operator must immediately report such findings to the RSLP and make every reasonable effort to preserve the biological resource and protect it from damage. The lessee/operator may take no action that might affect the biological populations or habitats surveyed until the RSLP provides written directions to the lessee/operator with regard to permissible actions. The RSLP will provide a written response outlining permissible actions within 30 days.

Orientation Program Stipulation: An EP or DPP submitted under 30 CFR 550.211 or 30 CFR 550.241, respectively, must include a proposed orientation program for all personnel involved in the Proposed Action (including personnel of the lessee's/operator's agents, contractors, and subcontractors). The program must be designed in sufficient detail to inform individuals working on the project of specific types of environmental, safety, social, and cultural concerns that relate to the area that could be affected by the operation or its personnel. The program must address the importance of not disturbing archaeological and biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals, and provide guidance on how to avoid or

minimize disturbance. The program must address Safety and Environmental Management System elements including, but not limited to: Stop Work Authority; Ultimate Work Authority; Employee Participation Program (Safety); and Reporting Unsafe Working Conditions. The program must be designed to increase the sensitivity and understanding of personnel to community values, customs, and way-of-life in areas where such personnel will be operating. The orientation program also must include information concerning avoidance of conflicts with subsistence, sport, and commercial fishing activities.

Transportation of Hydrocarbons Stipulation: Pipelines may be required for transporting produced hydrocarbons to shore if BOEM determines that: (a) Pipeline rights-of-way can be determined and obtained; (b) laying such pipelines is technologically feasible and environmentally preferable; and (c) pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts.

After careful consideration, DOI has selected the Preferred Alternative in the FEIS to hold Lease Sale 244, including the mitigations described above. DOI's selection of the preferred alternative meets the purpose and need for the Proposed Action, as identified in the Cook Inlet Lease Sale 244 FEIS, and reflects an informed decision balancing orderly resource development with protection of the human, marine, and coastal environments while also ensuring that the public receives fair market value for these resources and that free-market competition is maintained.

Authority: This Notice of Availability is published pursuant to regulations (40 CFR part 1506) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.).*

Dated: May 18, 2017.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2017–10506 Filed 5–19–17; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on April 10, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since November 11, 2016, ASME has published one new standard, established one new consensus committee, redesignated one consensus committee, initiated four new standards activities, withdrawn four standards activities, and discontinued one standard activity within the general nature and scope of ASME's standards development activities, as specified in its original notification. More detail regarding these changes can be found at *www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on November 14, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 11, 2017 (82 FR 3361).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10341 Filed 5–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on April 20, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Analog Devices, Inc., Norwood, MA; Willowglen Systems, Inc., Edmonton, Alberta, CANADA; Wipotec Wiege-und Positioniersysteme GmbH, Kaiserslautern, GERMANY; Systec Systemtechnik und Industrieautomation GmbH, Bergheim-Glessen, GERMANY; KEB America, Inc., Shakopee, MN; Dong IL Vision, Gyeonggi-do, REPUBLIC OF KOREA; Utthunga Technologies Pvt Ltd., Bangalore, INDIA; InterTech Development Company, Skokie, IL; Perle Systems Limited, Markham, Ontario, CANADA; and Criterion NDT, Inc., Auburn, WA, have been added as parties to this venture.

Also, PCN Technology, San Diego, CA; Welding Technology Corporation, Farmington Hills, MI; Control Technology Corporation, Hopkinton, MA; Hiprom Technologies, Randburg, SOUTH AFRICA; Prozess Technologie, Inc., St. Louis, MO; ADTEC Plasma Technology Co., Ltd., Hiroshima, JAPAN; Shanghai MRDcom Co., Ltd., Shanghai, CHINA; and Mencom Corporation, Oakwood, GA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on February 3, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 6, 2017 (82 FR 12638).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10356 Filed 5–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on April 24, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Shire Pharmaceuticals LLC, Lexington, MA; Lhasa Limited, Leeds, UNITED KINGDOM; Intomics A/S, Lyngby, DENMARK; and PRYV SA, Lausanne, SWITZERLAND, have been added as parties to this venture.

Also, Chris Barber (individual member), Leeds, UNITED KINGDOM, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on February 3, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2017 (82 FR 12847).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10358 Filed 5–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Electronics Manufacturing Initiative, Inc.

Notice is hereby given that, on April 26, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Electronics Manufacturing Initiative, Inc. (''iNEMI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 5N Plus Micro Powders Inc., Montréal, Quebec, CANADA; U.S. Department of Defense, Fort Meade, MD; Elmatica AS, Oslo, NORWAY; Integrated Micro-Electronics, Inc., Binan, PHILIPPINES; General Electric, San Jose, CA; Oak Ridge National Laboratory, Oak Ridge, TN; Tin Products Manufacturing Co., LTD, Kunming, PEOPLE'S REPUBLIC OF CHINA; Vitrox Technologies SDN BHD, Bayan Lepas, MALAYSIA; METech Recycling, Creedmoor, NC; Peagatroin, Taipei, TAIWAN; Shenmao Technology, Inc., Taoyuan, TAIWAN; SAKI Corporation, Tokyo, JAPAN; SENKO Advanced Components, Basingstoke, UNITED KINGDOM; and Abbott Corporation, Abbott Park, IL, have been added as parties to this venture.

Also, Commissariat à l'énergie atomique et aux énergies alternatives, Grenoble, FRANCE; EPEAT, Inc., Portland, OR; Underwriters Laboratories, Northbrook, IL; IMEC vzw, Leuven, BELGIUM; Micro Systems Technology Mgmt. AG, Baar, SWITZERLAND; TE Connectivity, Schaffhausen, SWITZERLAND; and St. Jude Medical, Saint Paul, MN, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and iNEMI intends to file additional written notifications disclosing all changes in membership.

On June 6, 1996, iNEMI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 28, 1996 (61 FR 33774).

The last notification was filed with the Department on May 4, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2016 (81 FR 37213).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10342 Filed 5–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Steven Bernhard, D.O.; Decision and Order

On October 3, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Steven Bernhard, D.O. (hereinafter, Registrant), of Bayside, New York. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration on the grounds that: (1) He materially falsified his renewal application, and (2) he lacks authority to handle controlled substances in New York, the State in which he is registered. GX D, at 1 (citing 21 U.S.C. 823(f), 824(a)(1), and 824(a)(3)).

As to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is the holder of DEA Certificate of Registration AB7719860, pursuant to which he is registered as a practitioner in schedules II through V at the registered address of 39–21 Bell Blvd., Bayside, New York. *Id.* The Order alleged that this registration does not expire until July 31, 2018. *Id.*

As to the substantive grounds for the proceeding, the Show Cause Order alleged that effective on ''February 4, 2013, the New York Department of Health State Board for Professional Misconduct revoked [his] license to practice medicine due to negligence, incompetence, gross negligence, gross incompetence, the failure to maintain records, fraudulent practice, and false reports,'' and that ''[t]his order remains in effect.'' *Id.* The Show Cause Order thus alleged that Registrant is ''without authority to handle controlled substances in the State of New York, the [S]tate in which [he is] registered,'' and that his registration is therefore subject to revocation. *Id.* at 1–2 (citing 21 U.S.C. 823(f) & 824(a)(3)).

The Show Cause Order also alleged that on June 11, 2015, Registrant submitted a renewal application for his registration on which he made two materially false statements. *Id.* at 2.

First, the Order alleged that Registrant falsely represented that he ''possessed a valid New York Medical License No. 131832 which expired on March 31, 2017,'' when, in fact, his ''medical license had been revoked in 2013.'' *Id.* Second, the Order alleged that Registrant falsely answered ''No'' to the application's question which asked if he ''had ever 'had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?' '' *Id.* The Order alleged that each of these statements was capable of influencing the Agency's decision to grant the application and was thus material. *Id.* (citing 21 U.S.C. 823(f) & 824(a)(1); other citations omitted).

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement of his position on the matters of fact and law asserted while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). The Order also notified Registrant of his right to submit a Corrective Action Plan pursuant to 21 U.S.C. 824(c)(2)(C). *Id.* at 3.

On November 4, 2016, a DEA Diversion Investigator (DI) went to Registrant's registered address as well as his home address to attempt personal service of the Show Cause Order, but Registrant ''was not present'' at either location. GX 3, at 1–2. Subsequently, the DI mailed the Show Cause Order to Registrant by Certified Mail, Return Receipt Requested, addressed to him at both his registered location and home address. *Id.* at 2. As evidenced by the copies of the signed return-receipt cards, these mailings were delivered on November 16 and 15, 2016, respectively. *Id.* Finally, on November 29, 2016, the DI also emailed a copy of the Show Cause Order to Registrant using the email address he had previously provided the Agency. *Id.* The DI further represented that the she did not receive a message that the ''email was not successfully sent'' or ''was undeliverable.'' *Id.*

The Government's Counsel further represents that Registrant ''has not filed a request for a hearing or a written statement.'' Request for Final Agency Action, at 2. Because I find that more than 30 days have now passed since the Show Cause Order was served on Registrant, and that Registrant has neither requested a hearing nor submitted a written statement while waiving his right to a hearing, I find that Registrant has waived his right to a hearing or to submit a written statement. Based on the evidence submitted by the Government, I make the following factual findings.

Findings of Fact

Registrant is the holder of DEA Certificate of Registration No. AB7719860, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 39–21 Bell Blvd., Bayside, NY. GX 1. This registration does not expire until July 31, 2018. *Id.*

Registrant was previously licensed to practice medicine by the New York State Department of Health. GX 3, Ex. E, at 7. (Determination and Order, at 3, *In the Matter of Steven Bernhard, D.O.,* (N.Y. Dept. of Health State Bd. for Prof. Med. Conduct, Jan. 24, 2013)). However, on January 24, 2013, a Hearing Committee of the Board issued a Determination and Order revoking Registrant's license to practice medicine; the Board's Order became effective on February 4, 2013 and was in effect as of June 19, 2015, as well as of the date this matter was forwarded to my Office. *Id.* at 1; *see also* GX 3, Ex. F, at 1. Moreover, I take official notice of the Board's Web site, which continues to list Registrant's medical license as having been revoked. *See* 5 U.S.C. 556(e); 21 CFR 1316.59(e).

On June 11, 2015, Registrant submitted an application to renew his DEA registration. GX 3, Ex. A, at 1. Section 4 of the Application asked: ''Are you currently authorized to prescribe, distribute, dispense, conduct research, or otherwise handle controlled substances in the schedules for which you are applying under the laws of the state or jurisdiction in which you are operating or propose to operate?'' *Id.* Registrant represented that he held ''State License No. 131839,'' that the license was issued by ''NY,'' and its expiration date was ''03–31–2017.'' *Id.* On the Application, Registrant was also required to answer the question: ''Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' *Id.* Registrant answered ''N'' for no. *Id.*

Discussion

Pursuant to section 304(a)(1) of the Controlled Substances Act (CSA), the Attorney General is authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). And pursuant to section 304(a)(3), the Attorney General is authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . distribution or dispensing of controlled substances.'' *Id.* § 824(a)(3). These provisions provide separate and independent grounds to revoke Registrant's registration.

The Loss of State Authority Allegation

Under the CSA, a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to obtain and maintain a DEA registration. This rule derives from two provisions of the CSA. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice''). *See also id.* § 823(f) (''The Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'').

Thus, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., Frederick Marsh Blanton,* 43 FR 27616, 27617 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.''); *see also James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); 21 U.S.C. 824(a)(3).

Here, the Government has provided a copy of the New York Board's Determination and Order which revoked Registrant's New York medical license effective on February 4, 2013. The Government further submitted evidence showing that, as of the date it submitted its Request for Final Agency Action, Registrant's state medical license remained revoked, and the Board's Web site continues to state that his license has been revoked.

I therefore conclude that Registrant's medical license has been revoked and that he is no longer authorized to dispense controlled substances in New York, the State in which he holds his

registration. Because Registrant does not meet the CSA's essential requirement for maintaining a practitioner's registration, I will order that his registration be revoked. *See* 21 U.S.C. 824(a)(3), 802(21); *see also id.* § 823(f).

The Material Falsification Allegation

As found above, effective on February 4, 2013, the State of New York revoked Registrant's Medical License and this Order was still in effect as of June 11, 2015, when Registrant submitted his application. Thus, Respondent materially falsified his application in two ways. First, he falsely represented that he was ''currently authorized to prescribe [or] dispense'' controlled substances in New York State when he listed his purported license number, indicated that it was issued by New York, and listed the license's expiration date as March 31, 2017. Second, he falsely answered ''N'' for no to the question which asked if his state medical license had ever been revoked.

Each of these false statements was clearly material because it was capable of affecting or influencing the Agency's decision as to whether to grant his application. *Kungys* v. *United States,* 485 U.S. 759, 770 (1988) (other citation omitted); *United States* v. *Wells,* 519 U.S. 482, 489 (1997) (quoting *Kungys,* 485 U.S. at 770). As explained above, the CSA defines the ''[t]he term 'practitioner' [to] mean[ ] a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice,'' 21 U.S.C. 802(21), and the registration provision applicable to practitioners directs that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' *Id.* § 823(f). As the Agency has long held, ''[s]tate authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'' *Blanton,* 43 FR at 27617.

Because the possession of state authority is a prerequisite to obtaining and maintaining a practitioner's registration, Respondent's false representations that he currently possessed a state license and that his state license had never been revoked were capable of influencing the Agency's decision to grant his June 11, 2015 renewal application. I therefore also conclude that Respondent materially falsified his June 11, 2015 application. For this reason as well, I will order that his registration be revoked. 21 U.S.C. 824(a)(1).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AB7719860 issued to Steven Bernhard, D.O., be, and it hereby is, revoked. I further order that any application of Steven Bernhard, D.O., to renew or modify this registration, be denied. This Order is effective immediately.[1]

Dated: May 15, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–10363 Filed 5–19–17; 8:45 am]

BILLING CODE 4410–09–P

[1] Based on my finding that Respondent obtained his registration by materially falsifying his application, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shakeel A. Kahn, M.D.; Decision and Order

On December 20, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Shakeel A. Kahn, M.D. (hereinafter, Registrant), of Casper, Wyoming. GX 1. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration, on the ground that he ''do[es] not have authority to handle controlled substances in the State of Wyoming, the [S]tate in which [he is] registered with the DEA.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

As for the jurisdictional basis of the proceeding, the Show Cause Order alleged that Registrant is registered ''as a practitioner in [s]chedules II–V pursuant to'' Certificate of Registration No. FK5578464, at the address of ''301 South Fenway St., Suite 202, Casper, Wyoming.'' *Id.* The Order alleged that this registration expires ''on December 31, 2018.'' *Id.*

As for the substantive ground for the proceeding, the Show Cause Order alleged that on November 29, 2016, Registrant's ''authority to prescribe and administer controlled substances in the State of Wyoming was suspended,'' and that he is ''without authority to handle controlled substances.'' *Id.* The Show Cause Order thus asserted that his registration is subject to revocation. *Id.* (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)) (other citations omitted).

The Show Cause Order also notified Registrant of his right to request a hearing on the allegations or to submit a written statement on the matters of fact and law at issue while waiving his right to a hearing, the procedures for electing either option, and the consequence of failing to elect either option. *Id.* at 2. Also, the Show Cause Order notified Registrant of his right to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

According to the declaration of a DEA Special Agent, on December 20, 2016, he personally served the Show Cause Order on Registrant at his residence. GX 5. The Government represents that the Agency ''has not received a request for hearing or any other reply from'' Registrant. Gov. Request for Final Agency Action, at 2. Based on the representation of the Government, I find that more than 30 days have now passed since the Show Cause Order was served on Registrant, and that Registrant has neither requested a hearing nor submitted a written statement while waiving his right to a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement. Based on the evidence submitted by the Government, I make the following factual findings.

Findings

Registrant is the holder of DEA Certificate of Registration No. FK5578464, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the address of 301 S. Fenway St., Suite 202, Casper, Wyoming. GX 2. His registration does not expire until December 31, 2018. *Id.*

Registrant is also the holder of Wyoming Physician License No. 7633A. GX 3, at 1. However, on November 29, 2016, the Wyoming Board of Medicine ordered the summary suspension of Registrant's Physician License effective the same day, thereby suspending ''his authority and ability to practice medicine in the state of Wyoming'' pending ''the completion of a contested case hearing.'' *Id.* at 18. According to the online records of the Wyoming Board of Medicine of which I take official notice, Registrant's medical license remains suspended as of the date of this Decision and Order. *See* 5 U.S.C. 556(e), 21 CFR 1316.59(e).

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled

Substances Act (CSA), ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the Controlled Substances Act (CSA). First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a DEA registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, for the purposes of the CSA, it is of no consequence that the Wyoming Medical Board has employed summary process in suspending Registrant's state license.

As found above, on November 29, 2016, the Wyoming Board of Medicine ordered the summary suspension of Registrant's Physician License effective the same day, thereby suspending ''his authority and ability to practice medicine in the state of Wyoming.'' GX 3, at 18. I therefore find that Registrant lacks authority to dispense controlled substances in Wyoming, the State in which he is registered with the Agency and that he is not entitled to maintain his registration. *See Hooper,* 76 FR at 71371; *Blanton,* 43 FR 27616. Accordingly, I will order that his registration be revoked. 21 U.S.C. 824(a)(3).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FK5578464 issued to Shakeel A. Kahn, M.D., be, and it hereby is, revoked. I further order that any application of Shakeel A. Khan, M.D., to renew or modify this registration be, and it hereby is, denied. This Order is effective immediately.[1]

Dated: May 15, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–10386 Filed 5–19–17; 8:45 am]

BILLING CODE 4410–09–P

[1] For the same reasons that led the Wyoming Board to summarily suspend Registrant's medical license, I find that the public interest necessitates that this order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Request for Comments; Revision of the BJS Confidentiality Pledge

AGENCY: Bureau of Justice Statistics, U.S. Department of Justice.

ACTION: Notice.

SUMMARY: The Bureau of Justice Statistics (BJS), a component of the Office of Justice Programs (OJP) in the U.S. Department of Justice (DOJ), is seeking comments on revisions to the confidentiality pledge it provides to its respondents. These revisions are required by the passage and implementation of provisions of the federal Cybersecurity Enhancement Act of 2015, which requires the Secretary of the Department of Homeland Security (DHS) to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. More details on this announcement are presented in the **SUPPLEMENTARY INFORMATION** section below. The revisions to the confidentiality pledge were previously published in the **Federal Register** on March 20, 2017, allowing for a 60 day comment period. BJS received and responded to one comment.

DATES: Comments are encouraged and will be accepted for 30 days until June 21, 2017.

ADDRESSES: Questions about this notice should be addressed to the Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, ATTN: Devon Adams, 810 7th Street NW., Washington, D.C. 20531; email: *Devon.Adams@usdoj.gov*; telephone: 202–307–0765 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Allina Lee by telephone at 202–305–0765 (this is not a toll-free number); by email at *Allina.Lee@usdoj.gov*; or by mail or courier to the Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, ATTN: Allina Lee, 810 7th Street NW., Washington, D.C. 20531. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

SUPPLEMENTARY INFORMATION:

I. Abstract

Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, employment, health, investments, taxes, and a host of other significant topics. Most federal surveys are completed on a voluntary basis. Respondents, ranging from businesses to households to institutions, may choose whether or not to provide the requested information. Many of the most valuable federal statistics come from surveys that ask for highly sensitive information such as proprietary business data from companies or particularly personal information or practices from individuals. BJS protects all personally identifiable information collected under its authority under the confidentiality provisions of 42 U.S.C. § 3789g. Strong and trusted confidentiality and exclusively statistical use pledges under Title 42 U.S.C. § 3789g and similar statutes are effective and necessary in honoring the trust that businesses, individuals, and institutions, by their responses, place in statistical agencies.

Under statistical confidentiality protection statutes, federal statistical agencies make statutory pledges that the information respondents provide will be seen only by statistical agency personnel or their agents and will be used only for statistical purposes. These statutes protect such statistical information from administrative, law

enforcement, taxation, regulatory, or any other non-statistical use and immunize the information submitted to statistical agencies from legal process. Moreover, many of these statutes carry monetary fines and/or criminal penalties for conviction of a knowing and willful unauthorized disclosure of covered information. Any person violating the confidentiality provisions of 42 U.S.C. § 3789g may be punished by a fine of up to $10,000, in addition to any other penalties imposed by law.

As part of the Consolidated Appropriations Act for Fiscal Year 2016 (Pub. L. No. 114–113) signed on December 17, 2015, the Congress included the Federal Cybersecurity Enhancement Act of 2015 (codified in relevant part at 6 U.S.C. § 151). This act, among other provisions, permits and requires the Secretary of Homeland Security to provide federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. The technology currently used to provide this protection against cyber malware is known as Einstein 3A. Einstein 3A electronically searches internet traffic in and out of federal civilian agencies in real time for malware signatures.

When such a signature is found, the internet packets that contain the malware signature are shunted aside for further inspection by DHS personnel. Because it is possible that such packets entering or leaving a statistical agency's information technology system may contain a small portion of confidential statistical data, statistical agencies can no longer promise their respondents that their responses will be seen only by statistical agency personnel or their agents. However, federal statistical agencies can promise, in accordance with provisions of the Federal Cybersecurity Enhancement Act of 2015, that such monitoring can be used only to protect information and information systems from cybersecurity risks, thereby, in effect, providing stronger protection to the integrity of the respondents' submissions.

Consequently, with the passage of the Federal Cybersecurity Enhancement Act of 2015, the federal statistical community has an opportunity to welcome the further protection of its confidential data offered by DHS' Einstein 3A cybersecurity protection program. The DHS cybersecurity program's objective is to protect federal civilian information systems from malicious malware attacks. The federal statistical system's objective is to endeavor to ensure that the DHS Secretary performs those essential duties in a manner that honors the statistical agencies' statutory promises to the public to protect their confidential data. DHS and the federal statistical system have been successfully engaged in finding a way to balance both objectives and achieve these mutually reinforcing objectives.

However, pledges of confidentiality made pursuant to 42 U.S.C. § 3789g and similar statutes assure respondents that their data will be seen only by statistical agency personnel or their agents. Because it is possible that DHS personnel could see some portion of those confidential data in the course of examining the suspicious Internet packets identified by Einstein 3A sensors, statistical agencies are revising their confidentiality pledges to reflect this process change. Therefore, BJS is providing this notice to alert the public to these confidentiality pledge revisions in an efficient and coordinated fashion.

II. Method of Collection

The following is the revised statistical confidentiality pledge for applicable BJS data collections, with the new line added to address the new cybersecurity monitoring activities bolded for reference only:

''The Bureau of Justice Statistics (BJS) is authorized to conduct this data collection under 42 U.S.C. § 3732. BJS is dedicated to maintaining the confidentiality of your personally identifiable information, and will protect it to the fullest extent under federal law. BJS, BJS employees, and BJS data collection agents will use the information you provide for statistical or research purposes only, and will not disclose your information in identifiable form without your consent to anyone outside of the BJS project team. All personally identifiable data collected under BJS's authority are protected under the confidentiality provisions of 42 U.S.C. § 3789g, and any person who violates these provisions may be punished by a fine up to $10,000, in addition to any other penalties imposed by law. **Further, per the Cybersecurity Enhancement Act of 2015 (codified in relevant part at 6 U.S.C. § 151), federal information systems are protected from malicious activities through cybersecurity screening of transmitted data.** For more information on the federal statutes, regulations, and other authorities that govern how BJS, BJS employees, and BJS data collection agents collect, handle, store, disseminate, and protect your information, see the BJS Data Protection Guidelines—(*https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf*).''

The following listing shows the current BJS Paperwork Reduction Act (PRA) OMB numbers and information collection titles whose confidentiality pledges will change to reflect the statutory implementation of DHS' Einstein 3A monitoring for cybersecurity protection purposes.

OMB control No.	Information collection title
1121–0094	Deaths in Custody Reporting Program.
1121–0065	National Corrections Reporting Program.

Affected Public: Survey respondents to applicable BJS information collections.

Total Respondents: Unchanged from current collection.

Frequency: Unchanged from current collection.

Total Responses: Unchanged from current collection.

Average Time per Response: Unchanged from current collection.

Estimated Total Burden Hours: Unchanged from current collection.

Estimated Total Cost: Unchanged from current collection.

BJS has also added information about the Cybersecurity Enhancement Act and Einstein 3A to the BJS Data Protection Guidelines to provide more details to interested respondents about the new cybersecurity monitoring requirements. The following text has been added to Section V. Information System Security and Privacy Requirements:

''The Cybersecurity Enhancement Act of 2015 (codified in relevant part at 6 U.S.C. § 151) required the Department of Homeland Security (DHS) to provide cybersecurity protection for federal civilian agency information technology systems and to conduct cybersecurity screening of the Internet traffic going in and out of these systems to look for viruses, malware, and other cybersecurity threats. DHS has implemented this requirement by instituting procedures such that, if a potentially malicious malware signature were found, the Internet packets that contain the malware signature would be further inspected, pursuant to any required legal process, to identify and mitigate the cybersecurity threat. In accordance with the Act's provisions, DHS conducts these cybersecurity screening activities solely to protect federal information and information systems from cybersecurity risks. To comply with the Act's requirements and to increase the protection of information from cybersecurity threats, OJP facilitates, through the DOJ Trusted Internet Connection and DHS's EINSTEIN 3A system, the inspection of all information transmitted to and from OJP systems including, but not limited to, respondent data collected and maintained by BJS.''

The Census Bureau collects data on behalf of BJS for BJS's National Crime Victimization Survey (NCVS) and its supplements. These collections are protected under Title 13 U.S.C. Section 9. The Census Bureau issued a **Federal Register** notice (FRN) to revise its confidentiality pledge language to address the new cybersecurity screening

requirements (new line bolded for reference only):

''The U.S. Census Bureau is required by law to protect your information. The Census Bureau is not permitted to publicly release your responses in a way that could identify you. **Per the Federal Cybersecurity Enhancement Act of 2015, your data are protected from cybersecurity risks through screening of the systems that transmit your data.**''

The following listing includes the BJS information collections that are administered by the Census Bureau whose confidentiality pledge will be revised.

OMB control No.	Information collection title
1121–0111	NCVS.
1121–0184	School Crime Supplement to the NCVS.
1121–0317	Identity Theft Supplement to the NCVS.
1121–0260	Police Public Contact Supplement to the NCVS.
1121–0302	Supplemental Victimization Survey to the NCVS.

Affected Public: Survey respondents to applicable BJS information collections.

Total Respondents: Unchanged from current collection.

Frequency: Unchanged from current collection.

Total Responses: Unchanged from current collection.

Average Time per Response: Unchanged from current collection.

Estimated Total Burden Hours: Unchanged from current collection.

Estimated Total Cost: Unchanged from current collection.

The 60-day FRN submitted by the Census Bureau can be accessed at *https://www.federalregister.gov/documents/2016/12/23/2016-30959/agency-information-collection-activities-request-for-comments-revision-of-the-confidentiality-pledge.* The Census Bureau is currently reviewing and preparing responses to the comments it received and will publish a 30-day FRN to solicit additional public comment. Comments on the Census Bureau's revised confidentiality pledge should be submitted directly to the point-of-contact listed in the notice.

III. Data

OMB Control Number: 1121–0358.

Legal Authority: 44 U.S.C. 3506(e) and 42 U.S.C. 3789g.

Form Number(s): None.

IV. Request for Comments

Comments are invited on the efficacy of BJS's revised confidentiality pledge above. Comments submitted in response to this notice will become a matter of public record. BJS received one comment during the 60-day notice period. The commenter questioned why BJS chose not to specifically reference who (cybersecurity personnel, or DHS personnel) would conduct the cybersecurity screening activities authorized by the Cybersecurity Act of 2015. BJS responded with information about the process it followed to revise the confidentiality pledge, including using the results of pretesting that other statistical agencies conducted on different versions of revised language and coordinating with OJP's Office of General Counsel to ensure that the new pledge language fulfills BJS's statutory obligation to inform respondents that their data may be accessed by others for non-statistical purposes. BJS also directed the commenter to the information added to the BJS Data Protection guidelines (Section V. Information System Security and Privacy Requirements) that provides more details about the Act and the associated monitoring activities. BJS is not proposing edits to its confidentiality pledge, though it will consider conducting pretesting activities on its various respondent populations and developing more detailed guidance for staff and contractors on how to answer respondents' questions about the Act.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: May 17, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–10345 Filed 5–19–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at reginfo.gov (*http://www.reginfo.gov/public/do/PRAMain*).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before July 21, 2017.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210, *ebsa.opr@dol.gov,* (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This notice requests public comment on the Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Exemption (PTE) 81–8 for Investment of Plan Assets in Certain Types of Short-Term Investments.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0061.

Affected Public: Businesses or other for-profits, Not-for-profit institutions.

Respondents: 65,000.

Responses: 325,000.

Estimated Total Burden Hours: 81,000.

Estimated Total Burden Cost (Operating and Maintenance): $99,000.

Description: PTE 81–8 permits the investment of plan assets that involve

the purchase or other acquisition, holding, sale, exchange or redemption by or on behalf of an employee benefit plan in certain types of short-term investments. These include investments in banker's acceptances, commercial paper, repurchase agreements, certificates of deposit, and bank securities. Absent the exemption, certain aspects of these transactions might be prohibited by section 406 and 407(a) of the Employee Retirement Income Security Act (ERISA).

In order to ensure that the exemption is not abused, that the rights of participants and beneficiaries are protected, and that the conditions of the exemption have been satisfied, the Department has included in the exemption two basic disclosure requirements. Both affect only the portion of the exemption dealing with repurchase agreements. The first requirement calls for the repurchase agreements between the seller and the plan to be in writing. The second requirement obliges the seller of such repurchase agreements to agree to provide financial statements to the plan at the time of the sale and as future statements are issued. The seller must also represent, either in the repurchase agreement or prior to the negotiation of each repurchase agreement transaction, that there has been no material adverse change in the seller's financial condition since the date that the most recent financial statement was furnished which has not been disclosed to the plan fiduciary with whom the written agreement is made. Without the recording and disclosure requirements included in this ICR, participants and beneficiaries of a plan would not be protected in their investments, the Department would be unable to monitor a plan's activities for compliance, and plans would be at a disadvantage in assessing the value of certain short-term investment activities. The ICR was approved by OMB under OMB Control Number 1210–0061 and is scheduled to expire on August 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Suspension of Pension Benefits Regulation Pursuant to 29 CFR 2530.203–3.

Type of Review: Extension of a currently approved information collection.

OMB Number: 1210–0048.

Affected Public: Businesses or other for-profits.

Respondents: 39,500.

Responses: 171,000.

Estimated Total Burden Hours: 133,000.

Estimated Total Burden Cost (Operating and Maintenance): $63,000.

Description: Section 203(a)(3)(B) of ERISA governs the circumstances under which pension plans may suspend pension benefit payments to retirees that return to work or to participants that continue to work beyond normal retirement age. Furthermore, section 203(a)(3)(B) of ERISA authorizes the Secretary to prescribe regulations necessary to carry out the provisions of this section.

In this regard, the Department issued a regulation which describes the circumstances and conditions under which plans may suspend the pension benefits of retirees that return to work, or of participants that continue to work beyond normal retirement age (29 CFR 2530.203–3). In order for a plan to suspend benefits pursuant to the regulation, it must notify affected retirees or participants (by first class mail or personal delivery) during the first calendar month or payroll period in which the plan withholds payment, that benefits are suspended. This notice must include the specific reasons for such suspension, a general description of the plan provisions authorizing the suspension, a copy of the relevant plan provisions, and a statement indicating where the applicable regulations may be found (*i.e.,* 29 CFR 2530.203–3). In addition, the suspension notification must inform the retiree or participant of the plan's procedure for affording a review of the suspension of benefits. The ICR was approved by OMB under OMB Control Number 1210–0048 and is scheduled to expire on September 30, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Delinquent Filer Voluntary Compliance Program.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0089.

Affected Public: Businesses or other for-profits.

Respondents: 12,204.

Responses: 12,204.

Estimated Total Burden Hours: 610.

Estimated Total Burden Cost (Operating and Maintenance): $742,000.

Description: The Secretary of Labor has the authority, under section 502(c)(2) of ERISA, to assess civil penalties of up to $1,000 a day against plan administrators who fail or refuse to file complete and timely annual reports (Form 5500 Series Annual Return/Reports) as required under section 101(b)(4) of ERISA-related regulations. Pursuant to 29 CFR 2560.502c–2 and 2570.60 *et seq.,* EBSA has maintained a program for the assessment of civil penalties for noncompliance with the annual reporting requirements. Under this program, plan administrators filing annual reports after the date on which the report was required to be filed may be assessed $50 per day for each day an annual report is filed after the date on which the annual report(s) was required to be filed, without regard to any extensions for filing.

Plan administrators who fail to file an annual report may be assessed a penalty of $300 per day, up to $30,000 per year, until a complete annual report is filed. Penalties are applicable to each annual report required to be filed under Title I of ERISA. The Department may, in its discretion, waive all or part of a civil penalty assessed under section 502(c)(2) of ERISA upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report.

The Department has determined that the possible assessment of these civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under Title I of ERISA. In an effort to encourage annual reporting compliance, therefore, the Department implemented the Delinquent Filer Voluntary Compliance (DFVC) Program (the Program) on April 27, 1995 (60 FR 20873). Under the Program, administrators otherwise subject to the assessment of higher civil penalties are permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA.

This ICR covers the requirement for administrators to provide data necessary to identify the plan along with the penalty payment. This data is the means by which each penalty payment is associated with the appropriate plan. With respect to most pension plans and welfare plans, the requirement is satisfied by sending a photocopy of the delinquent Form 5500 annual report that has been filed, along with the penalty payment.

Under current regulations, apprenticeship and training plans may be exempted from the reporting and disclosure requirements of Part 1 of Title I, and certain pension plans maintained for highly compensated employees, commonly called ''top hat'' plans, may comply with these reporting and disclosure requirements by using an alternate method by filing a one-time identifying statement with the Department. The DFVC Program provides that apprenticeship and training plans and top hat plans may, in

lieu of filing any past due annual reports and paying otherwise applicable civil penalties, complete and file specific portions of a Form 5500, file the identifying statements that were required to be filed, and pay a one-time penalty. The ICR was approved by OMB under OMB Control Number 1210–0089 and is scheduled to expire on September 30, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: PTE 98–54—Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0111.

Affected Public: Businesses or other for-profits.

Respondents: 35.

Responses: 420,000.

Estimated Total Burden Hours: 4,200.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: PTE 98–54 permits certain foreign exchange transactions between employee benefit plans and certain banks, broker-dealers, and domestic affiliates thereof, which are parties in interest with respect to such plans, pursuant to standing instructions. In the absence of an exemption, foreign exchange transactions pursuant to standing instructions would be prohibited under circumstances where the bank or broker-dealer is a party in interest or disqualified person with respect to the plan under ERISA or the Internal Revenue Code (Code).

The class exemption has five basic information collection requirements. The first requires the bank or broker-dealer to maintain written policies and procedures for handling foreign exchange transactions for plans for which it is a party in interest that ensure that the party acting for the bank or broker-dealer knows it is dealing with a plan. The second requires that the transactions are performed in accordance with a written authorization executed in advance by an independent fiduciary of the plan. The third requires that the bank or broker-dealer to provide the authorizing fiduciary with a copy of its written policies and procedures for foreign exchange transactions involving income item conversions and de minimis purchase and sale transactions prior to the execution of a transaction. The fourth requires the bank or broker-dealer to furnish the authorizing fiduciary with a written confirmation statement with respect to each covered transaction within five days after execution. The fifth requires that the bank or broker-dealer to maintain records necessary for plan fiduciaries, participants, the Department, and the Internal Revenue Service, to determine whether the conditions of the exemption are being met for a period of six years form the date of execution of a transaction.

By requiring that records pertaining to the exempted transaction be maintained for six years, this ICR ensures that the exemption is not abused, the rights of the participants and beneficiaries are protected, and that compliance with the exemption's conditions can be confirmed. The exemption affects participants and beneficiaries of the plans that are involved in such transactions, as well as, certain banks, broker-dealers, and domestic affiliates thereof. The ICR was approved by OMB under OMB Control Number 1210–0111 and is scheduled to expire on September 30, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Request for Assistance from Department of Labor, EBSA.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0146.

Affected Public: Individuals or Households.

Respondents: 6,500

Responses: 6,500.

Estimated Total Burden Hours: 3,250.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: The Department of Labor's Employee Benefits Security Administration (EBSA) maintains a program designed to provide education and technical assistance to participants and beneficiaries as well as to employers, plan sponsors, and service providers related to their health and retirement benefit plans. EBSA assists participants in understanding their rights, responsibilities, and benefits under employee benefit law and intervenes informally on their behalf with the plan sponsor in order to assist them in obtaining the health and retirement benefits to which they may have been inappropriately denied, which can avert the necessity for a formal investigation or a civil action. EBSA maintains a toll-free telephone number through which inquirers can reach Benefits Advisors in ten Regional Offices.

EBSA also makes a request for assistance form available on its Web site for those wishing to contact EBSA online. Contact with EBSA is entirely voluntary. The Web form includes basic identifying information which is necessary for EBSA to contact the inquirer—first name, last name, street address, city, zip code, and telephone number—as well as information to improve customer service and enhance its capacity to handle greater inquiry volume, such as the plan type, broad categories of problem type, contact information for responsible parties, and a mechanism for the inquirer to attach relevant documents.

This information is used by EBSA to make informed and efficient decisions when contacting inquirers who have requested EBSA's informal assistance with understanding their rights and obtaining benefits they may have been denied inappropriately. EBSA uses the information to evaluate its service to inquirers, support the development of a broader understanding of the nature of current issues in employee benefit plans, and to respond to requests for information regarding employee benefit plans from members of Congress and governmental oversight entities in accordance with ERISA section 513. The ICR was approved by the Office of Management and Budget (OMB) under OMB Control Number 1210–0146 and is scheduled to expire on October 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Alternative Method of Compliance for Certain Simplified Employee Pensions.

Type of Review: Extension of a currently approved information collection.

OMB Number: 1210–0034.

Affected Public: Businesses or other for-profits.

Respondents: 36,000.

Responses: 68,000.

Estimated Total Burden Hours: 21,000.

Estimated Total Burden Cost (Operating and Maintenance): $25,000.

Description: Section 110 of ERISA authorizes the Secretary to prescribe alternative methods of compliance with the reporting and disclosure requirements of Title I of ERISA for pension plans. Simplified employee pensions (SEPs) are established in section 408(k) of the (Code. Although SEPs are primarily a development of the Code and subject to its requirements, SEPs are also pension plans subject to the reporting and disclosure requirements of Title I of ERISA.

The Department previously issued a regulation under the authority of section 110 of ERISA (29 CFR 2520.104–49) that intended to relieve sponsors of certain SEPs from ERISA's Title I reporting and disclosure requirements by prescribing

an alternative method of compliance. These SEPs are, for purposes of this Notice, referred to as ''non-model'' SEPs because they exclude (1) those SEPs which are created through use of Internal Revenue Service (IRS) Form 5305–SEP, and (2) those SEPs in which the employer limits or influences the employees' choice to IRAs into which employers' contributions will be made and on which participant withdrawals are prohibited. The disclosure requirements in this regulation were developed in conjunction with the Internal Revenue Service (IRS Notice 81–1). Accordingly, sponsors of ''nonmodel'' SEPs that satisfy the limited disclosure requirements of the regulation are relieved from otherwise applicable reporting and disclosure requirements under Title I of ERISA, including the requirements to file annual reports (Form 5500 Series) with the Department, and to furnish summary plan descriptions and summary annual reports to participants and beneficiaries.

This ICR includes four separate disclosure requirements. First, at the time an employee becomes eligible to participate in the SEP, the administrator of the SEP must furnish the employee in writing specific and general information concerning the SEP; a statement on rates, transfers and withdrawals; and a statement on tax treatment. Second, the administrator of the SEP must furnish participants with information concerning any amendments. Third, the administrator must notify participants of any employer contributions made to the IRA. Fourth, in the case of a SEP that provides integration with Social Security, the administrator shall provide participants with statement on Social Security taxes and the integration formula used by the employer. The ICR was approved by OMB under OMB Control Number 1210–0034 and is scheduled to expire on December 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Procedure for Application for Exemption from the Prohibited Transaction Provisions of Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA).

Type of Review: Extension of a currently approved information collection.

OMB Number: 1210–0060.

Affected Public: Businesses or other for-profits.

Respondents: 43.

Responses: 20,500.

Estimated Total Burden Hours: 2,200.

Estimated Total Burden Cost (Operating and Maintenance): $1,200,000.

Description: Both ERISA and the Code contain various statutory exemptions from the prohibited transaction rules. In addition, section 408(a) of ERISA authorizes the Secretary of Labor to grant administrative exemptions from the restrictions of ERISA sections 406 and 407(a), while section 4975(c)(2) of the Code authorizes the Secretary of the Treasury or his delegate to grant exemptions from the prohibitions of Code section 4975(c)(1). Sections 408(a) of ERISA and 4975(c)(2) of the Code also direct the Secretary of Labor and the Secretary of the Treasury, respectively, to establish procedures to carry out the purposes of these sections.

Under section 3003(b) of ERISA, the Secretary of Labor and the Secretary of the Treasury are directed to consult and coordinate with each other with respect to the establishment of rules applicable to the granting of exemptions from the prohibited transaction restrictions of ERISA and the Code. Under section 3004 of ERISA, moreover, the Secretary of Labor and the Secretary of the Treasury are authorized to develop jointly rules appropriate for the efficient administration of ERISA.

Under section 102 of Reorganization Plan No. 4 of 1978 (Reorganization Plan No. 4), the foregoing authority of the Secretary of the Treasury to issue exemptions under section 4975 of the Code was transferred, with certain enumerated exceptions not discussed herein, to the Secretary of Labor. Accordingly, the Secretary of Labor now possesses the authority under section 4975(c)(2) of the Code, as well as under section 408(a) of ERISA, to issue individual and class exemptions from the prohibited transaction rules of ERISA and the Code.

On April 28, 1975, the Department published ERISA Procedure 75–1 in the **Federal Register** (40 FR 18471). This procedure provided necessary information to the affected public regarding the procedure to follow when requesting an exemption. On October 27, 2011, the Department issued its current exemption procedure regulation, which superseded ERISA Procedure 75–1 (and intervening amendments).

The amended rule by the Department expands the ICR contained in sections 2570.34 and 2570.35 of the current exemption procedure regulation in several respects. For instance, the current requirement of specialized statements from qualified independent appraisers, where applicable, includes the appraiser's rationale, credentials, and a statement regarding the appraiser's independence from the parties involved in the transaction. In this connection, the appraisal report prepared by the independent appraiser must be current and not more than one year old as of the date of the transaction. In addition, the content of specialized statements submitted by qualified independent fiduciaries, where applicable, require the disclosure of information concerning the independent fiduciary's qualifications, duties, independence from the parties involved in the transaction, and current compensation. The content of specialized statements from other kinds of experts would also be clarified in the new regulation to require disclosure of information concerning the expert's qualifications and their independence from the parties involved in the transaction.

In addition, a requirement contained in section 2570.43(d) and (e) provides the Department with the discretion to require an applicant to furnish interested persons with a Summary of Proposed Exemption (SPE). Finally, the Department amended § 2570.43 to permit applicants to utilize electronic means (such as email) to deliver notice to interested persons of a pending exemption, provided that the applicant can demonstrate satisfactory proof of electronic delivery to the entire class of interested persons. The ICR was approved by OMB under OMB Control Number 1210–0060 and is scheduled to expire on December 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Investment Advice Participants and Beneficiaries.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0134.

Affected Public: Businesses or other for-profits.

Respondents: 10,000.

Responses: 20,544,000.

Estimated Total Burden Hours: 1,981,000.

Estimated Total Burden Cost (Operating and Maintenance): $276,474,000.

Description: The Department's regulation implements the provisions of the statutory exemption set forth in sections 408(b)(14) and 408(g) of ERISA, and parallel provisions in sections 4975(d)(17) and 4975(f)(8) of the Code, relating to the provision of investment advice described in section 3(21)(A)(ii) of ERISA by a fiduciary adviser to participants and beneficiaries in participant-directed individual account plans, such as 401(k) plans, and

beneficiaries of individual retirement accounts (and certain similar plans).

Section 408(b)(14) sets forth the investment advice-related transactions that will be exempt from the prohibitions of ERISA section 406 if the requirements of section 408(g) are met. The transactions described in section 408(b)(14) are: The provision of investment advice to the participant or beneficiary with respect to a security or other property available as an investment under the plan; the acquisition, holding or sale of a security or other property available as an investment under the plan pursuant to the investment advice; and the direct or indirect receipt of compensation by a fiduciary adviser or affiliate in connection with the provision of investment advice or the acquisition, holding or sale of a security or other property available as an investment under the plan pursuant to the investment advice. The requirements in section 408(g) are met only if advice is provided by a fiduciary adviser under an ''eligible investment advice arrangement.'' Section 408(g) provides for two general types of eligible arrangements: One based on compliance with a ''fee-leveling'' requirement (imposing limitation on fees and compensation of the fiduciary adviser); the other, based on compliance with a ''computer model'' requirement (requiring use of a certified computer model).

The regulation contains the following collections of information: (1) A fiduciary adviser must furnish an initial disclosure that provides detailed information to participants about an advice arrangement before initially providing investment advice; (2) a fiduciary adviser must engage, at least annually, an independent auditor to conduct an audit of the investment advice arrangement for compliance with the regulation; (3) if the fiduciary adviser provides the investment advice through the use of a computer model, then before providing the advice, the fiduciary adviser must obtain the written certification of an eligible investment expert as to the computer model's compliance with certain standards (*e.g.,* applies generally accepted investment theories, unbiased operation, objective criteria) set forth in the regulation; and (4) fiduciary advisers must maintain records with respect to the investment advice provided in reliance on the regulation necessary to determine whether the applicable requirements of the regulation have been satisfied.

The ICR was approved by OMB under OMB Control Number 1210–0134 and is scheduled to expire on December 31, 2017.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Alternative Reporting Methods for Apprenticeship and Training Plans and Top Hat Plans.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0153.

Affected Public: Businesses or other for-profits, Not-for-profit institutions.

Respondents: 2,120.

Responses: 2,120.

Estimated Total Burden Hours: 636.

Estimated Total Burden Cost (Operating and Maintenance): $0.

Description: The Department's regulations (29 CFR 2520.104–22) provide an exemption to the reporting and disclosure provisions of Part 1 of Title I of ERISA for employee welfare benefit plans that provide only apprenticeship or training benefits, or both, if the plan administrator: (1) Files a notice with the Secretary that provides the name of the plan, the plan sponsor's Employer Identification Number (EIN), the plan administrator's name, and the name and location of an office or person from whom interested individuals can obtain certain information about courses offered by the plan; (2) takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contributing to the plan who may be eligible to enroll in any course of study sponsored or established by the plan; and (3) makes the notice available to these employees upon request. The plan administrator must file the notice with the Secretary of Labor by mailing or delivering it to the Department at the address set forth in the regulation.

The regulation (29 CFR 2520.104–23) provides an alternative method of compliance with the reporting and disclosure provisions of Title I of ERISA for unfunded or insured plans established for a select group of management or highly compensated employees (*i.e.,* top hat plans). In order to satisfy the alternative method of compliance, the plan administrator must: (1) File a statement with the Secretary of Labor that includes the name and address of the employer, the employer EIN, a declaration that the employer maintains a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the employees covered by each; and (2) make plan documents available to the Secretary upon request. Only one statement needs to be filed for each employer maintaining one or more of the plans. The statements may be filed with the Secretary by mail or personal delivery. The ICR was approved by OMB under OMB Control Number 1210–0153 and is scheduled to expire on December 31, 2017.

Focus of Comments

The Department is particularly interested in comments that:

- 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;
- Evaluate the accuracy of the agency's estimate of the collections of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICRs for OMB approval of the extension of the information collection; they will also become a matter of public record.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2017–10394 Filed 5–19–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Technical Advisory Committee; Notice of Meeting and Agenda

The Bureau of Labor Statistics Technical Advisory Committee will meet on Friday, June 16, 2017. The meeting will be held from 8:30 a.m. to 4:00 p.m. in the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Committee provides advice and makes recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures. The BLS presents issues and then draws on the expertise of Committee members representing specialized fields within

the academic disciplines of economics, statistics, and survey design.

The meeting will be held in rooms 1–3 of the Postal Square Building Janet Norwood Conference Center. The schedule and agenda for the meeting are as follows:

8:30 a.m. Acting commissioner's welcome and review of agency developments
9:00 a.m. Disease-Based Price Indexes
10:45 a.m. The impact of alternative output concepts on productivity growth
2:00 p.m. Incorporating OSHA-collected data with the survey of occupational illness and injury
4:00 p.m. Approximate conclusion

The meeting is open to the public. Any questions concerning the meeting should be directed to Sarah Dale, Bureau of Labor Statistics Technical Advisory Committee, at 202–691–5643 or *dale.sarah@bls.gov.* Individuals who require special accommodations should contact Ms. Dale at least two days prior to the meeting date.

Signed at Washington, DC, this 10 day of May 2017.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2017–10400 Filed 5–19–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before June 21, 2017.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–001–M.

Petitioner: Solvay Chemicals, Inc., P.O. Box 1167, 400 County Road 85, Green River, Wyoming 82935.

Mine: Solvay Chemicals, Inc. Mine, MSHA I.D. No. 48–01295, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 57.22305 (Approved equipment (III mines)).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of certain nonpermissible equipment for the purpose of mine surveying in or beyond the last open crosscut. The equipment would include the Leica MS60 surveying instrument for the purpose of mine engineering activities, namely daily sights, and entry measurements. The petitioner states that:

(1) Accurate surveys are a critical part of mine entry development to ensure mine entry locations are known in relation to any natural or man-made underground intrusions. Today's safety standards have vastly increased, in part from a cooperative effort of regulatory agencies and industry, and from best practices and improvements in mining methods and technology. Modern surveying instruments allow vastly improved accuracy when compared to older antiquated instruments.

(2) Determination of accurate mine working locations is vital operation of a mine and to Solvay Chemicals, Inc., and therefore is requesting relief from 30 CFR 57.22305 for the following reasons:

(a) The current Leica T–1 Theodolite is an antiquated instrument, with original manufactured date unknown, but thought to have been manufactured sometime between 1970 and 1994. The original vintage of this instrument was originally manufactured in 1933 as informed by the maintenance company that has been servicing this unit for Solvay Chemicals. The vendor has stated that this unit was discontinued in 1994, with parts becoming difficult to obtain while the original equipment manufacturer no longer supports this instrument.

(b) Solvay Chemicals proposes to implement new technology, a modern Leica MS60 survey instrument that will not affect miner safety through implementation of procedures prior to and during use of this instrument. The MS60 is housed in state-of- the-art sealed and dust-proof housing and is impervious to water, mine gas, and dust, with a rating of IP65, which includes a 1-hour water test. Immediately prior to the use of the nonpermissible equipment, the mine atmosphere will be tested for methane and will be continuously monitored with an approved instrument capable of providing both visual and audible alarms as defined in 30 CFR 57.22227. This additional methane monitoring further enhances the protection of employees in the area. Mine engineering qualified personnel will attend to the surveying equipment when used in or beyond the last open crosscut or in areas where methane may enter the air current. If 1.0 percent or more methane is detected, the procedures defined in 30 CFR 57.22234 will be followed.

(c) Increased accuracy and immediate error determination during use, immediately checks coordinates of fore-sight and back-sight and alerts operator. The instrument contains built in logic

that checks the coordinates of all stations, essentially a ''smart'' instrument, comparing the known station coordinates and angles, to installed stations. This is an extremely important feature that reduces or eliminates human survey errors. For the following reasons, this is very important to today's mining:

—Known location of mine works with higher confidence level due to accuracy of new instrument, and ensuring boundary location with two neighboring adjacent mines or mining activity.

—All stations installed underground will have immediate coordinates established during installation, as the instrument stores information immediately. (At any time, known location of all mined entries should drilling, boreholes, etc., be required from surface need performed, no calculation is necessary with stations correlated to surface locations).

—Face advancement headings are ensured to be on-sights and the instrument notifies operator of inaccuracies. This eliminates the possible convergence of two production rooms and potential for rib falls from a too thin rib condition.

—Eliminates the potential in our longwall mine from an overall panel convergence or divergence of headgate and tailgate entries. This eliminates the risks and dangers associated from either removal or addition of a shield and face conveyor segment respectively as is the practice in mining when this condition occurs.

—Allows for accurate location of entries for mine construction activities such as overcast installation, conveyor belt installations, pipelines, doorways and fan installations. This will improve overall miner safety through elimination of additional work activities related to survey error from additional rib slabs and widening of entry when mined off sights.

(d) Improved accuracy of check surveys which are routinely conducted. This instrument is a one-second instrument compared to a three-second instrument in current use. Highest rated instruments are one-half second instruments that are not used underground with specific uses.

The petitioner further states that Solvay Chemicals is committed to safety and by submitting this application strives to apply the best technology in day-to-day engineering activities and adhere to the best professional practice. Advantageous use of this state-of-the-art surveying instrument is outlined in the rationale above. Miner safety is greatly enhanced due to the inherent design of this modern surveying equipment which is housed in state-of-the-art sealed and dust-proof housing, the procedure gas tests prior to and during use of the instrument, and the inherent benefits of this surveying instrument. The original equipment manufacturer has also provided approximately twenty-four hours of safety training, performed on the surface and in fresh air areas in the mine. Solvay Chemicals petitions the Mine Safety and Health Administration to review the best technology and respectively request approval of this petition, allowing use of modern state-of-the-art surveying instrument for day-to-day surveying at the Solvay Chemicals Mine.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–10396 Filed 5–19–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before June 21, 2017.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2017–007–C.

Petitioner: Canyon Fuel Company, LLC, 597 South SR24, Salina, Utah 84654.

Mine: Sufco Mine, MSHA I.D. No. 42–00089, located in Sevier County, Utah.

Regulation Affected: 30 CFR 75.350(a) (Belt air course ventilation).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of the belt entry as a ventilation air course as it pertains to the use of a two-entry system. The petitioner proposes to conduct longwall mining using the two-entry panel barrier system as an alternative. The petitioner states that:

(1) The use of two-entry panel barrier longwall development mining systems

will reduce the likelihood of coal bumps, roof falls, and other hazards related to mining under deep cover or highly stressed ground conditions. Developing with additional entries to comply with isolation of the belt entry from a separate return entry and diverting belt air directly into the return air course diminishes the safety of miners as compared to utilizing the belt entry as a return air course during development mining provided that appropriate atmospheric monitoring and early warning fire detection and other precautions are utilized.

(2) The proposed alternate method to use the belt entry as an intake air course to ventilate the longwall face during retreat mining will at all times guarantee no less than the same measure of protection afforded by the standard.

(3) An independent study was conducted by Agapito Associates, Inc., titled ''Pillar Design Analysis for the lower Hiawatha Seam, Sufco Mine'' (see Appendix A). The study determined the effects of longwall mining under deep cover at the Sufco mine using a panel barrier design. Results of the study indicate that by using a yielding pillar of 30 feet (rib-to-rib), it would minimize the occurrence of bumps, irrespective of the overburden depth.

(4) Due to the documented hazards associated with mining in this coal seam and the neighboring coal seams in deep cover, the application of 30 CFR 75.350(a) at the Sufco mine will result in a diminution of safety to the miners and the terms and conditions set out below will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

(5) The petitioner proposed the following details as to how the alternative will be carried out:

A. Two-entry development will be permitted where the overburden in the affected area exceeds 1,900 feet in depth.

B. Additional entries may be developed when needed for bleeder entries as approved by the District Manager (DM) in the Mine Ventilation and Roof Control Plans.

C. Requirements Applicable to Two-Entry Development, Longwall Installation and Recovery, and Retreat Mining Systems:

—An atmospheric monitoring system (AMS) for early warning fire detection will be utilized throughout the two-entry system. All sensors throughout the two-entry system that are part of the AMS will be diesel-discriminating (carbon monoxide and nitric oxide) sensors.

—All ventilation devices outby the loading point within the two-entry system will be permanent.

—The air velocity in the belt entry will be in compliance with 30 CFR 75.350, and will be compatible with all fire detection systems and fire suppression systems used in the belt entry.

—The belt entry, primary escapeway, and other intake entry or entries if used, will be equipped with an AMS that is installed, operated, examined, and maintained as specified within this Petition.

—All miners will be trained annually in the basic operating principles of the AMS, including the actions required in the event of activation of any AMS alert or alarm signal. This training will also be conducted prior to the beginning of the two-entry mining system. This training will be conducted as part of a miner's Part 48 new miner training (30 CFR 48.5), experienced miner training (30 CFR 48.6), or annual refresher training (30 CFR 48.8), and annually thereafter.

—Mantrip vehicles will be maintained on or near the working section and on or near areas where mechanized mining equipment is being installed or removed and be of sufficient capacity to transport all persons who may be in the area, and located within 600 feet of the section loading point.

—Fire doors designed to quickly isolate the working section will be constructed in the two entries for use in emergency situations. The fire doors will be maintained operable throughout the duration of the two-entry panel. A plan for the emergency closing of these fire doors, notification of personnel, and de-energization of electric power inby the doors will be included in the 30 CFR 75.1502 mine emergency evacuation and firefighting program of instruction plan.

—Communication and tracking systems will be installed and maintained according to the approved Emergency Response Plan (ERP) and will be subject to approval by the DM.

—In addition to the requirements of 30 CFR 75.1100–2(b), firehose outlets with valves every 300 feet will be installed along the intake entry. At least 500 feet of firehose with fittings and nozzles suitable for connection with the outlets will be stored at each strategic location along the intake entry. The locations will be specified in the 30 CFR 75.1502 mine emergency evacuation and firefighting program of instruction plan.

—Compressor stations and unattended portable compressors will not be located in the two-entry panel. Portable compressors can be used as long as they are attended while running.

D. Requirements Applicable to the Development of Two-Entry Panels:

—Diesel-discriminating sensors will be installed in the belt conveyor entry within 25 feet inby and outby the crosscut where return air is directed out of the belt conveyor entry.

—A means of rock-dusting will be installed in the belt conveyor entry near the section loading point of each two-entry development section. Rock dust will be continuously used when coal is being produced to render inert the float coal dust in these entries, except when miners are performing maintenance, inspections, or other required work in these areas.

—A methane monitoring system utilizing methane sensors will be incorporated into the AMS and be installed to monitor the air in each belt haulage entry. The sensors will be located so that the belt air is monitored near the mouth of the development, near the tailpiece of the belt conveyor, and at or near any secondary belt drive unit installed in the belt haulage entry.

—The methane monitoring system will be capable of providing both audible and visual signals on both the working section and at a manned location on the surface of the mine where personnel will be on duty at all times when miners are underground in a two-entry section or when a conveyor belt is operating in a two-entry section. This trained person at the surface will have two-way communication with all working sections. The system will initiate alarm signals when the methane level is 1.0 volume per centum. The methane monitoring system will be designed and installed to de-energize the belt conveyor drive units when the methane level is 1.0 volume per centum. Upon notification of the alarm, miners will de-energize all other equipment located on the section.

E. Requirements Applicable to Retreat Mining of the Panels and Longwall Installation and Recovery:

—Two separate intake air courses within each longwall panel will be provided to each two-entry longwall. Both air courses may be located on the same side of the panel; however, the air will travel in a direction from the mouth of the panel toward the section.

—The average concentration of respirable dust in the belt air course,

when used as intake air course, will be maintained at or below 0.5 mg/m3. A permanent designated area (DA) for dust measurements will be established at a point no greater than 50 feet upwind from the most outby open crosscut on the working section. The DA will be specified and approved in the ventilation plan.

—Unless approved by the DM, no more than 50 percent of the total intake air delivered to the working section or to areas where mechanized mining equipment is being installed or removed can be supplied from the belt air course. The locations for measuring air quantities will be approved in the mine ventilation plan.

—Notwithstanding the provisions of 30 CFR 75.380(g), additional intake air may be added to the belt air course through a point-feed regulator that is not located within a two-entry panel, to ventilate the working section(s). The location and use of any point feed will be approved in the mine ventilation plan.

—During longwall retreat mining, a means of rock-dusting will be installed at or near the last tailgate shield. Rock-dust will be continuously used when coal is being produced to render inert float coal dust in these entries. Exceptions to continuous operation of the rock-dusting units will be when miners are performing maintenance, inspections, or other required work in these areas.

—When the hydraulic fluid pump station for the longwall support system is located in the two-entry system, it will be installed and maintained as follows:

(a) The pumps and electrical controls will be equipped with an automatic fire suppression system.

(b) Only MSHA-approved fire resistant hydraulic fluid of the ''high water content group,'' such as Isosynth VX 110BF2 or similar, will be used.

(c) The pump station will be maintained to within 1,500 feet of the longwall face.

(d) In addition to the concentrate contained as part of the hydraulic pump system, hydraulic concentrate stored in the two-entry system will be limited to 500 gallons.

(e) A diesel-discriminating sensor will be installed between 50 and 100 feet downwind of the hydraulic pump station. The sensor will be installed in a location that will minimize the possibility of damage to it by mobile equipment and that will not interfere with its detection of carbon monoxide caused by a fire.

(f) Whenever the transformer supplying power to the hydraulic pumping station is located in the intake entry, the transformer will be:

(i) Maintained within 1,500 feet of the longwall face.

(ii) Provided with a diesel-discriminating sensor that is located on the inby side of the transformer in a location that will minimize the possibility of damage to it by mobile equipment and that will not interfere with its detection of carbon monoxide caused by a fire.

(iii) Provided with an over-temperature device that will de-energize the pumping station when the temperature reached 165 degrees Fahrenheit.

—Each hydraulic pump will be provided with an over-temperature device that automatically de-energizes the motor on which it is installed. De-energization will take place at a temperature of not more than 210 degrees Fahrenheit. The over-temperature device will be installed to monitor the circulating oil for the pump or the external pump case housing.

—MSHA will be informed prior to the initial startup of the pumping system so MSHA can conduct an inspection.

F. Applicable to Two-Entry Development, Longwall Installation and Recovery, and Retreat Mining Systems when Diesel-Powered Equipment is Operated on a Two-Entry System:

—Except for ambulances used for emergencies only, all diesel powered equipment not approved and maintained under 30 CFR part 36 operated on any two-entry system will include:

(a) An automatic and manually activated fire suppression system meeting the requirements of 30 CFR 75.1911. The manual fire suppression system will be capable of being activated from both inside and outside the machine's cab. The manual actuator located outside the cab will be on the side of the machine opposite the engine. Both of these systems will be maintained in operating condition.

(b) An automatic engine shut down/fuel shut-off system, tied into the activation of the fire suppression system will be maintained in operating condition.

(c) An automatic closing, heat-activated shut-off valve will be maintained in operating condition, on diesel fuel lines either located between the fuel injection pump and fuel tank if the fuel lines are constructed of steel, or located as close as practical to the fuel tank.

(d) A means, maintained in operating condition, to prevent the spray from ruptured diesel fuel, hydraulic oil, or lubricating oil lines from being ignited by contact with engine exhaust system component surfaces such as shielding, conduit, or non-absorbent insulating materials.

(e) A means, maintained in operating condition, to maintain the surface temperature of the exhaust system of diesel equipment below 302 degrees Fahrenheit for diesel equipment classified a ''heavy-duty'' under 30 CFR 75.1908(a). Road graders are considered heavy-duty under 30 CFR 75.1908(a).

(f) A sensor to monitor the temperature and provide visual warning of an overheated cylinder head on air-cooled engines.

—The following types of diesel-powered equipment, which are not approved and maintained under 30 CFR parts 36 or 7, can be used in the two-entry system, except where permissible equipment is required, provided no one is in by the work area:

(a) Diesel-powered rock dust machine;
(b) diesel-powered generator; and
(c) diesel-powered road grader.

—Diesel fuel will not be stored in the two-entry system. Diesel-powered equipment not approved and maintained under Part 36 will not be refueled in the two-entry system.

—If non-Part 36 diesel-powered equipment needs to be jump-started due to a dead battery in any two-entry system, a methane check by a qualified person using an MSHA-approved detector will be made prior to attaching jumper cables. The equipment will not be jump-started if air contains 1.0 percent or more of methane.

—A diesel equipment maintenance program will be adopted and complied with by the operator. The program will include the examinations and tests specified in the manufacturers' maintenance recommendations as they pertain to diesel-powered equipment carbon monoxide emissions. A record of these examinations and tests will be maintained on the surface and made available to all interested persons.

G. Atmospheric Monitoring System (AMS):

—In addition to the terms and conditions contained in this petition, the AMS will be installed, operated, examined and maintained, and training of AMS operators conducted in accordance with the provisions contained in 30 CFR 75.350, 75.351, and 75.352.

H. Implementation and Training Requirements:

—The petitioner proposes that the terms and conditions of this petition will not be implemented until after approval has been granted by the DM.

—Prior to implementing the PDO, Sufco will have an approved Part 48 training plan that complies with all conditions specified by the PDO.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2017–10395 Filed 5–19–17; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0048]

Standard on Powered Platforms for Building Maintenance; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in its Standard on Powered Platforms for Building Maintenance.

DATES: Comments must be submitted (postmarked, sent, or received) by July 21, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the *Federal eRulemaking Portal.* Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0048, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0048). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (e)(9) of the Standard requires that employers develop and implement a written emergency action plan for each type of powered platform operation. The plan must explain the emergency procedures that workers are to follow if they encounter a disruption of the power supply, equipment failure, or other emergency. Prior to operating a powered platform, employers must train workers on the importance of alarm systems and emergency escape routes, and emergency procedures that pertain to the building on which they will be working. Employers should review with each worker those parts of the emergency action plan that the worker must know to ensure their protection during an emergency; these reviews must occur when the worker receives an initial assignment involving a powered platform operation and after the employer revises the emergency action plan.

According to paragraph (f)(5)(i)(C), employers must affix a load rating plate in a prominent location on each suspended unit. The load rating plate should state the unit's weight and its rated load capacity. Paragraph (f)(5)(ii)(N) requires employers to mount each emergency electric operating device in a secured compartment and label the device with instructions for its use. After installing a suspension wire rope, paragraphs (f)(7)(vi) and (f)(7)(vii) mandate that employers attach a corrosion-resistant tag with specified information to one of the wire rope fastenings if the rope is to remain at one location. In addition, paragraph (f)(7)(viii) requires employers who resocket a wire rope to either stamp specified information on the original tag or put that information on a supplemental tag and attach it to the fastening.

Paragraphs (g)(2)(i) and (g)(2)(ii) require that building owners have a competent person annually: Inspect the supporting structures of their buildings; inspect and, if necessary, test the components of the powered platforms, including control systems; inspect/test

components subject to wear (*e.g.,* wire ropes, bearings, gears, and governors); and certify these inspections and tests. Under paragraph (g)(2)(iii), building owners must maintain and, on request, provide to OSHA a written certification record of these inspections/tests. This record must include the date of the inspection/test, the signature of the competent person who performed it, and the number/identifier of the building support structure and equipment inspected/tested.

Paragraph (g)(3)(i) mandates that building owners use a competent person to inspect and, if necessary, test each powered platform facility according to the manufacturer's recommendations every 30 days, or prior to use if the work cycle is less than 30 days. Under paragraph (g)(3)(ii), building owners must maintain and, on request, provide to the Agency a written certification record of these inspections/tests. This record must include the date of the inspection/test, the signature of the competent person who performed it, and the number/identifier of the powered platform facility inspected/tested.

According to paragraph (g)(5)(iii), building owners must use a competent person to thoroughly inspect suspension wire ropes for a number of specified conditions once a month. Additionally, wire ropes that have been inactive for 30 days or longer, must be inspected before placing them into service. Paragraph (g)(5)(v) requires building owners to maintain and, on request, provide to OSHA a written certification record of these monthly inspections. This record must consist of the date of the inspection, the signature of the competent person who performed it, and the number/identifier of the wire rope inspected.

Upon completion of this training, paragraph (i)(1)(v) specifies that employers must prepare a written certification that includes the identity of the worker trained, the signature of the employer or the trainer, and the date the worker completed the training. In addition, the employer must maintain each worker's training certificate for the duration of their employment and, on request, make it available to OSHA.

Emergency action plans allow employers and workers to anticipate, and effectively respond to, emergencies that may arise during powered platform operations. Affixing load rating plates to suspended units, instructions to emergency electric operating devices, and tags to wire rope fasteners can prevent workplace incidents by providing information to employers and workers regarding the conditions under which they can safely operate these systems. Requiring building owners to establish and maintain written certification of inspections and testing provides employers and workers with assurance that the building structure and equipment are in good condition.

The training requirements allow workers to develop the skills and knowledge necessary to effectively operate, use, and inspect powered platforms, recognize and prevent safety hazards associated with platform operation, respond appropriately under emergency conditions, and maintain and use their fall protection arrest system. In addition, the paperwork requirements specified by the Standard provide the most efficient means for an OSHA compliance officer to determine whether or not employers and building owners are providing the required notification and certification.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Powered Platforms for Building Maintenance (29 CFR 1910.66). The Agency is requesting a decrease in its current burden hours from 130,764 hours to 130,763 hours, a difference of one hour. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard on Powered Platforms for Building Maintenance (29 CFR 1910.66).

OMB Control Number: 1218–0121.

Affected Public: Business or other for-profits.

Number of Respondents: 900.

Frequency: On occasion; Initially, Monthly, Annually.

Average Time per Response: Various.

Total Burden Hours Requested: 130,763.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the *Federal eRulemaking Portal*; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0048). You may supplement submissions by uploading document electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627). Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority

for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 8, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–10398 Filed 5–19–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV Rheinland of North America, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 6, 2017.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0042, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3508, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–3:00 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2007–0042). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that TUV Rheinland of North America, Inc. (TUVRNA), is applying for expansion of its current recognition as an NRTL. TUVRNA requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including TUVRNA, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA currently has five facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: TUV Rheinland of North America, Inc. 12 Commerce Road, Newtown, Connecticut 06470. A complete list of TUVRNA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/tuv.html.*

II. General Background on the Application

TUVRNA submitted an application, dated July 15, 2016 (OSHA–2007–0042–0023), to expand its recognition to include one additional test standard. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standard found in TUVRNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2108	Standard for Low Voltage Lighting Systems.

III. Preliminary Findings on the Application

TUVRNA submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and comparability analysis, indicate that TUVRNA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVRNA's application.

OSHA welcomes public comment as to whether TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3508, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant TUVRNA's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 11, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–10397 Filed 5–19–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0021]

Grantee Quarterly Progress Report; Extension of the Office of Management and Budget's Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in its Grantee Quarterly Progress Report.

DATES: Comments must be submitted (postmarked, sent, or received) by July 21, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office (Docket No. OSHA–2010–0021), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2010–0021) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Annette Braam, assistant director, Office of Training and Educational Programs, or Jim Brock, OSHA Training Institute Education Centers Programs, at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Annette Braam, assistant director, Office of Training and Educational Programs, or Jim Brock, OSHA Office of Training Institute Education Centers Program, Directorate of Training and Education, OSHA, U.S. Department of Labor, 2020 S. Arlington Heights Rd., Arlington Heights, IL 60005–4102; telephone (847) 759–7781.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that the information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Section 21 of the OSH Act (29 U.S.C. 670) authorizes OSHA to conduct directly or through grants and contracts, education and training courses. These courses must ensure that an adequate number of qualified personnel fulfill the purposes of the OSH Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and workers to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21, OSHA awards training grants to nonprofit organizations to provide part of the required training. The Agency requires organizations that receive these grants to submit quarterly progress reports on their grant-funded training activities. These reports allow OSHA to monitor the grantee's performance and to determine if an organization is using grant funds as specified in its grant application. The Agency then compares the information in the quarterly progress report to the quarterly milestones proposed by the organization in the work plan and budget that accompanied the grant application. This quarterly information includes: Identifier data (organization name and grant number); the date and location where the training occurred; the length of training (hours); the number of workers and employers attending training sessions provided by the organization; a description of the training provided; a narrative account of grant activities conducted; and an evaluation of progress regarding planned versus actual work accomplished. This comparison allows OSHA to determine if the organization is meeting the proposed program goals and objectives, and is spending funds in the manner described in the proposed budget.

Requiring these reports on a quarterly basis enables OSHA to identify work plan, training, and expenditure discrepancies in a timely fashion so that the Agency can implement appropriate action. In addition, information from these reports allows the Agency to assess an organization's ability to meet projected milestones and expenditures.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Grantee Quarterly Progress Report. As a result of an increase in the number of quarterly reports, the Agency is requesting an increase in burden hours—from 5,096 to 6,104. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Grantee Quarterly Progress Report.

OMB Control Number: 1218–0100.

Affected Public: Not-for-profit organizations.

Number of Respondents: 109.

Frequency of Responses: Quarterly.

Average Time per Response: Varies.

Estimated Total Burden Hours: 6,104.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *www.regulations.gov,* the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0021). You may supplement submissions by uploading documents electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments and include your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 8, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–10399 Filed 5–19–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (17–025)]

Notice of Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent No. 6,917,203 entitled ''Current Signature Sensor,'' KSC–12220, to Graftel, LLC, having its principal place of business in Elk Grove Village, IL.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, FL 32899. Telephone: 321–867–2076; Facsimile: 321–867–1817.

FOR FURTHER INFORMATION CONTACT: Jonathan Leahy, Patent Attorney, Office of the Chief Counsel, NASA John F. Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899. Telephone: 321–867–6553; Facsimile: 321–867–1817.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2017–10250 Filed 5–19–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, May 25, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Corporate Stabilization Fund Quarterly Report.
2. NCUA's Rules and Regulations, Supervisory Review Committee.
3. NCUA's Rules and Regulations, Appeals Procedures.
4. NCUA's Rules and Regulations, Voluntary Mergers of Federal Credit Unions.

RECESS: 11:30 a.m.

TIME AND DATE: 11:45 a.m., Thursday, May 25, 2017.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Supervisory Action. Closed pursuant to Exemption (8).
2. Supervisory Review Committee Appeal. Closed pursuant to Exemption (8).
3. Supervisory Action. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).
4. Briefing on Supervisory Matter. Closed pursuant to Exemptions (8), (9)(i)(B), and (9)(ii).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–10524 Filed 5–18–17; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Sunshine Act Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of the forthcoming meeting of the National Museum and Library Services Board. This notice also describes the function of the Board. Notice of the meeting is required under the Sunshine in Government Act.

DATES: Wednesday, May 24, 2017, from 9:00 a.m. to 12:15 p.m. and 1:15 p.m. to 2:30 p.m. EST.

ADDRESSES: The meeting will be held at the IMLS Offices, Panel Room, Suite 4000, 955 L'Enfant Plaza North SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Program Specialist, Institute of Museum and Library Services, Suite 4000, 955 L'Enfant Plaza North SW., Washington, DC 20024. Telephone: (202) 653–4798.

SUPPLEMENTARY INFORMATION: The National Museum and Library Services Board, which advises the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute relating to museum, library and information services, will meet on May 24, 2017. The Executive Session on Wednesday, May 24, 2017, from 1:15–2:30 p.m. will be closed pursuant to subsections (c)(4) and (c)(9) of section 552b of Title 5, United States Code because the Board will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileges or confidential; and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. The meeting from 9:00 a.m. to 12:15 p.m. on Wednesday, May 24, 2017, is opened to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 955 L'Enfant Plaza North SW., Suite 4000, Washington, DC 20024, Telephone: (202) 653–4796, at least seven (7) days prior to the meeting date.

Agenda: Thirty-Fifth Meeting of the National Museum and Library Service Board Meeting: 9:00 a.m.–12:15 p.m. Thirty-Fifth Meeting of the National Museum and Library.

Service Board Meeting

I. Welcome and Director's Report
II. Approval of Minutes
III. Financial and Operations Update
IV. Board Program—IMLS Initiative, ''Community Salute: Libraries and Museums Serving Veterans and Military Families.''
V. Office of Museum Services Report
VI. Office of Library Report
VII. Office of Digital and Information Strategy Report
VIII. Board Program—Lightening Talks on IMLS Area of Program Emphasis
IX. Adjourn
(Open to the Public)
1:15 p.m. to 2:30 p.m. Executive Session
(Closed to the Public)

Dated: May 9, 2017.

Nancy E. Weiss,

General Counsel.

[FR Doc. 2017–10574 Filed 5–18–17; 4:15 pm]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of May 22, 29, June 5, 12, 19, 26, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 22, 2017

There are no meetings scheduled for the week of May 22, 2017.

Week of May 29, 2017—Tentative

There are no meetings scheduled for the week of May 29, 2017.

Week of June 5, 2017—Tentative

There are no meetings scheduled for the week of June 5, 2017.

Week of June 12, 2017—Tentative

Tuesday, June 13, 2017

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Tanya Parwani-Jaimes: 301–287–0730)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, June 15, 2017

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (Public Meeting) (Contact: Andrew Waugh: 301–415–5601)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of June 19, 2017—Tentative

There are no meetings scheduled for the week of June 19, 2017.

Week of June 26, 2017—Tentative

There are no meetings scheduled for the week of June 26, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

May 17, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–10473 Filed 5–18–17; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323; NRC–2016–0237]

Pacific Gas and Electric Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to a petition dated July 14, 2016, filed by Mr. David Lochbaum on behalf of the Union of Concerned Scientists (the petitioner), requesting that the NRC take action against Pacific Gas and Electric Company (PG&E, the licensee) with regard to Diablo Canyon Power Plant, Units 1 and 2 (DCPP). The petitioner's requests and director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC–2016–0237 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0237. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Margaret Watford, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1233, email: *Margaret.Watford@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML17108A590) on a petition filed by the petitioner on July 14, 2016 (ADAMS Accession No. ML16196A294). The petition was supplemented by an email dated August 2, 2016, and a letter dated March 27, 2017 (ADAMS

Accession Nos. ML16215A109 and ML17102A524, respectively).

The petitioner requested that the NRC take enforcement action against PG&E related to the DCPP. Specifically, the petitioner requested that the NRC ''issue a Demand for Information pursuant to 10 CFR [title 10 of the *Code of Federal Regulations*] 2.204 to PG&E requiring the company to provide the NRC with a written explanation as to why its June 17, 2015, license amendment request failed to include all the accurate information needed by the NRC staff to complete its review and the measures it will implement so as to comply with the 10 CFR 50.9 [''Completeness and accuracy of information''] in future submittals to the NRC.''

On August 2, 2016, the petitioner met with the NRC's Petition Review Board. The meeting provided the petitioner and the licensee an opportunity to provide additional information and to clarify issues cited in the petition. The transcript for that meeting is available in ADAMS under Accession No. ML16232A570.

The NRC sent a copy of the proposed director's decision to the petitioner and the licensee for comment on March 15, 2017. The petitioner and the licensee were asked to provide comments by March 29, 2017, on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. While most of the comments received from the petitioner are outside the scope of the 2.206 petition, the comments are addressed at the end of the final director's decision.

The Director, Office of Nuclear Reactor Regulation, has determined that the request for enforcement action against PG&E be denied. The reasons for this decision are explained in the director's decision DD–17–03 pursuant to 10 CFR 2.206 of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 12th day of May 2017.

For the Nuclear Regulatory Commission.

William M. Dean,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–10430 Filed 5–19–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–189; CP2017–190]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 24, 2017.

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

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–189; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* May 16, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Katalin K. Clendenin; *Comments Due:* May 24, 2017.

2. *Docket No(s).:* CP2017–190; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* May 16, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Katalin K. Clendenin; *Comments Due:* May 24, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–10337 Filed 5–19–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 9, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 18 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–131, CP2017–185.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2017–10315 Filed 5–19–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 9, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 318 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–130, CP2017–184.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2017–10314 Filed 5–19–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80683; File No. SR–BatsBZX–2017–34]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce Bats Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28

May 16, 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 May 5, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The 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 introduce Bats Market Close, a closing match process for non-BZX Listed Securities[3] under new Exchange Rule 11.28.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce Bats Market Close, a closing match process for non-BZX Listed Securities under new Exchange Rule 11.28. In sum, all buy and sell Market-On-Close Orders (''MOC'')[4] designated for participation in Bats Market Close would be matched at the official closing price for such security published by the primary listing market, as further described below. The Exchange proposes Bats Market Close in response to interest from market participants who seek an alternative to participation on the primary listing market's closing auction while still receiving an execution at the official closing price.

Over recent years, the total volume executed in the primary listing markets' closing auctions has increased over 70% from 200 million shares per day in 2012 to almost 350 million shares per day in 2016.[5] Over that same period of time, continuous trading volume has increased 13% from 6.11 billion shares per day in 2012 to 6.93 billion shares per day in 2016.[6] Closing auctions on the primary listing markets amounted to almost 5% of the total executed volume in 2016.[7] The official closing price for any listed security is generally determined by the closing auction for that security held at the primary listing market. Market participants seeking to transact at the official closing price must, therefore, participate in the listing market's closing auction to receive the official closing price, as evidenced by recent marketing materials[8] from the New York Stock Exchange, Inc. (''NYSE'') stating that their closing auction receives 100% of the market share in all Tape A securities (NYSE listed). The NYSE and the Nasdaq Stock Market LLC (''Nasdaq'') have taken

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A BZX Listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange's Rules and includes both corporate listed securities and Exchange Traded Products (''ETPs'').

[4] The term ''Market-On-Close'' or ''MOC'' means a BZX market order that is designated for execution only in the Closing Auction. *See* Exchange Rule 11.23(a)(15). The Exchange proposes to amend the description of Market-On-Close orders to include orders designated to execute in the proposed Bats Market Close.

[5] Based on BZX's internal data.

[6] *Id.*

[7] *Id.*

[8] *See NYSE Open and Closing Auctions, available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Opening_and_Closing_Auctions_Fact_Sheet.pdf.*

advantage by charging higher fees for participation in their respective closing auctions than for trading conducted during the trading day. Both the NYSE and Nasdaq assess a fee on both sides of the transactions that occur in their closing auction.[9] As volume executed in the primary listing markets' closing auctions has increased, a disproportionate increase in fees has occurred.

The Exchange believes there are two solutions by which one could address the adverse conditions caused by the existing closing auction and official closing price process, but only one is viable. First, one could create a closing auction to directly compete with the primary listing market for order flow and price discovery. As discussed below, the Exchange believes this solution is not optimal as it further fragments the market and impedes the closing auction's price discovery process. Further, there are exchanges that currently offer closing auctions in non-listed securities with minimal success.[10] Second, one could provide investors with alternative venues for securing the primary closing print price, as proposed herein. The Exchange believes this is a viable alternative as it does not fragment the market or impact the price discovery process performed by the primary listing market's closing auction.

The Exchange proposes to adopt Bats Market Close in response to requests from market participants, and buy-side firms in particular, for an alternative to the primary listing markets' closing auction that also provides an execution at the security's official closing price. As described in proposed Exchange Rule 11.28, for non-BZX Listed securities only, the System[11] would seek to match buy and sell MOC orders designated for participation in Bats Market Close at the official closing price for such security published by the primary listing market.[12] Members[13] would be able to enter, cancel or replace MOC orders designated for participation in Bats Market Close beginning at 6:00 a.m. Eastern Time up until 3:35 p.m. Eastern Time (''MOC Cut-Off Time'').[14] Members would not be able to enter, cancel or replace MOC orders designated for participation in the proposed Bats Market Close after the MOC Cut-Off Time.

At the MOC Cut-Off Time, the System would match for execution all buy and sell MOC orders entered into the System based on time priority.[15] Any remaining balance of unmatched shares would then be cancelled back to the Member(s). The System would then disseminate, via the Bats Auction Feed,[16] the total size of all buy and sell orders matched per each security via Bats Market Close. All matched buy and sell MOC orders would then remain on the System until the publication of the official closing price by the primary listing market. Upon publication of the official closing price by the primary listing market, the System would execute all previously matched buy and sell MOC orders at that official closing price.[17]

The Exchange has designed Bats Market Close to provide an alternative means to obtain an execution at the official closing price without compromising the price discovery function performed by the primary listing market's closing auctions. By matching only MOC orders, and not limit orders, and executing those matched MOC orders that naturally pair off with each other and effectively cancel each other out, the Exchange believes the proposed Bats Market Close would avoid an impact on price discovery. The Exchange believes it is important to provide market participants an alternative venue to obtain executions at the official closing price.[18]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[19] in general, and

[9] Over the last few years, both the NYSE and Nasdaq have increased their closing auction fees considerably—NYSE's base rate has gone up by 16% to $.0011 per share (or a capture of $.0022 per matched share). *See* Tier F under Execution Fees for the Nasdaq Closing Cross in the Nasdaq fee schedule *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2; and* Liquidity Indicator 7 in the NYSE fee schedule *available at https://www.nyse.com/markets/nyse/trading-info/fees.* Nasdaq has also increased its fee by a much larger 60% margin to $.0016 per share (or a capture of $.0032 per share). *Id. See* Securities Exchange Act Release No. 68150 (November 5, 2012), 77 FR 67431 (November 9, 2012) (SR–NYSE–2012–56). The capture from the top tier for closing auction would be $.0012 for NYSE and $.0018 for Nasdaq while that for continuous trading would be $.00055 for NYSE and −$.00005 for Nasdaq, which are much lower than the capture for their respective closing auctions. *See* Securities Exchange Act Release No. 63852 (February 7, 2011), 76 FR 8791 (February 15, 2011) (SR–Nasdaq–2011–017). Using $.00275 as the removal rate and $0.0022 as the top tiered rebate for non-market makers and non-Supplemental Liquidity Providers. *See* NYSE fee schedule *available at s the top tiered rebate for non-market makers. See* Tier F under Execution Fees for the Nasdaq Closing Cross in the Nasdaq fee schedule *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[10] *See infra* note 21 and accompanying text.

[11] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(aa).

[12] The Exchange notes that the official closing price may be published by another exchange in the case the primary listing market suffers an impairment and is unable to perform its closing action process. *See e.g.,* Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR–NYSE–2016–18) and (SR–NYSEMKT–2016–31) (''OCP Approval Order''). *See also* Nasdaq Rule 4754(b)(8) *and* NYSE Arca Rule 1.1(ggP) [sic].

[13] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[14] Currently, the NYSE designates the cut-off time for the entry of Market At-the-Close Orders as 3:45 p.m. Eastern Time. *See* NYSE Rule 123C. Nasdaq, in turn, designates the ''end of the order entry period'' as 3:50 p.m. Eastern Time. *See* Nasdaq Rule 4754.

[15] As set forth in proposed Interpretation and Policy .02, the Exchange would cancel all MOC orders designated to participate in Bats Market Close in the event the Exchange becomes impaired prior to the MOC Cut-Off Time and is unable to recover within 5 minutes from the MOC Cut-Off Time. This would provide Members time to route their orders to the primary listing market's closing auction. Should the Exchange become impaired after the MOC Cut-Off Time, it would retain all matched MOC orders and execute those orders at the official closing price once it is operational.

[16] The Bats Auction Feed disseminates information regarding the current status of price and size information related to auctions conducted by the Exchange and is provided at no charge. *See* Exchange Rule 11.22(i). The Exchange proposed to amend Exchange Rule 11.22(i) to reflect that the Bats Auction Feed would also include the total size of all buy and sell orders matched via Bats Market Close.

[17] The Exchange would report the execution of all previously matched buy and sell orders to applicable securities information processor and will designate such trades as ''.P'', Prior Reference Price. *See e.g.,* Section 4.8, Trade Condition Table, of the *UTP Participant Input Specifications, available at http://www.utpplan.com/DOC/UtpBinaryInputSpec.pdf. See also* Section 408, Prior Reference Price Transactions, of FINRA's *Trade Reporting Frequently Asked Questions, available at http://www.finra.org/industry/trade-reporting-faq#408.*

As set forth in proposed Interpretation and Policy .01, the Exchange will utilize the official closing price published by the exchange designated by the primary listing market in the case where the primary listing market suffers an impairment and is unable to perform its closing action process. *See supra* note 12. As set forth in proposed Interpretation and Policy .03, up until the closing of the applicable securities information processor at 8:00 p.m. Eastern Time, the Exchange intends to monitor the initial publication of the official closing price, and any subsequent changes to the published official closing price and adjust the price of such trades accordingly. If there is no initial official closing price published by 8:00 p.m. Eastern Time for any security, the Exchange would cancel all matched MOC orders in such security.

[18] It is the Exchange's intention, upon the Commission's approval of the proposed rule change, to file a separate proposal to offer executions of MOC orders at the official closing price, to the extent matched on the Exchange, at a rate less than the fee charged by the applicable primary listing market. It is further the Exchange's intention that such fee would remain lower than the fee charged by the applicable primary listing market.

[19] 15 U.S.C. 78f.

furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system because it will provide for a competitive alternative to sending orders to the primary listing market's closing auction. The proposed rule change would further remove impediments to and perfect the mechanisms of a free and open market and a national market system by promoting competition among national securities exchanges in the execution of MOC orders at the official closing price without disrupting the price discovery process of the primary listing markets' respective closing processes.

The Exchange understands that other exchanges have implemented closing auction processes for securities listed on other markets. For example, Nasdaq and NYSE Arca LLC (''NYSE Arca'') perform closing auction processes for securities listed on other exchanges.[21] In the Exchange's view, conducting auctions in non-listed securities does not offer true competition to the primary listing markets' closing auctions, since a separate auction creates its own auction price which can differ meaningfully from the primary market's official closing price which conflicts with industry desires and expectations. Thus, Nasdaq's and NYSE Arca's attempts to offer closing auctions in non-listed securities do not provide useful market competition to the primary listing markets,[22] because Nasdaq and NYSE Arca are not offering viable product alternatives (*i.e.,* the product does not provide the official closing price, which is what investors and their intermediaries want). In order to truly introduce competition, any closing execution must be at the price generally accepted by investors as the official closing price. The Exchange, therefore, believes that an alternative venue must provide the ability to receive an execution at the official closing price.

Bats Market Close would not disrupt price discovery, as it would only execute matched contra-side MOC orders, and not limit orders, since limit orders are the basis from which price formation occurs.[23] MOC orders are recipients of that price formation, but do not contribute to the price formation process. By matching only MOC orders, and not limit orders, and executing those matched MOC orders that naturally pair off with each other and effectively cancel each other out, the Exchange believes the proposed Bats Market Close would avoid an impact on price discovery.[24] While the proposal may reduce the number of market orders pooled together at the primary listing markets, the Exchange seeks to remove any perceived adverse impact on the primary listing market's close by publishing the number of matched market order shares by security in advance of the primary market's cutoff time. In this way, the Exchange seeks to provide a transparent tally to reflect the added auction depth from the MOC orders for which it is responsible and for which market participants may utilize in making their own order execution decisions. The Exchange notes that while market participants that typically send limit orders to participate in the primary listing market close could opt to send MOC orders to participate in the proposed Bats Market Close, such a decision involves the risk of receiving an execution without any limit price protection and is unlikely to be deployed except in stable market conditions.

An auction that competes with a primary listing market, while offering separate price formation, siphons limit orders from the primary listing market, which can harm the overall price discovery process. At the same time, these auctions further fragment the market and can produce bad auction prices on the non-primary market itself. In contrast, the proposed rule change does not seek to fundamentally alter the primary listing market's closing auction functionality. As such, the Exchange's proposed Bats Market Close provides the official closing price disseminated by the primary listing market, avoids siphoning limit orders from it, and may provide transaction fee competition to the ultimate benefit of Members and investors without distorting the auction's price formation. Drawing limit orders away from a primary listing market could create undesirable market fragmentation, and the proposed rule change is designed to avoid doing so.

While the Exchange recognizes that the proposed Bats Market Close's lack of price formation may be subject to regulatory challenge, it believes that on balance the proposed process provides value in a way that is materially better than competing price-formation auctions currently performed by Nasdaq and NYSE Arca. The Exchange believes that its proposal to offer Bats Market Close to satisfy market participants' requests for a fee competitive alternative to the primary listing markets' closing auction, would not violate the Act or interfere with the Exchange's core responsibilities under the Act. In addition, the Exchange believes that it is a well-established practice for an exchange to price buy and sell orders based upon reference data, even where the price is based on quote or trade data not originating on that exchange itself. For example, the Exchange, Nasdaq, NYSE, and NYSE Arca, and other exchanges allow orders to be executed at the mid-point of the national best bid and offer (the ''NBBO''), regardless of whether the current national best bid (the ''NBB'') or national best offer (the ''NBO'') exists on that particular exchange.[25] In addition, several pegged order types on various exchanges, including Bats EDGX Exchange, Inc. (''EDGX''), NYSE Arca, and Nasdaq, are set in some relationship to the NBBO, regardless of which exchange established or currently has liquidity at the NBB or NBO.[26] The Exchange also notes that in the event a primary listing market cannot perform a closing auction due to a systems issue, in some

[20] 15 U.S.C. 78f(b)(5).

[21] *See* Nasdaq Rule 4754 *and* NYSE Arca Rule 7.35(d).

[22] For example, on March 30, 2017, both Nasdaq and NYSE Arca executed 100 shares in Bank of America (BAC), a NYSE-listed security, at $23.88 in their respective closing auctions. NYSE executed over 2.6 million shares of BAC in its closing auction at the official closing price of $23.87.

On the same trading day, Nasdaq executed 200 shares in the Financial Select Sector SPDR Fund (XLF), a NYSE Arca-listed security, at $23.92 in its closing auction. NYSE Arca executed nearly 1.2 million shares of XFL at the official closing price of $23.93.

On the same trading day, NYSE Arca executed 111 shares in Apple Inc. (AAPL), a Nasdaq-listed security, at $143.92 in its closing auction. Nasdaq executed close to 1 million shares of AAPL at the official closing price of $143.93.

[23] The Exchange recognizes limit orders as the basis from which price formation occurs reflected by its offering of functionality that enables Members to route their orders to participate in the opening, reopening, or closing process of the primary listing market. *See* Exchange Rule 11.13(b)(3)(m) and (n).

[24] In addition, NYSE offers after hours crossing session which permits the entry and execution after Regular Trading Hours of orders at the NYSE's official closing price. *See* NYSE Rule 902. One could argue that by permitting the entry of orders after the closing auction has occurred while guaranteeing the official closing price the crossing session could possibly siphon orders from the closing auction.

[25] *See* Exchange Rule 11.9(c)(9) (Mid-Point Peg Order); *see also* Nasdaq Rule 4702(b)(5)(A) (Midpoint Peg Post-Only order); NYSE Arca Equities Rule 7.31(h)(3) (Mid-Point Passive Liquidity Orders); EDGX Rule 11.8(d) (MidPoint Peg Orders). What these order types have in common is that their execution prices are derived from the top of book prices of all ''Protected Quotations'', as such term is defined in Rule 600(b)(58) of Regulation NMS under the Exchange Act.

[26] *See* Exchange Rule 11.9(c)(8); EDGX Rule 11.6(j) (Pegged instruction); Bats EDGA Exchange, Inc. (''EDGA') Rule 11.6(j) (Pegged instruction); Nasdaq Rule 4703(d) (Pegging); *and* NYSE Arca Rule 7.31(h)(1) and (2) (Primary Pegged Orders and Market Pegged Orders).

circumstances it may determine their official closing price pursuant to contingency procedures that do not utilize a closing auction process. In such case, the official closing price may be either the: (i) Volume-weighted average price (''VWAP'') of the consolidated last-sale-eligible prices of the last five minutes of trading during Regular Trading Hours as calculated by the applicable securities information processor; or (ii) the last consolidated last-sale-eligible trade for the security during regular trading hours on that trading day.[27] Both of these calculations include executions that may occur on other exchanges, which could be utilizing a single execution reported by another exchange. Therefore, the Exchange believes executing trades at the official closing price disseminated by the primary listing market is consistent with the order types and practices discussed above and does not present any novel issues not already considered by the Commission when those orders types and practices were established.

The proposed rule change will also remove impediments to and perfect the mechanism of a free and open market and a national market system by providing a mechanism for market participants to execute their orders at the official closing price should a system disruption occur on the primary listing market that prevents them from entering orders prior to the Exchange's proposed MOC Cut-Off Time.[28] In such case, market participants may send MOC orders to the Exchange prior to the proposed MOC Cut-Off Time to participate in Bats Market Close. The Exchange would, in turn, execute those orders at the official closing price determined by the primary listing market's secondary contingency procedures.[29] Therefore, the Exchange believes the proposed rule change would benefit market participants seeking an execution at the official closing price where they are unable to enter orders to participate in the primary listing market's closing auction due to a systems issue.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposal would increase competition by offering a competitive alternative to the primary listing markets' closing auction process as requested by market participants. The proposed rule change will promote competition among national securities exchanges in the execution of MOC orders at the official closing price without disrupting the price discovery process performed by the primary listing markets' closing processes. The Exchange also notes that other exchanges may file proposed rule changes with the Commission seeking to adopt alternatives to the auction the Exchange conducts in BZX-listed securities should they feel they can offer improved price discovery or lower transaction costs without further fragmenting the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission 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 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBZX–2017–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–34. 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–BatsBZX–2017–34, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10305 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[27] *See* Exchange Rule 11.23(i); *see also* Securities Exchange Act Release No. 78015 (June 8, 2016), 81 FR 38747 (June 14, 2016) (SR–NYSE–2016–18) and (SR–NYSEMKT–2016–31) (''OCP Approval Order''). *See also* Nasdaq Rule 4754(b)(8) *and* NYSE Arca Rule 1.1(ggP) [sic].

[28] For example, on March 20, 2017, NYSE Arca was unable to perform a closing auction in approximately 1,500 of their Exchange Traded Products and cancelled all orders. *See NYSE Arca Suffers Glitch During Closing Auction,* by Asjylyn Loder, Wall Street Journal, March 20, 2017. *See also Headaches for Traders with NYSE Glitch Near Market Close,* by Annie Massa, Bloomberg News, March 21, 2017. Had this systems issue occurred prior to the MOC Cut-Off time as set forth in this proposal, market participants whose orders were cancelled on NYSE Arca could have submitted MOC orders to participate in the proposed Bats Market Close and receive the official closing price determined by the primary listing market's secondary contingency procedures.

[29] *Id.*

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80686; File No. SR–BatsEDGA–2017–10]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.21 of Bats EDGA Exchange, Inc. To Modify the Date of Appendix B Web site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 16, 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 May 4, 2017, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I 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 11.21 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 11.21(b) (Compliance with Data Collection Requirements)[5] implements the data collection and Web site publication requirements of the Plan.[6] Rule 11.21(b).08 provides, among other things, that the requirement that the Exchange or Designated Examining Authority (''DEA'') make certain data for the Pre-Pilot Period and Pilot Period[7] publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence on April 28, 2017.[8] The Exchange is proposing to amend Rule 11.21.08 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

Pursuant to this proposed amendment, the Exchange or DEA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017.[9] Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[10] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange or DEA's Web site by October 28, 2017.

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.

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 consider a methodology to mitigate concerns raised in connection with the publication of Appendix B 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

[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 11.21(b). *See also* Securities Exchange Act Release Nos. 77417 (March 22, 2016), 81 FR 17219 (March 28, 2016); *and* 78799 (September 9, 2016), 81 FR 63549 (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 Exchange Rule 11.21.

[8] *See* Exchange Rule 11.21.08. *See also* Securities Exchange Act Release No. 80215 (March 10, 2017), 82 FR 14061 (March 16, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[9] The Exchange initially submitted this proposed rule change on April 28, 2017. (SR–BatsEDGA–2017–08). On May 4, 2017, the Exchange withdrew SR–BatsEDGA–2017–08 and submitted this filing.

[10] FINRA, on behalf of 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).

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 19(b)–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 the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[15]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[17]

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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGA–2017–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGA–2017–10. 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–BatsEDGA–2017–10 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10308 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[16] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBZX–2017–31; BatsBYX–2017–10; BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca–2017–49; SR–NYSEMKT–2017–24.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80692; File No. SR–IEX–2017–16]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 16, 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 May 9, 2017, the Investors Exchange LLC (''SRO'', ''Exchange'' or ''IEX'') 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.[4] 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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[5] and Rule 19b–4

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed the proposed rule change on May 3, 2017 under File No. SR–IEX–2017–13. The Exchange subsequently withdrew that filing on May 9, 2017 and filed this proposed rule change.

[5] 15 U.S.C. 78s(b)(1).

thereunder,[6] SRO is filing with the Commission a proposed rule change to adopt a fee schedule pursuant to Rule 15.110(a) to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[7] The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement [sic] may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[8] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[9] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[10] and Rule 608 of Regulation NMS thereunder,[11] the CAT NMS Plan.[12] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[13] and approved by the Commission, as modified, on November 15, 2016.[14] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[15] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[16] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[17] Accordingly, SRO submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are SRO members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[18])
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)
- *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)
- *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options

[6] 17 CFR 240.19b–4.

[7] Unless otherwise specified, capitalized terms used in this fee filing are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

[8] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[9] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[10] 15 U.S.C. 78k–1.

[11] 17 CFR 242.608.

[12] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[13] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[14] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[15] The Plan also serves as the limited liability company agreement for the Company.

[16] Section 11.1(b) of the CAT NMS Plan.

[17] *Id.*

[18] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. SRO will issue a Regulatory Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [19] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [20]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [21] The Commission further noted the following:

The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[22]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[23] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[24] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [25]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan

[19] Approval Order at 84796.

[20] *Id.* at 84794.

[21] *Id.* at 84795.

[22] *Id.* at 84794.

[23] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[24] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[25] Approval Order at 84796.

includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[26] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[27] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[28] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[29]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [30] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[31] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[32]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[33] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[34]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [35] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [36]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[37] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [38] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [39]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. SRO notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the

[26] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[27] Approval Order at 85005.

[28] *Id.*

[29] *Id.*

[30] *Id.* at 84796.

[31] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[32] Section 11.3(b) of the CAT NMS Plan.

[33] Section 11.2(c) of the CAT NMS Plan.

[34] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[35] Section 11.2(e) of the CAT NMS Plan.

[36] Approval Order at 84796.

[37] *Id.* at 84792.

[38] 26 U.S.C. 501(c)(6).

[39] Approval Order at 84793.

Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

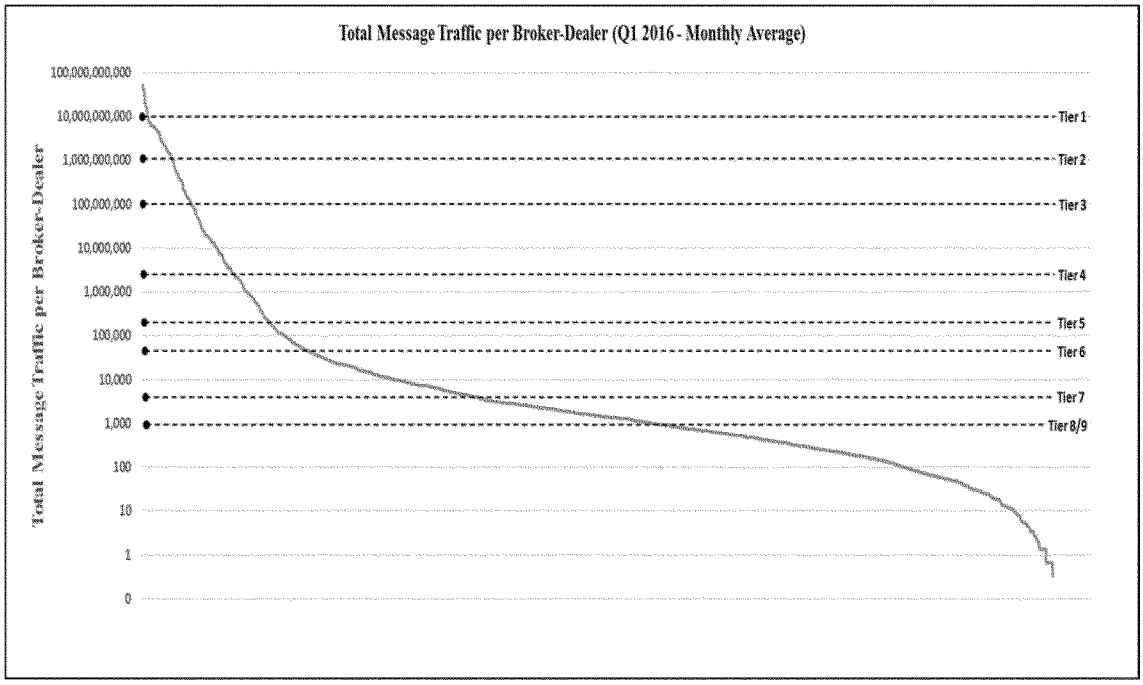
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of

Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[40] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[41] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[42]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).''[43]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[44]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee

[40] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[41] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[42] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[43] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[44] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the

measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution

Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[45]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category

[45] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[46] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [47]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [48]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [49]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [50]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter

[46] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[47] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[48] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[49] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[50] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS (''IM'')

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 0.5\%\ [\%\ of\ Tier\ 1\ IMs] = 8\ [Estimated\ Tier\ 1\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 8.50\%\ [\%\ of\ Tier\ 1\ IM\ Recovery]}{8\ [Estimated\ Tier\ 1\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 2.5\%\ [\%\ of\ Tier\ 2\ IMs] = 41\ [Estimated\ Tier\ 2\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 35\%\ [\%\ of\ Tier\ 2\ IM\ Recovery]}{41\ [Estimated\ Tier\ 2\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 2.125\%\ [\%\ of\ Tier\ 3\ IMs] = 35\ [Estimated\ Tier\ 3\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 21.25\%\ [\%\ of\ Tier\ 3\ IM\ Recovery]}{35\ [Estimated\ Tier\ 3\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 4.625\%\ [\%\ of\ Tier\ 4\ IMs] = 75\ [Estimated\ Tier\ 4\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 15.75\%\ [\%\ of\ Tier\ 4\ IM\ Recovery]}{75\ [Estimated\ Tier\ 4\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 3.625\%\ [\%\ of\ Tier\ 5\ IMs] = 59\ [Estimated\ Tier\ 5\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 7.75\%\ [\%\ of\ Tier\ 5\ IM\ Recovery]}{59\ [Estimated\ Tier\ 5\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 4\%\ [\%\ of\ Tier\ 6\ IMs] = 65\ [Estimated\ Tier\ 6\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 5.25\%\ [\%\ of\ Tier\ 6\ IM\ Recovery]}{65\ [Estimated\ Tier\ 6\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 17.5\%\ [\%\ of\ Tier\ 7\ IMs] = 285\ [Estimated\ Tier\ 7\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 4.50\%\ [\%\ of\ Tier\ 7\ IM\ Recovery]}{285\ [Estimated\ Tier\ 7\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 20.125\%\ [\%\ of\ Tier\ 8\ IMs] = 328\ [Estimated\ Tier\ 8\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 1.50\%\ [\%\ of\ Tier\ 8\ IM\ Recovery]}{328\ [Estimated\ Tier\ 8\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 45\%\ [\%\ of\ Tier\ 9\ IMs] = 735\ [Estimated\ Tier\ 9\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 0.50\%\ [\%\ of\ Tier\ 9\ IM\ Recovery]}{735\ [Est.Tier\ 9\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues	Equity execution venue tier	Estimated number of equity execution venues	Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13	Tier 2	40	Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [Estimated\ Tot.Equity\ EVs]\ \times 25\%\ [\%\ of\ Tier\ 1\ Equity\ EVs] = 13\ [Estimated\ Tier\ 1\ Equity\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.\ Ann.CAT\ Costs] \times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs] \times 26\%\ [\%\ of\ Tier\ 1\ Equity\ EV\ Recovery]}{13\ [Estimated\ Tier\ 1\ Equity\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21,125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [Estimated\ Tot.Equity\ EVs]\ \times 75\%\ [\%\ of\ Tier\ 2\ Equity\ EVs] = 40\ [Estimated\ Tier\ 2\ Equity\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.\ Ann.CAT\ Costs] \times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs] \times 49\%\ [\%\ of\ Tier\ 2\ Equity\ EV\ Recovery]}{40\ [Estimated\ Tier\ 2\ Equity\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12,940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES ("EV")

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [Estimated\ Tot.Options\ EVs]\ \times 75\%\ [\%\ of\ Tier\ 1\ Options\ EVs] = 11\ [Estimated\ Tier\ 1\ Options\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs] \times 20\%\ [\%\ of\ Tier\ 1\ Options\ EV\ Recovery]}{11\ [Estimated\ Tier\ 1\ Options\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19,205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [Estimated\ Tot.Options\ EVs]\ \times 25\%\ [\%\ of\ Tier\ 2\ Options\ EVs] = 4\ [Estimated\ Tier\ 2\ Options\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs] \times 5\%\ [\%\ of\ Tier\ 2\ Options\ EV\ Recovery]}{4\ [Estimated\ Tier\ 2\ Options\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13,204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [51]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [52]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan

[51] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[52] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. SRO will issue a Regulatory Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[53] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[54] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then SRO will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. SRO notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, SRO notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

[53] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[54] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

(3) Proposed CAT Fee Schedule

SRO proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on SRO's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 11.610 (Consolidated Audit Trail—Definitions).

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

SRO proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[55] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

[55] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. SRO will provide Industry Members with details regarding the manner of payment of CAT Fees by Regulatory Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[56]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, SRO proposed to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

SRO believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[57] which require, among other things, that the SRO rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[58] which requires that SRO rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. SRO believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

SRO believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist SRO and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [59] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, SRO believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

SRO believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, SRO believes that the total level of the CAT Fees is reasonable.

In addition, SRO believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, SRO believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current

[56] Section 11.4 of the CAT NMS Plan.

[57] 15 U.S.C. 78f(b)(5).

[58] 15 U.S.C. 78f(b)(4).

[59] Approval Order at 84697.

number of Equity and Options Execution Venues.

Finally, SRO believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [60] require [sic] that SRO rules not impose any burden on competition that is not necessary or appropriate. SRO 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. SRO notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist SRO in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, SRO believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, SRO does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, SRO does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, SRO believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [61] of the Act.

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 under Section 19(b)(2)(B) [62] 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–IEX–2017–16 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–IEX–2017–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–IEX–2017–16, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[63]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10296 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[60] 15 U.S.C. 78f(b)(8).

[61] 15 U.S.C. 78s(b)(3)(A)(ii).

[62] 15 U.S.C. 78s(b)(2)(B).

[63] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80691; File No. SR–CHX–2017–08]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Assessments To Adopt a Fee Schedule To Establish Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 16, 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 May 3, 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, 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

CHX proposes to amend its Schedule of Fees and Assessments (the ''Fee Schedule'') to establish fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''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 Statutory Basis for, the Proposed Rule Changes

1. Purpose

The Exchange, Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Plan Participants'') [5] filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Plan Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Plan Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Plan Participants will pay, and establishing fees for Industry Members that will be implemented by the Plan Participants (''CAT Fees'').[12] The Plan Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Plan Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below [14])
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Plan Participants

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[5] A ''Participant'' is a ''member'' of the Exchange for purposes of the Act. *See* CHX Article 1, Rule 1(s). For clarity, the term ''Plan Participant'' will be used herein when referring to Participants of the Plan.

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Plan Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Plan Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Plan Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Plan Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] *Id.*

[14] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Plan Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. The Exchange will issue an Information Memorandum to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Plan Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [15] and ''reflects a reasonable exercise of the [Plan] Participants' funding authority to recover the [Plan] Participants' costs related to the CAT.'' [16]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Plan [sic] Participants and Industry Members.'' [17] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the [Plan] Participants' funding authority to recover the [Plan] Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the [Plan] Participants and . . . the Exchange Act specifically permits the [Plan] Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the [Plan] Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated Exchange [sic] services.[18]

Accordingly, the funding model imposes fees on both Plan Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[19] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably

[15] Approval Order at 84796.

[16] *Id.* at 84794.

[17] *Id.* at 84795.

[18] *Id.* at 84794.

[19] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

predict their payment obligations for budgeting purposes.[20] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he [Plan] Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [21]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[22] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[23] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[24] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[25]

The Commission also noted in approving the CAT NMS Plan that ''[t]he [Plan] Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [26] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[27] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[28]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[29] Because most Plan Participant message traffic consists of quotations, and Plan Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Plan Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[30]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [31] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Plan Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he [Plan] Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [32]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Plan Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Plan Participants as profits.[33] To ensure that the Plan Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [34] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual [Plan] Participants.'' [35]

[20] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[21] Approval Order at 84796.

[22] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[23] Approval Order at 85005.

[24] *Id.*

[25] *Id.*

[26] *Id.* at 84796.

[27] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[28] Section 11.3(b) of the CAT NMS Plan.

[29] Section 11.2(c) of the CAT NMS Plan.

[30] Section B.7., Appendix C of the CAT NMS Plan, Approval Order at 85005.

[31] Section 11.2(e) of the CAT NMS Plan.

[32] Approval Order at 84796.

[33] *Id.* at 84792.

[34] 26 U.S.C. 501(c)(6).

[35] Approval Order at 84793.

Finally, by adopting a CAT-specific fee, the Plan Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. The Exchange notes that the complete funding model is described below, including those fees that are to be paid by the Plan Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Plan Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Plan Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Plan Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Plan Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

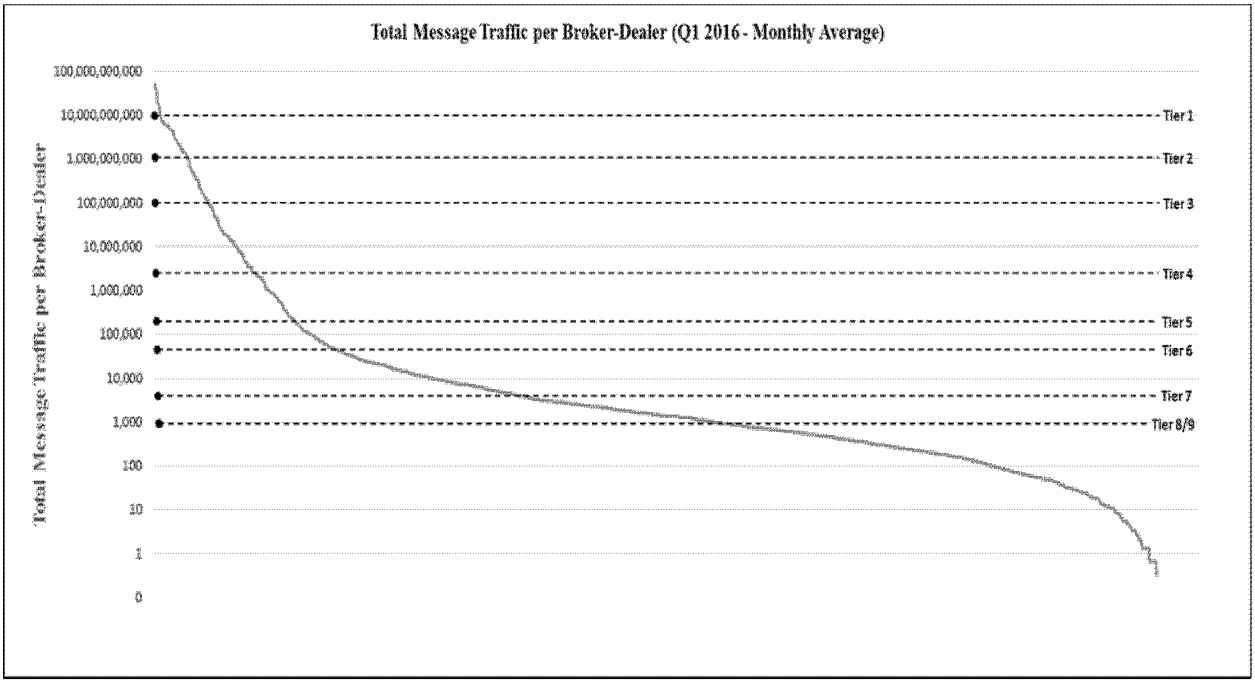
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the

Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members (%)	Percentage of industry member recovery (%)	Percentage of total recovery (%)
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[36] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[37] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[38]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a [Plan] Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [39]

The Plan Participants determined that ATSs should be included within the

[36] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017, 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[37] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[38] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[39] Although FINRA does not operate an execution venue, because it is a Plan Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Plan Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[40]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Plan Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

[40] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Equity execution venue tier	Percentage of equity execution venues (%)	Percentage of execution venue recovery (%)	Percentage of total recovery (%)
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Plan Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Plan Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly,

under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[41]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[42] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees:[43]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually[44]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually[45]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

[41] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

[42] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[43] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[44] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [46]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS

["IM"]

Industry member tier	Percentage of industry members (%)	Percentage of industry member recovery (%)	Percentage of total recovery (%)
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

[46] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES (''EV'')

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\%\ \text{of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\%\ \text{of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [47]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Plan Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [48]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

[47] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[48] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Plan Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Plan Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. The Exchange will issue an Information Memorandum to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[49] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[50] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then the Exchange will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. The Exchange notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, the Exchange notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[49] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[50] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

The Exchange proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on the Exchange's Industry Members. The proposed fee schedule under Section R of the CHX Fee Schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Plan Participant'' are defined as set forth under Article 23, Rule 1 (Consolidated Audit Trail—Definitions) of the CHX Rules.

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, paragraph (a)(6) defines an ''Execution Venue'' as a Plan Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

The Exchange proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[51] These are the same fees that Plan Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. The Exchange will provide Industry Members with details regarding the manner of payment of CAT Fees by Information Memorandum.

[51] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Plan Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Plan Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Plan Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[52]

Section 11.4 of the CAT NMS Plan also states that Plan Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, the Exchange proposed to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[53] which require, among other things, that rules of the exchange must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[54] which requires that the rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Plan Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [55] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Plan Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Plan Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, the Exchange believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Plan Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, the Exchange believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, the Exchange believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement of Burden on Competition

Section 6(b)(8) of the Act [56] require [sic] that the rules of the Exchange not impose any burden on competition that is not necessary or appropriate. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not

[52] Section 11.4 of the CAT NMS Plan.

[53] 15 U.S.C. 78f(b)(5).

[54] 15 U.S.C. 78f(b)(4).

[55] Approval Order at 84697.

[56] 15 U.S.C. 78f(b)(8).

necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Exchange does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, the Exchange believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[57] and subparagraph(f)(2) of Rule 19b–4 thereunder[58] because it establishes or changes a due, fee or other charge imposed by the Exchange.

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–CHX–2017–08 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–2017–08. 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–2017–08, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[59]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10295 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[57] 15 U.S.C. 78s(b)(3)(A)(ii).

[58] 17 CFR 240.19b–4(f)(2).

[59] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80695; File No. SR–NYSEMKT–2017–28]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 994NY, Broadcast Order Liquidity Delivery Mechanism

May 16, 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 May 10, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify a change to Rule 994NY, Broadcast Order Liquidity Delivery (''BOLD'') Mechanism. 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 purpose of the filing is to make a clarifying change to a recently adopted Exchange rule that governs the operation of the BOLD Mechanism.[4] The BOLD Mechanism is a feature within the Exchange's trading system that would provide automated order handling for eligible orders in designated classes. Under the current rule, after trading with eligible interest on the Exchange, the BOLD Mechanism will automatically process an eligible incoming order that is marketable against quotations disseminated by other exchanges that are participants in the Options Order Protection and Locked/Crossed Market Plan. With respect to order handling, orders that are received by the BOLD Mechanism pursuant to the rule will be electronically exposed at the National Best Bid or Offer (''NBBO'') upon receipt for a period of time determined by the Exchange.

Regarding the allocation of exposed orders, the current rule states that any interest priced at the prevailing NBBO or better will be executed pursuant to Rule 964NY (Display, Priority and Order Allocation).[5] Rule 964NY provides the allocation procedures for orders that are displayed. The Exchange proposes to amend current Rule 994NY to clarify that orders processed by the BOLD Mechanism will be considered displayed during the exposure period and will be treated as displayed orders pursuant to Rule 964NY. The Exchange does not propose to modify current Rule 964NY or the operation of the BOLD Mechanism. The Exchange simply seeks to clarify current system functionality within the Exchange's rules. The Exchange believes the proposed amendment will provide ATP Holders and the investing public with greater transparency regarding the operation of the BOLD Mechanism.

2. Statutory Basis

The Exchange believes that its proposal to amend its rules to provide additional specificity regarding the functionality of the BOLD Mechanism is consistent with the requirements of the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act[7] because it would 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, in general, protect investors and the public interest. The Exchange believes that the clarifying change to the operation of the BOLD Mechanism would promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of Exchange functionality. The Exchange also believes that the proposed amendment will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand. Moreover, the Exchange believes that the additional clarity and transparency of the proposed rule change would promote the efficient execution of investor transactions, and thus strengthen investor confidence in the market. In addition, the Exchange believes that additional specificity in its rules will lead to a better understanding of the operation of the BOLD Mechanism, thereby facilitating fair competition among market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to adopt the BOLD Mechanism will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is not proposing to substantively modify the operation of the BOLD Mechanism; rather, it intends to enhance the clarity of current system functionality. The proposed rule change is not designed to address any competitive issues, but rather provide additional specificity and transparency to ATP Holders and the investing public regarding the operation of the BOLD Mechanism. Since the Exchange does not propose to substantively modify the operation of exchange functionality, the proposed rule change will not impose any burden on competition.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

[4] *See* Securities Exchange Act Release No. 80494 (April 20, 2017), 82 FR 19300 (April 26, 2017) (SR–NYSEMKT–2017–21).

[5] NYSE Amex provides customer priority and size pro-rata allocation. Pursuant to Rule 964NY, customers at a given price are executed first in priority. Non-customers are executed on a pro-rata basis pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to provide additional clarity and transparency regarding the operation of the BOLD Mechanism prior to the introduction of the functionality to market participants. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[12]

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–NYSEMKT–2017–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2017–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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–NYSEMKT–2017–28, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10299 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80693; File No. SR–NYSE–2017–22]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Price List

May 16, 2017.

Pursuant NYSE–2017–22 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 May 10, 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 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 NYSE Price List (''Price List'') to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[4] 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[5] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, the CAT Compliance Rule or in the CAT NMS Plan.

[5] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

Arca, Inc. and NYSE National, Inc.[6] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[7] and Rule 608 of Regulation NMS thereunder,[8] the CAT NMS Plan.[9] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[10] and approved by the Commission, as modified, on November 15, 2016.[11] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[12] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[13] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[14] Accordingly, the Exchange submits this fee filing to amend the Exchange's Price List which will require Industry Members that are NYSE members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[15])
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)
- *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)
- *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)
- *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)
- *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

- *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)
- *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the

[6] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 242.608.

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[10] *See* Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[11] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[12] The Plan also serves as the limited liability company agreement for the Company.

[13] Section 11.1(b) of the CAT NMS Plan.

[14] Section 12.1(b) [sic] of the CAT NMS Plan.

[15] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [16] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [17]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [18] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[19]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[20] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[21] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [22]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[23] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[24] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[25] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[26]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [27] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[28] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[29]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution

[16] Approval Order at 84796.

[17] *Id.* at 84794.

[18] *Id.* at 84795.

[19] *Id.* at 84794.

[20] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[21] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[22] Approval Order at 84796.

[23] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[24] Approval Order at 85005.

[25] *Id.*

[26] *Id.*

[27] *Id.* at 84796.

[28] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[29] Section 11.3(b) of the CAT NMS Plan.

Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[30] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[31]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [32] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [33]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[34] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[ ] to the benefit of any private shareholder or individual.'' [35] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [36]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. The Exchange notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the

[30] Section 11.2(c) of the CAT NMS Plan.

[31] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[32] Section 11.2(e) of the CAT NMS Plan.

[33] Approval Order at 84796.

[34] *Id.* at 84792.

[35] 26 U.S.C. 501(c)(6).

[36] Approval Order at 84793.

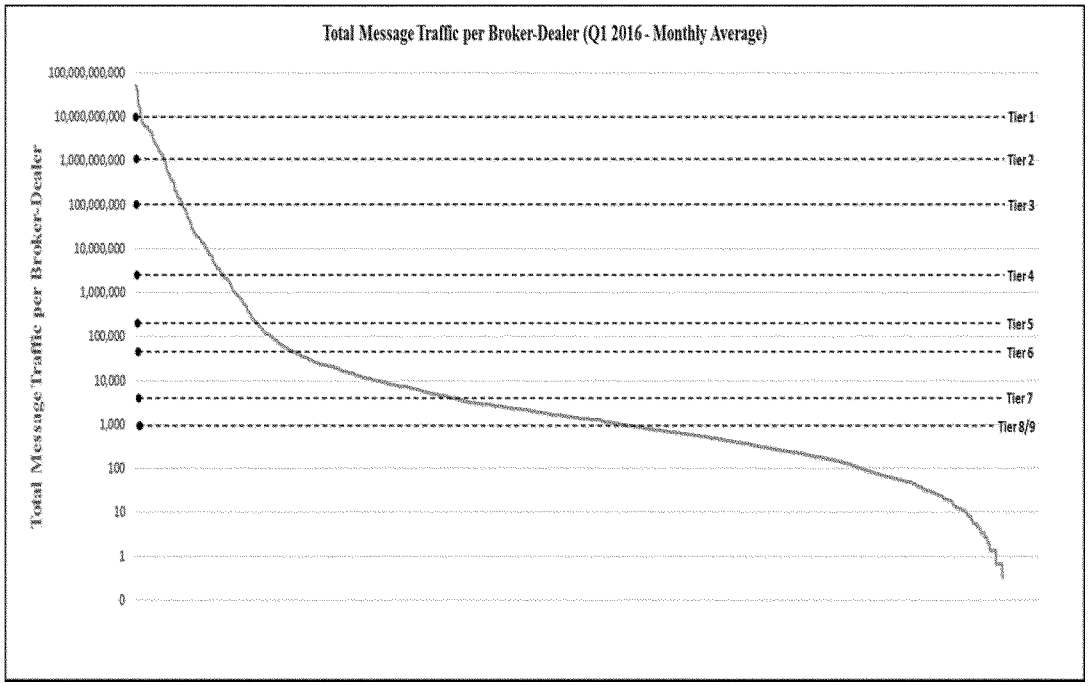
Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[37] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding

[37] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

order rejects and implied orders.[38] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[39]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).''[40]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[41]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from

[38] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[39] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[40] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[41] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by

predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability

should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[42]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consists of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount ($)
Plan Processor	Operational Costs	37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[43] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees:[44]

For Industry Members (other than Execution Venue ATSs):

[42] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

[43] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[44] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[45] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

Tier	Monthly CAT fee ($)	Quarterly CAT fee ($)	CAT fees paid annually [45] ($)
1	33,668	101,004	404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee ($)	Quarterly CAT fee ($)	CAT fees paid annually [46] ($)
1	21,125	63,375	253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee ($)	Quarterly CAT fee ($)	CAT fees paid annually [47] ($)
1	19,205	57,615	230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ["IM"]

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

[46] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[47] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

Industry member tier	Estimated number of industry members	Industry member tier	Estimated number of industry members	Industry member tier	Estimated number of industry members
Tier 1	8	Tier 5	59	Tier 9	735
Tier 2	41	Tier 6	65		
Tier 3	35	Tier 7	285	Total	1,631
Tier 4	75	Tier 8	328		

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ["EV"]

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues	Equity execution venue tier	Estimated number of equity execution venues	Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13	Tier 2	40	Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES ["EV"]

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues	Options execution venue tier	Estimated number of options execution venues	Options execution venue tier	Estimated number of options execution venues
Tier 1	11	Tier 2	4	Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\%\ \text{of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\%\ \text{of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
	Total	15		3,168,852
Total				50,709,036
Excess [48]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [49]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888

[48] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of 11.425 million.

[49] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

INDUSTRY MEMBER COMPLEXES—Continued

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[50] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[51] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then the Exchange will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. The Exchange notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, the Exchange notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

[50] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[51] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fees

The Exchange proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on the Exchange's Industry Members. The proposed fee change has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) sets forth the definitions applicable to the proposed Consolidated Audit Trail Funding Fees. Proposed paragraph (a)(1) states that the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security,'' and ''Participant'' are defined as set forth in Rule 6810 (Consolidated Audit Trail—Definitions) of the CAT Compliance Rule, as adopted by the Exchange for its equities trading platform.[52]

The Exchange proposes to impose different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the Exchange proposes to define the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Exchange Act that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members pursuant to this proposed rule change.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

The Exchange proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed rule change.

Paragraph (b)(1) of the proposed rule change sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[53] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

[52] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSE–2017–01).

[53] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed rule change states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee change, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. The Exchange will provide Industry Members with details regarding the manner of payment of CAT Fees by Trader Update.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[54]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, proposed paragraph (c)(2) states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[55] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. The Exchange believes the proposed rule change is also consistent with Section 6(b)(5) of the Act,[56] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [57] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, the Exchange believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, the Exchange believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that

[54] Section 11.4 of the CAT NMS Plan.

[55] 15 U.S.C. 78f(b)(4).

[56] 15 U.S.C. 78f(b)(6) [sic].

[57] Approval Order at 84697.

comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, the Exchange believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

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

Section 6(b)(8) of the Act [58] require [sic] that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. 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 provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing a similar proposed fee change to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Exchange does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, the Exchange believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

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) [59] of the Act and subparagraph (f)(2) of Rule 19b–4 [60] 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) [61] 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–2017–22 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–NYSE–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–NYSE–2017–22 and should be submitted on or before June 12, 2017.

[58] 15 U.S.C. 78f(b)(8).

[59] 15 U.S.C. 78s(b)(3)(A).

[60] 17 CFR 240.19b–4(f)(2).

[61] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10297 Filed 5–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80700; File No. SR–NYSEMKT–2017–05]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change Amending Rules 7.29E and 1.1E To Provide for a Delay Mechanism

May 16, 2017.

I. Introduction

On January 27, 2017, NYSE MKT LLC (the ''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 Rules 7.29E and 1.1E to provide for an intentional access delay to certain inbound and outbound order messages on the Exchange. The proposed rule change was published for comment in the **Federal Register** on February 15, 2017.[3] On March 17, 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 has received six comment letters on the proposal from five commenters.[6] On March 31, 2017, the Exchange submitted a comment response letter.[7] On April 28, 2017, the Exchange submitted a second comment response letter.[8] On May 11, 2017, the Exchange submitted a third comment response letter.[9] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Rules 7.29E and 1.1E to provide for an intentional delay to specified message and order processing (the ''Delay Mechanism''). The Exchange has separately proposed rules to transition its cash equities trading to the Pillar trading platform and to transition its cash equities market from a Floor-based market with a parity allocation model to a fully automated price-time-priority allocation model that trades all NMS Stocks.[10]

The Exchange now proposes to include an intentional access delay on Pillar that would add 350 microseconds of latency to inbound and outbound order messages, as described in greater detail below.[11] The Exchange states that its proposed Delay Mechanism is based in part on the operation of the intentional 350-microsecond delay mechanism of Investors Exchange LLC (''IEX'') [12] and that the proposed rule change is ''designed to create a competitive trading model to IEX.'' [13]

Unlike IEX, the Exchange proposes to use a software solution to create the delay. The delay added by the Exchange would be in addition to any natural latency inherent in accessing the Exchange and Away Markets.[14] In addition, the Exchange would further provide that it would periodically monitor the latency and adjust the latency as necessary to achieve consistency with the 350 microsecond target.[15] If the Exchange determines to increase or decrease the delay period, it would be required to submit a rule filing pursuant to Section 19 of the Act.[16]

The Exchange proposes to apply the Delay Mechanism to the following:

- *All inbound communications from an ETP Holder.*[17] The Exchange's proposal to apply the Delay Mechanism to all inbound communications from an ETP Holder would cover all incoming orders, as well as any requests to cancel or modify a resting order.
- *All outbound communications to an ETP Holder.*[18] The Exchange's proposal to apply the Delay Mechanism to all outbound communications to an ETP Holder would cover Exchange messages to an ETP Holder that an order has been accepted, rejected, cancelled, modified, or executed. Together with the application of the proposed Delay Mechanism to all inbound communications to the Exchange, there would be 700 microseconds of round-trip latency for an ETP Holder to receive a report of an execution or partial execution on the Exchange.
- *All outbound communications the Exchange routes to an Away Market,*[19] *and all inbound communications from an Away Market about a routed order.*[20] If the Exchange determines to route an order, either because it would trade through a protected quotation or has an instruction to be routed to a primary

[62] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79998 (Feb. 9, 2017), 82 FR 10828 (Feb. 15, 2017) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80268 (Mar. 17, 2017), 82 FR 14932 (Mar. 23, 2017). The Commission designated May 16, 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* Letters to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (Mar. 10, 2017) (''IEX Letter I''); Tyler Gellasch, Executive Director, Healthy Markets Association (Mar. 10, 2017) (''HMA Letter''); Joanna Mallers, Secretary, FIA Principal Traders Group (Mar. 24, 2017) (''FIA PTG Letter''); John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (Apr. 21, 2017) (''IEX Letter II''); Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Bats Global Markets, Inc. (Apr. 24, 2017) (''Bats Letter''); and Stephen John Berger, Managing Director, Government & Regulatory Policy, Citadel Securities (Apr. 28, 2017) (''Citadel Letter'').

[7] *See* Letter to Brent J. Fields, Secretary, Commission, from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange (Mar. 31, 2017) (''NYSE MKT Response Letter I'').

[8] *See* Letter to Brent J. Fields, Secretary, Commission, from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange (Apr. 28, 2017) (''NYSE MKT Response Letter II'').

[9] *See* Letter to Brent J. Fields, Secretary, Commission, from Elizabeth K. King, General Counsel and Corporate Secretary, New York Stock Exchange (May 11, 2017) (''NYSE MKT Response Letter III'').

[10] *See* Securities Exchange Act Release Nos. 79242 (Nov. 4, 2016), 81 FR 79081 (Nov. 10, 2016) (SR–NYSEMKT–2016–97); 79400 (November 25, 2016), 81 FR 86750 (Dec. 1, 2016) (SR–NYSEMKT–2016–103); 79993 (Feb. 9, 2017); 82 FR 10814 (Feb. 15, 2017) (SR–NYSEMKT–2017–01); and 79982 (Feb. 7, 2017); 82 FR 10508 (Feb. 13, 2017) (SR–NYSEMKT–2017–04). According to the Exchange, if the Commission approves these proposed rule changes, it will transition to Pillar on a date announced by Trader Update.

[11] The Exchange notes that, when it implements the Delay Mechanism, it will no longer offer Add Liquidity Only (''ALO'') Order or Day Intermarket Sweep Order (''ISO'') functionality and all Pegged Orders will not be displayed. The Exchange represents that, before implementing the Delay Mechanism, it will file a separate proposed rule change to eliminate ALO and Day ISO Orders and related functionality and to provide that Primary Pegged Orders will not be displayed. *See* Notice, *supra* note 3, 82 FR at 10829 n.6.

[12] IEX uses a hardware solution to add the equivalent of 350 microseconds of latency between the network access point of the ''POP'' and IEX's matching engine at its primary data center through geographic distance and coiled optical fiber. *See* IEX Rule 11.510.

[13] *See* Notice, *supra* note 3, 82 FR at 10831.

[14] The term ''Away Market'' is any exchange, alternate trading system (''ATS'') or other broker-dealer (1) with which the Exchange maintains an electronic linkage and (2) that provides instantaneous responses to orders routed from the Exchange and that the Exchange will designate from time to time those ATS's or other broker-dealers that qualify as Away Markets. *See* Rule 1.1E(ff).

[15] *See* Proposed Rule 1.1E(y).

[16] *See id.*

[17] *See* Proposed Rule 7.29E(b)(1)(A).

[18] *See* Proposed Rule 7.29E(b)(1)(B).

[19] *See* Proposed Rule 7.29E(b)(1)(C).

[20] *See* Proposed Rule 7.29E(b)(1)(D).

listing market, the Exchange would apply the Delay Mechanism before routing such order. This proposed rule text would therefore provide that an order that the Exchange routes to an Away Market would have 700 microseconds of added delay before it is routed: First, a 350 microsecond delay before the order is received by the Exchange's matching engines; and second, an additional 350 microsecond delay when the order is routed.[21] Any inbound communications to the Exchange from the Away Market about such routed order, whether a rejection or execution report, would also be subject to the Delay Mechanism. In addition, any such report forwarded to the ETP Holder that entered the order would then be subject to an additional Delay Mechanism. Accordingly, the Exchange would add a total of 1,400 microseconds of round-trip delay to an order that the Exchange routes to an Away Market.

• *All outbound communications (e.g., bids, offers, and trades) to the Exchange's proprietary data feeds.*[22] The Exchange proposes to apply add 350 microseconds of delay to all outbound messages to its proprietary data feeds.

Finally, the Exchange proposes also to apply the Delay Mechanism when the Exchange is operating out of its secondary data center.

The Exchange proposes *not* to apply the Delay Mechanism to the following:

• *All inbound communications from data feeds.*[23] The Delay Mechanism would not apply to communications to the Exchange from data feeds received directly from Away Markets and data feeds disseminated by a plan processor.

• *Order processing and order execution on the Exchange's Book.*[24] All actions taken within the Exchange's Book, including calculating the BBO, NBBO, or PBBO,[25] assigning working prices and working times to orders,[26] and ranking and executing orders, would not be subject to the Delay Mechanism. For example, the Exchange would not apply the Delay Mechanism to update the working price of Pegged Orders, which would not be displayed on the Exchange, based on an updated PBBO.

• *All outbound communications (e.g., bids, offers, and trades) to the plan processors under Rules 601 and 602 of Regulation NMS.*[27] The Exchange proposes not to apply the Delay Mechanism to outbound communications with the SIP to disseminate quotation and last sale information.

III. Summary of Comments and NYSE MKT's Responses

As noted above, the Commission has received six letters from five commenters on the proposal, as well as three response letters from the Exchange.[28] Three commenters express opposition to the proposal in its current form.[29] One commenter generally opposes the proposal, but acknowledged that it would be difficult for the Commission to disapprove the proposal in light of the Commission's interpretation relating to exchange access delays.[30] Another commenter expresses concerns with exchange access delays more generally, but also notes that it does not see any legal grounds for disapproval of the Exchange's proposal in light of the Commission's interpretation and approval of IEX's access delay.[31] As discussed in more detail below, commenters generally: (i) Request additional information regarding the proposal (including the Exchange's rationale for proposing a delay, the objective of the delay, and how the delay will protect investors); (ii) raise questions regarding the differences between the Exchange's proposal and the IEX access delay; and (iii) urge the Commission to complete a holistic review of equity market structure or the impact of access delays in particular and to provide more comprehensive guidance with respect to access delays, rather than considering new delays on an ad hoc basis through the SRO rule filing process.

First, the three commenters that oppose the proposal in its current form request additional information from the Exchange to better understand its proposal and the Exchange's underlying rationale.[32] These commenters note the opposition of the New York Stock Exchange (''NYSE''), an affiliate of the Exchange, to IEX's application for registration as a national securities exchange and, in particular, to IEX's proposal to utilize an intentional delay on its market.[33] These commenters request that the Exchange provide more detail regarding the reasoning behind its decision to adopt an intentional delay, including the objectives of the delay and how it will accomplish those objectives, how it is intended to benefit investors and promote fair and orderly markets, and whether the Exchange's views about the impact of such a delay differ from those raised in NYSE's comments on IEX's application.[34] One commenter argues that the Exchange should not be permitted to rely simply on its similarity to the IEX access delay, and must instead provide a more thorough explanation as to why it proposes to implement an access delay.[35] Two commenters request that the Exchange provide an explanation as to how it determined to set the latency of the Delay Mechanism at 350 microseconds.[36]

Second, commenters raise questions related to the specifics of the Exchange's proposal, in particular how it differs from IEX's access delay. Two commenters ask about the impact of the delay being implemented through a software process rather than a hardware mechanism, and they ask whether this could lead to any variability in the delay and how the Exchange would monitor any such variation from the 350 microsecond target.[37] One commenter asks the Exchange to clarify how the additional delay it proposes for routable orders would impact the ability to access quotations on other exchanges that may be modified before the routed order subject to the delay is received by the away exchange.[38] This commenter also asks whether the intentional delay on the Exchange would unfairly harm

[21] After the Exchange applies the Delay Mechanism to a routable order, the routed order would be subject to any natural latency inherent in accessing such Away Market.

[22] *See* Proposed Rule 7.29E(b)(1)(E).

[23] *See* Proposed Rule 7.29E(b)(2)(A).

[24] *See* Proposed Rule 7.29E(b)(2)(B).

[25] The term ''BBO'' is the best bid or offer that is a protected quotation on the Exchange. *See* Rule 1.1E(h). The terms ''NBBO'' and ''PBBO'' are the national best bid or offer and the protected best bid and offer, respectively. *See* Rule 1.1E(dd).

[26] The Exchange proposed to define the term ''working price'' as the price at which an order is eligible to trade at any given time, which may be different from the limit price or display price of the order, and to define the term ''working time'' as the effective time sequence assigned to an order for purposes of determining its priority ranking. *See* Securities Exchange Act Release No. 79993 (Feb. 9, 2017), 82 FR 10814 (Feb. 15, 2017) (SR–NYSEMKT–2017–01).

[27] *See* Proposed Rule 7.29E(b)(2)(C).

[28] *See supra* notes 6–9.

[29] *See* IEX Letter I; IEX Letter II; HMA Letter; Citadel Letter.

[30] *See* FIA PTG Letter at 2. *See also* Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2016) (File No. S7–03–16) (''Interpretation''); *infra* note 82.

[31] *See* Bats Letter at 1.

[32] *See* IEX Letter I at 2–3; HMA Letter at 4; Citadel Letter at 2–3.

[33] *See* IEX Letter I at 2; HMA Letter at 4; Citadel Letter at 1.

[34] *See* IEX Letter I at 2; HMA Letter at 4; Citadel Letter at 2–3.

[35] *See* IEX Letter II at 2–3. This commenter explains that, in connection with its exchange application, it provided the Commission with a detailed explanation of the IEX POP, including its intent in implementing the IEX POP and how its features were determined relevant to its unique circumstances. *See id.* at 3.

[36] *See* IEX Letter I at 2; HMA Letter at 4.

[37] *See* IEX Letter I at 3; HMA Letter at 5.

[38] *See* IEX Letter I at 3.

investors on another of the Exchange's affiliated markets.[39] This commenter further asks the Exchange to clarify if all communications with electronic designated market makers (''DMMs'') would be subject to the Delay Mechanism and what impact this may have on the DMMs.[40] This commenter expresses concern that an NYSE DMM that is also an Exchange DMM may be subject to informational advantages or conflicts if trading on both exchanges, only one of which would be subject to an access delay.[41]

Finally, two commenters assert that, rather than considering new artificial delays on an ad hoc basis through the SRO rule-filing process, the Commission should complete a holistic review of equity market structure and provide more comprehensive guidance with respect to access delays.[42] Another commenter similarly suggests that the Commission complete the comprehensive review of the market impact of exchange access delays contemplated as part of its interpretation of Rule 611 under Regulation NMS before approving any new exchange proposals seeking to implement such delays.[43] With respect to the Exchange's specific proposal, two commenters express concern that intentional delays in protected quotations increase market complexity; increase pricing uncertainty;[44] and, according to one commenter, may amplify the risk of market disruptions during periods of high volatility.[45] Finally, one commenter argues that the Delay Mechanism would encourage the use of non-displayed orders, which the commenter states would decrease market transparency and potentially harm price discovery.[46]

In response to comments, the Exchange states that it is proposing the Delay Mechanism ''in order to provide broker-dealers and issuers with a competitive model'' to the IEX access delay.[47] The Exchange argues that its proposal is consistent with the Act in that it is designed to protect investors and the public interest in a manner that is not unfairly discriminatory and does not impose an unnecessary or inappropriate burden on competition.[48] In particular, the Exchange states that the Delay Mechanism would allow non-displayed orders to dynamically update in accordance with their order instructions.[49]

In light of this purpose, the Exchange believes that the proposed length of 350 microseconds for its Delay Mechanism would provide Exchange systems with the appropriate amount of time to update prices based on market data it receives from other markets.[50] The Exchange further states that the 350 microsecond delay is not ''too short so as to frustrate the purpose of the Delay Mechanism'' nor ''overly long so as to be unfairly discriminatory to orders subject to the Delay Mechanism.''[51] In addition, the proposed delay would be applied equally to all Exchange members and could not be bypassed by payment of a fee or otherwise. Specifically, the delay on outbound market data would be applied uniformly to all Exchange data recipients except for outbound communications with the SIP to disseminate quotation and last sale information, and the delay on inbound order messages would be applied uniformly to all users.[52]

The Exchange further notes that its Delay Mechanism operates in a manner that is identical to the IEX access delay, except for its treatment of routable orders, which the Exchange believes is consistent with the model approved by the Commission for IEX.[53] The Exchange does not believe this difference would cause its proposal to be unfairly discriminatory or to impose an unfair burden on competition, and states that this difference is simply a result of its system architecture.[54] The Exchange further states that its proposed Delay Mechanism does not raise any issues that have not already been considered in connection with IEX's exchange application.[55] The Exchange also notes that the Commission's interpretation of Rule 611 under Regulation NMS found a *de minimis* delay on exchange response times to be consistent with Rule 611.[56]

The Exchange does not believe that its proposal to implement the Delay Mechanism through a software mechanism should be relevant to evaluating the proposal, noting that the Commission has not examined existing exchange access delays with respect to the manner in which the delay is implemented.[57] The Exchange further states that both hardware and software mechanisms may be subject to variability and the Exchange would be required, in accordance with its proposed rules, to monitor the latency of the Delay Mechanism and make any reasonable adjustments to ensure consistency with the 350 microsecond target.[58]

With respect to Exchange DMMs, the Exchange notes that it would only have electronic DMMs on its new trading platform and that these participants would be subject to its access delay just as any other market participant on the Exchange.[59] The Exchange further states that it does not believe that any conflicts would arise if an NYSE DMM were also an Exchange electronic DMM, because the NYSE DMM would not be able to trade its assigned securities on the Exchange while on the NYSE trading floor.[60]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[61] and the rules and regulations thereunder applicable to a national securities exchange.[62] In particular, the Commission finds that the proposed rule change is consistent

[39] *See id.* at 2.

[40] *See id.* at 3.

[41] *See id.*

[42] *See* FIA PTG Letter at 2; Bats Letter at 1–2. These commenters acknowledge, however, that despite their concerns with exchange access delays, the precedent set by IEX's exchange approval, including the Commission's related interpretation, may make it difficult for the Commission to disapprove the Exchange's proposal. *See* FIA PTG Letter at 2; Bats Letter at 1. One of these commenters suggests that the Commission limit the approval of any exchange access delays to proposals that closely track IEX's delay mechanism, such as the current proposal. *See* FIA PTG Letter at 2.

[43] *See* Citadel Letter at 2. *See also* Interpretation, *supra* note 30, 81 FR at 40793.

[44] *See* FIA PTG Letter at 2; Citadel Letter at 3.

[45] *See* FIA PTG Letter at 2.

[46] *See* Citadel Letter at 3–4.

[47] *See* NYSE MKT Response Letter I at 4.

[48] *See* NYSE MKT Response Letter II at 2.

[49] *See id.*

[50] *See* NYSE Response Letter III at 1. Specifically, the Exchange notes that it processes market data updates and re-prices non-displayed orders in less than 100 microseconds, and that the theoretical minimum transmission time for information generated in other exchanges' primary systems located in Carteret, New Jersey to reach the Exchange's primary systems (located in Mahwah, New Jersey) is approximately 185 microseconds. *See id.* at n.1. Accounting for the Exchange's processing time and the time it takes the Exchange to receive market data updates from nearby exchanges, the Exchange believes that its proposed 350 microsecond Delay Mechanism is appropriately designed to achieve the stated purpose of allowing the Exchange to dynamically update the prices of undisplayed resting pegged orders. *See id.* at 1–2.

[51] *See id.* at 1–2.

[52] *See* NYSE MKT Response Letter II at 2.

[53] *See* NYSE MKT Response Letter I at 2.

[54] *See id.*

[55] *See* NYSE MKT Response Letter I at 1; NYSE MKT Response Letter II at 1–2.

[56] *See* NYSE MKT Response Letter I at 1–2; NYSE MKT Response Letter II at 2. *See also* Interpretation, *supra* note 30; *infra* note 82.

[57] *See* NYSE MKT Response Letter I at 2.

[58] *See id.* at 3.

[59] *See id.*

[60] *See id.*

[61] 15 U.S.C. 78f.

[62] 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).

with Section 6(b)(5) of the Act,[63] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As summarized above, commenters have requested that the Exchange provide more explanation of its proposal, including the reasoning behind its decision to propose an access delay, as well as whether its views on access delays generally differ from those raised in NYSE's comments on IEX's exchange application. In particular, one commenter argues that ''NYSE has said nothing about what it is trying to achieve, or how its design is tailored to its own situation.'' [64]

The Commission believes that the Exchange has provided a sufficient description of the operation and purpose of its proposal in its initial filing and its responses to comments.[65] As described above, the Exchange's proposed Delay Mechanism would add 350 microseconds of one-way latency to inbound and outbound communications—including order messages between the Exchange and its members or other markets—as well as data messages from the Exchange's proprietary feeds. The proposal would therefore impose a cumulative inbound and outbound intentional delay of 700 microseconds on non-routable orders. The Delay Mechanism would apply to all messages except for outbound communications from the Exchange to the SIP; inbound communications from external market data feeds; and actions taken by the Exchange within the Exchange's book, including calculating the BBO, NBBO, or PBBO, assigning working prices and working times to orders, and ranking and executing orders.[66]

The Exchange states that the purpose of its proposal is to ''allow undisplayed orders to meet their order instruction to be dynamically updated to prices based on changes to the PBBO before a new, incoming order generated in response to the same PBBO change can access the resting order.'' [67] In light of this purpose, the Exchange believes that the proposed length of 350 microseconds for its Delay Mechanism would achieve this purpose by providing Exchange systems with the appropriate amount of time to update prices based on market data it receives from other markets.[68] Specifically, the Exchange notes that it processes market data updates and re-prices non-displayed orders in less than 100 microseconds, and that the theoretical minimum transmission time for information generated in other exchanges' primary systems located in Carteret, New Jersey to reach the Exchange's primary systems (located in Mahwah, New Jersey) is approximately 185 microseconds.[69] Accounting for the Exchange's processing time and the time it takes the Exchange to receive market data updates from nearby exchanges, the Exchange believes that its proposed 350 microsecond Delay Mechanism is therefore appropriately designed to achieve the stated purpose of allowing the Exchange to dynamically update the prices of undisplayed resting pegged orders and that the 350 microsecond delay is not ''too short so as to frustrate the purpose of the Delay Mechanism'' nor ''overly long so as to be unfairly discriminatory to orders subject to the Delay Mechanism.'' [70] The Exchange further asserts that its proposed Delay Mechanism ''provide[s] a competitive trading model to IEX,'' [71] so that broker-dealers and issuers seeking a trading venue that offers an intentional delay mechanism will have an additional option.[72]

The Commission believes the Exchange has sufficiently demonstrated that the proposed rule change is consistent with the Act, and the Commission does not find any legal basis to distinguish the Exchange's proposed Delay Mechanism from the IEX access delay. In particular, the Commission believes that the Exchange has sufficiently demonstrated that its proposal would not be unfairly discriminatory. The Commission notes that the Act does not foreclose reasonable and not unfairly discriminatory innovations, including those that are designed to protect investors who seek to reliably place passive, non-displayed pegged orders on an exchange.[73]

According to the Exchange, its proposal is tailored to achieve the purposes of its proposed access delay and, as stated above, would provide additional choice for market participants desiring to trade or list on an exchange that offers a delay mechanism.[74] The Commission further notes that, as described above, the Exchange's Delay Mechanism would apply to all members equally, and may not be bypassed, for a fee or otherwise. Though the proposal would not subject order processing and order execution on the Exchange's Book to the Delay Mechanism, this aspect of the proposal is intended to allow undisplayed orders to function as intended by providing the Exchange with the time it needs to dynamically update prices of those orders based on the protected NBBO, which purpose and process the Exchange believes is not unfairly discriminatory and does not impose an unnecessary or inappropriate burden on competition.[75]

The Commission has previously found that a similar advantage provided to pegged orders by means of an exchange access delay was not unfairly discriminatory and did not impose an unnecessary or inappropriate burden on competition.[76] As the Commission noted in that case, the delay was designed to ensure that pegged orders operate as designed by accurately tracking the NBBO and to ensure that users of pegged orders can better achieve their goals when their pegged orders operate efficiently.[77]

For the current proposal, the Exchange has explained how its proposed Delay Mechanism is tailored to achieve its stated purpose of allowing the Exchange to dynamically update the prices of undisplayed pegged orders to meet their order instructions in response to market-data updates. As noted above, the Exchange has explained its choice of 350 microseconds based on its system processing time combined with its

[63] 15 U.S.C. 78f(b)(5).

[64] IEX Letter II at 3.

[65] The Commission does not believe that the comments submitted by NYSE, the Exchange's affiliate, on a separate matter previously before the Commission are relevant to the Commission's consideration of the current proposal, nor is the Exchange bound by its affiliate's prior arguments in relation to that matter.

[66] *See* Proposed Rule 7.29E(b)(2).

[67] *See* NYSE Response Letter III at 1. *See also* NYSE Response Letter II at 2.

[68] *See* NYSE Response Letter III at 1.

[69] *See id.* at n.1.

[70] *See id.* at 1–2.

[71] *See supra* note 13 and accompanying text.

[72] *See* Notice, *supra* note 3, 82 FR at 10831.

[73] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41142, 41157 (June 23, 2016) (File No. 10–222) (''IEX Exchange Approval'').

[74] *See* Notice, *supra* note 3, 82 FR at 10831.

[75] *See* NYSE Response Letter II at 2. *See also* Notice, *supra* note 3, 82 FR at 10830.

[76] *See* IEX Exchange Approval, *supra* note 73, 81 FR at 41157.

[77] *See id.*

determination of the theoretical minimum transmission time of information to the Exchange from other exchanges, and has affirmed that the delay is not ''too short'' so as to not allow the Exchange to achieve the purpose of the Delay Mechanism, nor is it ''overly long'' so as to be an unnecessary burden on market participants. Accordingly, the Commission finds that the Exchange's proposed Delay Mechanism is designed to protect investors and the public interest in a manner that is not unfairly discriminatory and that does not impose an unnecessary or inappropriate burden on competition and is therefore consistent with Sections 6(b)(5) and 6(b)(8) of the Act.[78]

Further, as described above, all members of the Exchange would be equally subject to the Delay Mechanism, and no member would be permitted to avoid the delay by payment of a fee or through any other means. In addition, the Commission believes the Exchange's proposal to subject all outbound routable orders to the Delay Mechanism is designed to ensure that the Exchange's ability to provide outbound routing services under the proposal will be on substantively comparable terms to a third-party routing broker that is a member of the Exchange. In particular, both the Exchange routing logic and a third-party routing broker-dealer would experience 350 microseconds of one-way latency in receiving order information about routable orders from the Exchange's matching engine. Although the Exchange's proposal is not identical in all respects to the routing structure at another exchange with an access delay,[79] the Commission believes that the Exchange's proposal would not provide it with any structural or informational advantages in its provision of routing services as compared to a third-party broker-dealer member performing a similar function for itself or others. Therefore, the Commission believes that the Exchange's proposal as applicable to routable orders would not be unfairly discriminatory and would not impose an inappropriate burden on competition and is therefore consistent with Sections 6(b)(5) and 6(b)(8) of the Act.

The Commission acknowledges that, as commenters have noted, the Exchange's proposal would differ from the access delay on another exchange in that it would be software-based, as opposed to being implemented through a physical hardware mechanism. However, the Commission does not believe that a software-based delay is inherently inferior to a hardware-based delay or that this specific distinction is material to its analysis of the proposal, and the Commission notes that the Exchange would be required, as with any hardware-based delay, to comply with its rules requiring the Exchange to periodically monitor the actual latency and make adjustments as reasonably necessary to achieve consistency with the 350 microsecond target set forth in the proposed rule.[80]

Finally, the Commission does not believe that implementation of the Exchange's Delay Mechanism would preclude the Exchange from maintaining an automated quotation. Similar to an existing access delay on another market,[81] the duration of the proposed Delay Mechanism is well within the geographic and technological latencies experienced today, and the Commission believes that it would not impair a market participant's ability to access a displayed quotation consistent with the goals of Rule 611.[82] Accordingly, the proposed intentional one-way 350 microsecond delay is *de minimis,* and thus, following approval of the instant proposal, the Exchange can maintain a protected quotation when it operates the Delay Mechanism in the manner described above.

[78] While some commenters expressed concern that intentional delays in protected quotations may increase market complexity and requested that the Commission impose a moratorium on new proposals to implement such delays, the Commission notes that it carefully considers each exchange proposal for consistency with the Act.

[79] *See* IEX Rule 11.510. *See also* IEX Exchange Approval, *supra* note 73, 81 FR at 41157–60.

[80] *See* Proposed Rule 1.1E(y).

[81] *See* IEX Exchange Approval, *supra* note 73.

[82] *See* Interpretation, *supra* note 30, 81 FR at 40792 (noting that, in response to technological and market developments since the adoption of Regulation NMS, the Commission has provided an updated interpretation of the meaning of the term ''immediate'' in Rule 600(b)(3) of Regulation NMS, when determining whether a trading center maintains an ''automated quotation'' for purposes of Rule 611 of Regulation NMS, to preclude any coding of automated systems or other type of intentional device that would delay the action taken with respect to a quotation unless such delay is *de minimis,* or as the Commission noted, so short as to not frustrate the purposes of Rule 611 by impairing fair and efficient access to an exchange's quotations). The Commission further stated that such a *de minimis* access delay would satisfy Rules 600 and 611 under the updated interpretation even if it involved the use of an ''intentional device'' to delay access to an exchange's quotation. *See id.* For purposes of determining whether an exchange access delay is *de minimis,* the Commission did not set out a specific threshold; however, Commission staff has determined that, today, any delay of less than one millisecond is a *de minimis* amount of delay in accessing an exchange's facilities for purposes of the interpretation. *See* Commission Staff Guidance on Automated Quotations under Regulation NMS (June 17, 2016), *https://www.sec.gov/divisions/marketreg/automated-quotations-under-regulation-nms.htm.*

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[83] that the proposed rule change (SR–NYSEMKT–2017–05) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[84]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10304 Filed 5–19–17; 8:45 am]

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[83] 15 U.S.C. 78s(b)(2).

[84] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80685; File No. SR–FINRA–2017–012]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 7730 To Reduce the Delay Period for the Historic TRACE Data Sets Relating to Corporate and Agency Debt Securities

May 16, 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 May 12, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA.

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

FINRA is proposing to amend Rule 7730 to reduce the delay period for the Historic TRACE Data Sets relating to corporate and agency debt securities from 18 months to six months.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

Rule 7730 (Trade Reporting and Compliance Engine (TRACE)), among other things, sets forth the data products offered by FINRA relating to TRACE transaction information and the fees applicable to such products. FINRA's data offerings include both real-time as well as delayed data for most TRACE-Eligible Securities.[3] FINRA's delayed data (''Historic TRACE Data'') contains historical transaction-level data for the following TRACE data sets: The Historic Corporate Bond Data Set, the Historic Agency Data Set, the Historic Securitized Product Data Set and the Historic Rule 144A Data Set.[4] Rule 7730 provides that Historic TRACE Data will be delayed a minimum of 18 months and will not include Market Participant Identifier (''MPID'') information.[5] The proposed rule change would reduce the delay period applicable to the Historic Corporate Bond Data Set and the Historic Agency Data Set and Rule 144A transactions in corresponding securities (together, ''Corporate and Agency Historic TRACE Data''), from 18 months to six months and would retain the criteria that MPIDs not be included.[6]

The Historic TRACE Data provisions and related fees became effective in 2010.[7] Historic TRACE Data provides transaction-level data for all trades reported to TRACE in those classes of TRACE-Eligible Securities that currently are disseminated and includes, among other things, the price, date, time of execution, yield and uncapped volume for each transaction, provided the transaction is at least 18 months old.[8] The 18-month delay period was adopted to address concerns regarding the possibility that the data, though delayed, might be used to identify current trading, positions or the strategies of market participants.[9]

Since implementation, researchers and other non-dealers have been the primary subscribers to Historic TRACE Data. FINRA understands that the lack of usage by dealers is due to the 18-month delay period for transactions included in Historic TRACE Data and market participants have indicated that a reduction in the delay period to six months would make the data more useful.

In response, FINRA is proposing to reduce the delay period applicable to Corporate and Agency Historic TRACE Data from 18 months to six months. FINRA is not aware of any instances of complaints regarding information leakage under the 18-month delay timeframe, and believes that the delay period can be reduced, thereby increasing the utility of the Corporate and Agency Historic TRACE Data to market participants and promoting the goal of increased transparency for TRACE-Eligible Securities.[10] FINRA also believes that a six-month delay will be sufficient to continue to address information leakage concerns.[11]

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 120 days following publication of the *Regulatory Notice*.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and

[3] Rule 6710 (Definitions) provides that a ''TRACE-Eligible Security'' is a debt security that is United States dollar-denominated and issued by a U.S. or foreign private issuer, and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A; or is a debt security that is U.S. dollar-denominated and issued or guaranteed by an Agency as defined in paragraph (k) or a Government-Sponsored Enterprise as defined in paragraph (n); or a U.S. Treasury Security as defined in paragraph (p). ''TRACE-Eligible Security'' does not include a debt security that is: Issued by a foreign sovereign or a Money Market Instrument as defined in paragraph (o).

[4] Historic TRACE Data originally included only the Corporate Bond and Agency Data Sets; the Securitized Product (''SP'') Data Set and the Rule 144A Data Set were added to Historic TRACE Data later as information about transactions in those securities became subject to dissemination. Additional securities may be included in Historic TRACE Data as they become subject to dissemination.

[5] The specific data elements provided in the Historic TRACE Data Sets are to be determined from time-to-time by FINRA in its discretion and as stated in a *Regulatory Notice* or other equivalent publication. *See infra* note 8.

[6] FINRA proposes to retain the current 18-month delay for the Historic SP Data Set. The Historic SP Data Set generally includes information on transactions in asset-backed securities (''ABS''), mortgage-backed securities (''MBS''), and Small Business Administration (''SBA'')-backed securities traded To Be Announced (''TBA'') and in specified pool transactions, collateralized mortgage-backed securities (''CMBS''), collateralized mortgage obligations (''CMO'') and collateralized debt obligations (''CDO''). While transaction information on ABSs, MBSs and TBAs are currently subject to dissemination and CMOs became subject to dissemination on March 20, 2017, FINRA does not yet disseminate transaction information on CMBSs or CDOs. FINRA issued a *Regulatory Notice* seeking comment on a proposal to disseminate such products. *See Regulatory Notice* 15–04 (February 2015) (FINRA Requests Comment on a Proposal to Disseminate Additional Securitized Products and to Reduce the Reporting Time Frame for These Products). Once all SPs become subject to dissemination, FINRA will consider whether a delay period of less than 18 months should apply to the Historic SP Data Set.

[7] *See* Securities Exchange Act Release No. 61012 (November 16, 2009), 74 FR 61189 (November 23, 2009) (Order Approving File No. SR–FINRA–2007–006). *See also Regulatory Notice* 10–14 (March 2010).

[8] Historic TRACE Data also may include transactions or items of information that were not disseminated previously. For example, Historic TRACE Data includes exact trade volumes, rather than the capped amounts that are disseminated in real-time. The applicable real-time dissemination cap differs depending upon the type of TRACE-Eligible Security being reported. The caps are $5 million for agency debentures and corporate bonds that are rated investment grade; $1 million for corporate bonds that are rated non-investment grade; $25 million for agency pass-through mortgage-backed securities traded TBA for good delivery; and $10 million for agency pass-through mortgage-backed securities traded TBA not for good delivery, agency pass-through mortgage-backed securities traded in specified pool transactions, and SBA-backed asset-backed securities traded TBA and in specified pool transactions.

Historic TRACE Data also is available for trade reports dating back to 2002, even for transactions that were not subject to public dissemination at the time. Similarly, while real-time information for specified pool transactions is disseminated based on security characteristics, Historic TRACE Data identifies securities by CUSIP. Historic TRACE Data also includes reports on both the buy- and sell-side of inter-dealer transactions, whereas only sell-side trade reports are subject to real-time dissemination.

[9] *See* Securities Exchange Act Release No. 56327 (August 28, 2007), 72 FR 51689 (September 10, 2007) (Notice of Filing of File No. SR–FINRA–2007–006). *See also Notice to Members* 06–32 (June 2006).

[10] FINRA is not proposing any changes to the fields made available in the Historic TRACE Data at this time, and notes that the data will continue to omit any identifying dealer information. Additional information regarding included fields is available in ''Historic TRACE Data: Enhanced Historical Time and Sales—Trade Record File Layout'' in the technical specifications.

[11] FINRA notes that the Municipal Securities Rulemaking Board (MSRB) disseminates in real-time the exact par value on all transactions with a par value of $5 million or less, and includes an indicator (''MM+'') in place of the exact par value on transactions where the par value is greater than $5 million until the fifth business day. MSRB disseminates the exact par value on all transactions on the fifth day after the trade.

[12] 15 U.S.C. 78*o*–3(b)(6).

equitable principles of trade, and, in general, to protect investors and the public interest.

FINRA believes that reducing the delay period for the Corporate and Agency Historic TRACE Data will increase the utility of the data to market participants and others, thereby promoting the goal of increased transparency for TRACE-Eligible Securities, while continuing to incorporate a sufficient period of aging to address information leakage concerns.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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.

Economic Impact Analysis

(a) Need for the Rule

As discussed above, FINRA has received feedback from market participants that the current 18-month delay period may be too long to make Historic TRACE Data useful. Most subscribers to Historic TRACE Data have been vendors and research firms; there have been very few member subscribers due to the length of the delay.

(b) Regulatory Objective

The proposed shorter delay period for Historic TRACE Data aims to increase the utility of Historic TRACE Data for market participants and others, thereby promoting the goal of increased transparency for TRACE-Eligible Securities.

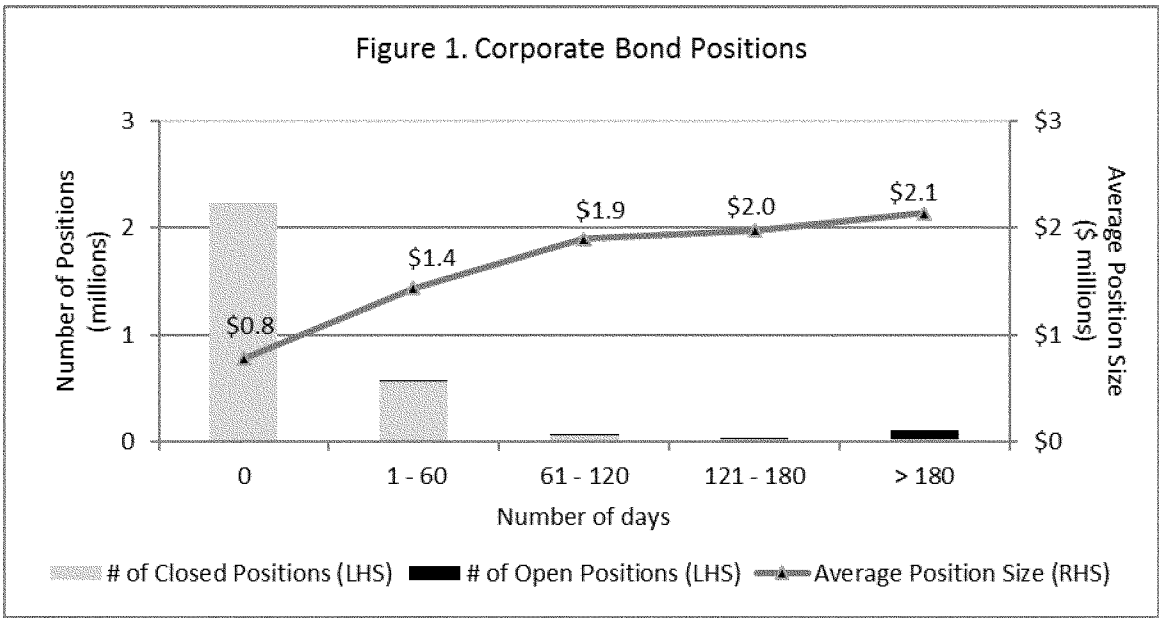
(c) Economic Impacts

FINRA's existing Historic TRACE Data product provides transaction-level data on an 18-month delayed basis for all transactions that have been reported to TRACE in the classes of TRACE-Eligible Securities that currently are disseminated. As detailed above, FINRA is proposing to reduce the delay period for the Historic TRACE Data Sets relating to Corporate and Agency Debt securities from 18 months to six months.

The proposed rule change would expand the benefits of FINRA's TRACE initiatives by increasing the utility of the Corporate and Agency Historic TRACE Data Sets to market participants, as the proposed reduction in the delay period to six months would make the data more useful.

The proposed rule change will not have any operational impact on firms, as the proposal does not require firms to provide FINRA with any additional data. The purchase of TRACE data products will continue to be optional for members and others. However, FINRA considered the potential for indirect costs regarding possible information leakage due to the reduction in the delay period applicable to the Corporate and Agency Historic TRACE Data Sets from 18 months to six months. To address those concerns and investigate whether the reduction in the delay period poses a risk for reverse engineering of positions, FINRA analyzed daily positions in 12,087 corporate and 10,109 agency bonds, that were issued between March 6, 2012 and February 5, 2014, by using trades between February 6, 2012 and February 5, 2016 that were reported to TRACE by 1,509 market participants.[13]

Figure 1 depicts the average number of days it takes to reverse[14] corporate bond positions and the average position size in the sample.[15]



2,230,676, or approximately 74.5%, of the 2,992,946 daily corporate bond positions in the sample were reversed on the same day (number of days = 0). The average size of the positions in this category was approximately $0.8 million per CUSIP. 21.9% of the trades were reversed between one and 180 days. These trades had an average size of between $1.4 and $2.0 million. The remaining positions, approximately 3.6% of the sample, were reversed after 180 days (*i.e.,* remained open for longer than 180 days). FINRA notes that the vast majority, approximately 79.2%, of

[13] Historic TRACE Data does not include a ''List or Fixed Offering Price Transaction'' or ''Takedown Transaction,'' as defined in Rule 6710.

[14] To ''reverse'' a position means entering into a trade on the opposite side of a position that flattens or reverses the position. For example, if long in a specific bond, a reversal would entail a sell trade in an amount that is equal to or greater than the amount of the original position.

[15] Positions that are created in the last six months of the sample period are not included in the sample to prevent a bias in the results.

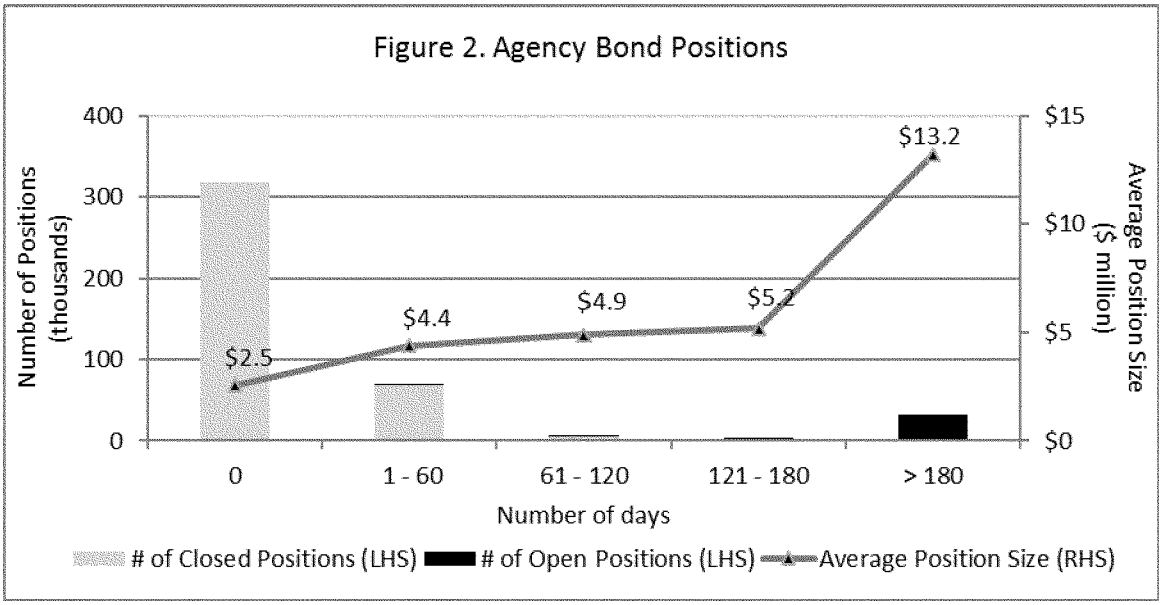
the positions in this category were still open at the end of our sample period (February 5, 2016). The positions that remained open for more than 180 days had an average size of $2.1 million.[16]

642 CUSIPs only had positions that were reversed after 180 days from acquisition. Another 1,402 CUSIPs only had positions that were reversed within 180 days. The remaining 10,043 CUSIPs had both positions that were reversed within 180 days and positions that were reversed after 180 days from acquisition.

FINRA believes that the risk of reverse engineering would be higher for the 642 CUSIPs that only had positions that were still open after 180 days. These CUSIPs were for significantly smaller issues (average issuance amount of approximately $38 million) than the rest of the CUSIPs (an average issuance amount of approximately $315 million). These 642 CUSIPs had an average of seven trades per CUSIP over the sample period, compared to 1,306 trades per CUSIP for the rest of the sample. These CUSIPs also were traded by fewer market participants, an average of 1.3, compared to an average of 42 market participants for the remaining 11,445 CUSIPs. There were only 862 positions in those 642 CUSIPs, with relatively large balances as a proportion to the issuance size, with an average balance-to-issuance size of 32.5%, compared to 0.3% for the remaining CUSIPs. Approximately 15% of the 862 positions were reversed between six and 18 months of acquisition, implying that the reduction in dissemination delay would impact a small portion of the holdings in the sample. This would suggest that the proposed rule, if it had been in place, would have provided little additional information to the public relative to these positions.

These figures suggest that only a small portion of the corporate positions in the sample are reversed after 180 days of acquisitions. Moreover, only a few CUSIPs had positions with holding periods of more than 180 days, while such positions consisted of less than 0.02% of all daily corporate bond positions in the sample.

Figure 2 depicts the average number of days it takes to reverse agency bond positions and the average position size in the sample.



Of the 425,823 daily agency bond positions, 317,447, or approximately 74.5%, of the sample were reversed on the same day (number of days = 0). The average size of the positions in this category was approximately $2.5 million per CUSIP. Another 18.0% of the trades were reversed between one and 180 days. These trades had an average size of between $4.4 and $5.2 million. The remaining positions, approximately 7.4% of the sample, were still open for more than 180 days. Approximately 92.4%, of the positions in this category were still open at the end of our sample period.[17] The positions that remained open for more than 180 days had an average size of $13.2 million.[18]

764 CUSIPs only had positions that were reversed after 180 days from acquisition. Another 497 CUSIPs only had positions that were reversed within 180 days. The remaining 8,848 CUSIPs had both positions that were reversed within 180 days and positions that were reversed after 180 days from acquisition.

The 764 CUSIPs with positions that were reversed after 180 days were slightly smaller issues (an average issuance amount of approximately $110 million) than the rest of the CUSIPs (an average issuance amount of approximately $125 million). These 764 CUSIPs had an average of 1.7 trades per CUSIP over the sample period, compared to 175 trades per CUSIP for the rest of the sample. These CUSIPs also were traded by fewer market participants, an average of 1.1, compared to an average of 22 market participants for the remaining 9,345 CUSIPs (497 + 8,848) for positions that were reversed both within and after 180 days of acquisition. There were 816 positions in those 764 CUSIPS, with relatively larger balances (but not as large as those for corporate bonds) as a proportion to the issuance size, with an average balance-to-issuance size of 2.1%, compared to 0.2% for the rest of

[16] The difference in the average size of positions that reversed after 180 days ($2.1 million) and positions that were reversed within 180 days ($0.9 million) is statistically significant at conventional levels.

[17] FINRA staff also notes that approximately 93.3% of the open agency bond positions in the sample were open for more than 180 days as of February 5, 2016.

[18] The difference in the average size of positions that reversed after 180 days ($13.2 million) and positions that are reversed within 180 days ($2.8 million) is statistically significant at conventional levels.

the position balances (425,007) in the rest of the CUSIPs. Approximately 1% of the 816 positions were reversed between six and 18 months of acquisition, implying that the reduction in dissemination delay would impact a very small portion of the holdings in the agency bond sample.

These figures suggest that only a small portion of the agency bond positions in the sample were reversed after 180 days of acquisition. Moreover, only a few CUSIPs related to positions with holding periods longer than 180 days, while such positions consisted of less than 0.02% of all daily agency bond positions in the sample.

Based on the empirical evidence in the sample period, FINRA notes that information leakage, due to the reduction in the delay period applicable to the Corporate and Agency Historic TRACE Data Sets from 18 months to six months is a limited risk for smaller issues that are held by a limited number of market participants. As noted above, such issues are, on average, traded very infrequently. As such, the information leakage associated with these issues may be of limited use to market participants. To the extent that such market participants choose not to trade these issues as a result of the proposed dissemination delay, some CUSIPs may experience a decrease in liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in *Regulatory Notice* 15–24 (June 2015). Four comment letters were received in response to the *Notice.*[19] A copy of the *Notice* is attached as Exhibit 2a. The list of the commenters is attached as Exhibit 2b. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c.

SIFMA, BDA and Wharton supported the proposed reduction in the delay period for Historic TRACE Data from 18 months to six months. SIFMA noted that, if certain TRACE-Eligible Securities (not currently subject to dissemination) became subject to dissemination—*i.e.,* CMOs, CMBSs and CDOs, FINRA should consider potential information leakage and liquidity issues for such securities prior to including them in Historic TRACE Data with a six-month, reduced delay. SIFMA suggested a phased-in approach to incorporating this subset of TRACE-Eligible Securities that would begin with an 18-month delay and that, ultimately, is reduced to six months once these products are subject to public dissemination. In response to this comment, and as discussed in Section II.A.1. of this filing, FINRA has revised the proposal to reduce the 18-month delay period to six months only for the Historic Corporate and Agency Data; the Historic SP Data Set will continue to be subject to an 18-month delay. FINRA will consider whether reducing the 18-month delay period for the Historic SP Data Set is appropriate once all SPs have become subject to dissemination.[20]

CCI did not support the proposal and, among other things, raised privacy concerns, and stated that any data transmitted online has no privacy.[21] FINRA notes that the Historic TRACE Data product consists of security-focused transaction information, not customer information, and generally is available to any professional or non-professional party that subscribes, executes appropriate agreements and pays the applicable fee. In addition, while Historic TRACE Data includes delayed information for transactions that were not disseminated previously, the vast majority of the data included already has been disseminated publicly. Thus, in the unprecedented event of a breach involving Historic TRACE Data, FINRA does not believe this would present a harm to FINRA members or the market.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2017–012 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–FINRA–2017–012. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2017–012 and should be submitted on or before June 12, 2017.

[19] *See* Letter from Sean Davy, Managing Director, Securities Industry and Financial Markets Association, to Maria E. Asquith, Corporate Secretary, FINRA, dated August 24, 2015 (''SIFMA''); letter from Michael Nicholas, CEO, Bond Dealers of America, to Maria E. Asquith, Corporate Secretary, FINRA, dated August 24, 2015 (''BDA''); letter from Luis Palacios, Director of Research Services, The Wharton School, to Maria E. Asquith, Corporate Secretary, FINRA, dated September 10, 2015 (''Wharton''); and letter from Carrie Devorah, Founder, The Center for Copyrights Integrity, to Maria E. Asquith, Corporate Secretary, FINRA, dated September 14, 2015 (''CCI'').

[20] *See supra* note 6.

[21] CCI also raised other issues that are not germane to the proposed reduction of the delay period for Historic TRACE Data and that, therefore, are not addressed herein.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10307 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32638; 812–14735]

Solar Capital Ltd., et al.

May 17, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order (''Order'') to amend a prior order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and under rule 17d–1 under the Act. Applicants request an order that would permit certain business development companies (each, a ''BDC'') and certain closed-end investment companies to co-invest in portfolio companies with each other and with affiliated investment funds. The Order would supersede the prior order.[1]

Applicants: Solar Capital Ltd. (''Solar Capital''); Solar Senior Capital Ltd. (''Solar Senior'' and together with Solar Capital, the ''Solar Funds''); SUNS SPV LLC (''Solar Senior Subsidiary'') and Solar Capital Partners, LLC (''Solar Adviser'').

Filing Dates: The application was filed on January 13, 2017, and amended on April 4, 2017 and May 4, 2017.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 12, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: Michael S. Gross, Solar Capital Ltd., 500 Park Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990 or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Solar Funds are Maryland corporations organized as closed-end management investment companies that have elected to be regulated as BDC's under section 54(a) of the Act.[2] Solar Capital's investment objective is to generate both current income and capital appreciation through debt and equity investment. Solar Senior's investment objective is to seek to maximize current income consistent with the preservation of capital. The Solar Funds each have a five-member Board,[3] of which the same three members serve as Non-Interested Directors.[4]

2. Solar Senior Subsidiary is a Wholly-Owned Investment Sub, as defined below, whose sole business purpose is to hold one or more investments on behalf of Solar Senior. Because it is a wholly-owned, consolidated subsidiary of Solar Senior, and Solar Senior's investment adviser is Solar Adviser, Solar Adviser also manages the assets the Solar Senior Subsidiary.

3. Solar Adviser, a privately held investment adviser registered with the Commission under the Investment Advisers Act of 1940 (the ''Advisers Act''), was organized as a limited liability company under the laws of the state of Delaware. Solar Adviser serves as the investment adviser to each of the Solar Funds.

4. Applicants seek an Order to permit a Regulated Fund[5] and one or more other Regulated Funds and/or one or more Affiliated Funds[6] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d–1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price;[7] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[8]

[22] 17 CFR 200.30–3(a)(12).

[1] Solar Capital Ltd., *et al.,* Investment Company Act Rel. Nos. 31143 (Jul. 1, 2014) (notice) and 31187 (Jul. 28, 2014) (order).

[2] Section 2(a)(48) of the Act defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[3] The term ''Board'' refers to the Board of Directors of the relevant Regulated Fund.

[4] The term ''Non-Interested Directors'' means, with respect to any Board, the directors who are not ''interested persons'' within the meaning of section 2(a)(19).

[5] ''Regulated Fund'' means Solar Capital, Solar Senior and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means (a) Solar Adviser or its successors, and (b) any future investment adviser that controls, is controlled by, or is under common control with Solar Adviser and is registered as an investment adviser under the Advisers Act. The term ''successor'' means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

[6] ''Affiliated Fund'' means any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[7] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act of 1933 (the ''Securities Act'').

[8] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

5. Applicants state any of the Regulated Funds may, from time to time, form a Wholly-Owned Investment Sub.[9] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Fund or Affiliated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

6. When considering Potential Co-Investment Transactions for any Regulated Fund, the applicable Adviser will consider only the Objectives and Strategies,[10] investment policies, investment positions, capital available for investment as described in the application (''Available Capital''), and other pertinent factors applicable to that Regulated Fund. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.[11]

7. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'')[12] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

8. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

9. No Non-Interested Director of a Regulated Fund will have any direct or indirect financial interest in any Co-Investment Transaction or any interest in any portfolio company, other than through an interest (if any) in the securities of the Regulated Funds.

10. If an Adviser or its principal owners (the ''Principals''), or any person controlling, controlled by, or under common control with an Adviser or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as required under condition 14. Applicants believe that this condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of an Adviser or the Principals to influence the Non-Interested Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed if desired by the Holders will be limited significantly. The Non-Interested Directors shall evaluate and approve any such independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to

[9] The term ''Wholly-Owned Investment Sub'' means an entity (i) whose sole business purpose is to hold one or more investments on behalf of a Regulated Fund (and, in the case of an SBIC Subsidiary (as defined below), maintain a license under the SBA Act (as defined below) and issue debentures guaranteed by the SBA (as defined below)); (ii) that is wholly-owned by the Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries of the Regulated Fund participating in the Co-Investment Transactions will be Wholly-Owned Investment Subs and will have Objectives and Strategies (as defined below) that are either the same as, or a subset of, the Regulated Fund's Objectives and Strategies. The term ''SBIC Subsidiary'' means a Wholly-Owned Investment Sub that is licensed by the Small Business Administration (the ''SBA'') to operate under the Small Business Investment Act of 1958, as amended (the ''SBA Act'') as a small business investment company (an ''SBIC'').

[10] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act or the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[11] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[12] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or any Regulated Fund receives in connection with the right of the Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be

subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[13] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) the amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity; then the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the maximum amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in this application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

[13] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

13. Any transaction fee [14] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable state law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

[14] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10355 Filed 5–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80699; File No. SR–MSRB–2017–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change Consisting of Proposed Amendments to Rule G–3, on Professional Qualification Requirements, and Rule G–8, on Books and Records, To Establish Continuing Education Requirements for Municipal Advisors and Accompanying Recordkeeping Requirements

May 16, 2017.

I. Introduction

On March 22, 2017, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''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 consisting of (i) proposed amendments to MSRB Rule G–3, on professional qualification requirements, to establish continuing education requirements for municipal advisors; (ii) proposed amendments to MSRB Rule G–8, on books and records to be made by brokers, dealers and municipal securities dealers (''dealers'') and municipal advisors; and (iii) proposed amendments to Rule G–3 to make minor technical changes to the rule to reflect the renumbering of sections and updates to cross-referenced provisions (collectively the ''proposed rule change''). The proposed rule change was published for comment in the **Federal Register** on April 4, 2017.[3]

The Commission received one comment letter on the proposed rule change.[4] On May 10, 2017, the MSRB responded to the comments received by the Commission.[5]

II. Description of Proposed Rule Change

According to the MSRB, the purpose of the proposed rule change is to amend Rule G–3(i) to prescribe continuing education requirements for municipal advisors pursuant to the MSRB's statutory mandate under Section 15B(b) of the Act. As described in the Notice Filing, the goal of continuing educations is to ensure that certain associated persons of municipal advisors stay abreast of issues that may affect their job responsibilities and of product and regulatory developments.[6] The proposed rule change also would amend Rule G–8 to establish recordkeeping requirements related to the administration of a municipal advisor's continuing education program and make technical changes to Rule G–3 to reflect the renumbering of sections and updates to cross-referenced provisions.

As further described in the Notice of Filing and the MSRB Response, the development of the proposed rule change drew from the principles and structure of the continuing education regulatory framework currently in place for dealers.[7]

Pursuant to the proposed rule change, a municipal advisor would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes their specific training needs, develop a written training plan based on the needs identified in the analysis, and deliver training concerning municipal advisory activities designed to meet those training needs. However, the proposed requirements for municipal advisors would differ from dealers with respect to identifying those individuals that are subject to the training and the content that must be covered as part of the minimum standards for the annual training.

Pursuant to proposed Rule G–3(i)(ii), a municipal advisor would be required to implement a continuing education training program for each individual qualified as either a municipal advisor representative or as a municipal advisor principal (collectively, ''covered persons'').[8] The MSRB states that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80327 (March 29, 2017) (the ''Notice of Filing''), 82 FR 16449 (April 4, 2017).

[4] *See* Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors, dated April 25, 2017 (the ''NAMA Letter'').

[5] *See* Letter to Secretary, Commission, from Gail Marshall, Associate General Counsel, MSRB, dated May 10, 2017 (the ''MSRB Response Letter''), available at *https://www.sec.gov/comments/sr-msrb-2017-02/msrb201702-1745890-151491.pdf.*>

[6] *See* Notice of Filing.

[7] *Id.*

[8] Under MSRB Rule G–3(d)(i)(A), ''municipal advisor representative'' means ''a natural person associated with a municipal advisor who engages in municipal advisory activities on the municipal advisor's behalf.'' Under MSRB Rule G–3(e)(i), ''municipal advisor principal'' means ''a natural

establishment of continuing education requirements for municipal advisors would assist in ensuring that all municipal advisor firms provide a minimum-level standard of training that is appropriate in the public interest and for the protection of investors and municipal entities or obligated persons.[9]

Pursuant to proposed Rule G–3(i)(ii)(B)(1), a municipal advisor would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes its training needs, develop a written training plan based on the needs analysis, and deliver training applicable to its municipal advisory activities. Additionally, pursuant to the proposed rule change, in developing a written training plan, a municipal advisor must take into consideration the firm's size, organizational structure, scope of municipal advisory activities, as well as regulatory developments.

Proposed Rule G–3(i)(ii)(B)(2) would prescribe the minimum standards for continuing education training by requiring that each municipal advisor's training include, at a minimum, training on the applicable regulatory requirements and the fiduciary duty obligations owed to municipal entity clients. Pursuant to the proposed rule change, the minimum training on the applicable regulatory requirements would require a municipal advisor's continuing education program to include training on the regulatory requirements applicable to the municipal advisory activities in which its covered persons engage. However, training on the fiduciary duty obligation owed to municipal entity clients would be a minimum component of the continuing education training for all covered persons, even those that may not engage in municipal advisory activities on behalf of a municipal entity client. The MSRB states that the fiduciary duty obligation owed to a municipal entity client is a keystone principle of the regulatory framework for municipal advisors and that the MSRB believes every covered person engaged in municipal advisory activities should be familiar with such principle.[10] A municipal advisor would, under the proposed rule change, nonetheless, still have the flexibility to determine the appropriate scope of training that its covered persons need on the fiduciary duty obligation based on the municipal advisory activities in which that its covered persons engages.

Recognizing that the nature of municipal advisory activities engaged in by municipal advisors can be diverse; the proposed rule change would provide municipal advisors with the flexibility to determine their firm-specific training needs and the content and scope of the training appropriate for their covered persons. For example, a municipal advisor that only provides advice to municipal entities on swap transactions would, under the proposed rule change, be permitted to design its annual training plan based upon the rules and practices applicable to its limited business model, so long as such training plan included the applicable regulatory requirements applicable to that limited business and a component regarding the fiduciary duty obligation owed to municipal entity clients. Moreover, under the proposed rule change, municipal advisors would be able to determine the method for delivering such training. For example, a municipal advisor could determine that the most effective manner for delivering the training would be to require its covered persons to attend an applicable seminar by subject matter experts and/or to utilize an on-line training resource.

The MSRB notes that the minimum requirements for continuing education training, outlined under the proposed rule change, should not be viewed by municipal advisors as the full scope of the subject matter appropriate for municipal advisors' training programs.[11] The minimum standard for training does not negate the need for each municipal advisor to consider whether, based on its needs analysis, additional training applicable to the municipal advisory activities it conducts is appropriate.

Proposed Rule G–3(i)(ii)(B)(3) would require a municipal advisor to administer its continuing education program in accordance with the annual evaluation and prioritization of its training needs and the written training plan developed as consistent with its needs analysis. Also, pursuant to this provision, a municipal advisor would be required to maintain records documenting the content of its training programs and a record that each of its covered persons identified completed the applicable training.

Pursuant to proposed Rule G–3(i)(ii)(C), a municipal advisor's covered persons (each individual qualified as a municipal advisor representative or municipal advisor principal) would be required to participate in the firm's continuing education training programs. If consistent with its training plan, a municipal advisor could deliver training appropriate for all covered persons. In addition, a municipal advisor could determine that its training needs indicate that it should also deliver particular training for certain covered persons, for example, those covered persons that have been designated with supervisory responsibilities under MSRB Rule G–44, or those covered persons that have been engaged in municipal advisory activities for a short period of time.

Pursuant to proposed Rule G–3(i)(ii)(D), on specific training requirements, the appropriate examining authority could require a municipal advisor, individually or as part of a larger group, to provide specific training to its covered persons in such areas the appropriate examining authority deems appropriate.[12] Such a requirement could stipulate the class of covered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

The MSRB states that, in an effort to reduce regulatory overlap for dealer-municipal advisors,[13] the proposed rule change would allow a dealer-municipal advisor to deliver continuing education training that would satisfy its training needs for the firm's dealer and municipal advisor activities.[14] More specifically, pursuant to proposed Rule G–3(i)(ii)(E), each dealer-municipal advisor will be permitted to develop a single written training plan, if that training plan is consistent with each needs analysis that was conducted of the firm's municipal advisory activities and municipal securities activities. In addition, the proposed rule provision would allow a municipal advisor to conduct training for its covered persons and covered registered persons, which would satisfy the continuing education requirements under Rules G–3(i)(i)(B) and G–3(i)(ii), if such training is consistent with the firm's written training plan(s) and that training meets the minimum standards for the training programs, as required under the rule.

person associated with a municipal advisor who is qualified as a municipal advisor representative and is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons.''

[9] *See* Notice of Filing.

[10] *Id.*

[11] *Id.*

[12] For purposes of proposed Rule G–3(i)(ii)(D), ''appropriate examining authority'' would mean ''a registered securities association with respect to a municipal advisor that is a member of such association, or the Commission, or the Commission's designee, with respect to any other municipal advisor.''

[13] A member of the Financial Industry Regulatory Authority that is a municipal securities dealer and municipal advisor is commonly referred to as a ''dealer-municipal advisor.''

[14] *See* Notice of Filing.

Proposed Amendments to MSRB Rule G–8

The proposed amendments to MSRB Rule G–8 address the books and records that must be made and maintained by a municipal advisor to show compliance with recordkeeping requirements related to the administration of a municipal advisor's continuing education program. The Board adopted the approach of specifying, in some detail, the information to be reflected in various records.[15] Specifically, the proposed amendments to Rule G–8(h) would require each municipal advisor to make and maintain records regarding the firm's completion of its needs analysis and the development of its corresponding written training plan. Moreover, with respect to each municipal advisor's written training plan, municipal advisors would be required to make and keep records documenting the content of the firm's training programs and a record evidencing completion of the training programs by each covered person.[16] The MSRB believes that recordkeeping requirements are an important element of compliance and the proposed amendments to Rule G–8 are appropriately tailored to facilitate the examination of a municipal advisor's compliance with the continuing education requirements.[17]

Technical Amendments

The proposed rule change would make minor technical amendments to add paragraph headers, and renumber and update rule cross-references to Rule G–3(i)(i) and Rule G–3(i)(ii). Rule G–3(i)(i) would be revised by adding the paragraph header ''Continuing Education Requirements for Brokers, Dealers, and Municipal Securities Dealers.'' Rule G–3(i)(i)(D) would be revised by adding the paragraph header ''Reassociation'' and renumbered Rule G–3(i)(i)(A)(4). Rule G–3(i)(i)(E) would be relocated to proposed subparagraph Rule G–3(i)(i)(A)(4). Rule G–3(i)(ii) would be re-lettered Rule G–3(i)(i)(B). Due to these changes, other paragraphs under Rule G–3(i) would be renumbered and re-lettered.

The MSRB requested in the Notice of Filing that the proposed rule change be approved with an implementation date of January 1, 2018.[18] To comply with the annual training requirement for calendar year 2018, in accordance with the proposed implementation date, a municipal advisor would need to complete a needs analysis, develop a written training plan and deliver the appropriate training by December 31, 2018.

III. Summary of Comments Received and MSRB's Responses to Comments

As noted previously, the Commission received one comment letter on the proposed rule change, as well as the MSRB Response Letter. The commenter, the National Association of Municipal Advisors (''NAMA''), expressed general support for the establishment of continuing education requirements for municipal advisors, noting that it believes it is imperative for municipal advisors to continue to expand their knowledge and improve their professional skills beyond the Municipal Advisor Representative Qualification Examination (Series 50 exam).[19] NAMA also suggested that certain aspects of the proposed rule change be amended to include additional clarifications and guidance prior to its implementation.[20] The MSRB believes the proposed rule change is consistent with its statutory mandate and has responded to the comments, as discussed below.[21]

1. Additional Guidance on Needs Analysis Requirement and Effective Date

NAMA requested that the MSRB develop interpretive guidance to help municipal advisor firms, especially small municipal advisor firms, better understand how to conduct needs analysis and provide examples of the types of trainings that could be employed by municipal advisors to meet the requirements of the proposed rule change.[22] NAMA also requested that the implementation date of the proposed rule change be delayed until the MSRB has issued the interpretive guidance regarding the need analysis requirement, which NAMA believes is necessary for municipal advisors to adequately understand and comply with the proposed rule change.[23]

The MSRB responded that, as it previously noted in the Notice of Filing, it recognizes that additional guidance on conducting a needs analysis and how to implement a continuing education program may benefit municipal advisor firms.[24] The MSRB articulated that it intends to provide guidance to municipal advisor firms in understanding their obligations to develop a continuing education program before the proposed rule change is implemented.[25] According to the MSRB, such guidance will include a sample needs analysis, a sample training plan and a non-exclusive list of delivery mechanisms that a municipal advisor firm could use in delivering and documenting training.[26] Also, the MSRB stated that such guidance will be designed to assist a municipal advisor firm in tailoring the development and implementation of a continuing education program based on regulatory developments, the size and organizational structure of the firm and the municipal advisory activities the firm engages in.[27] Such guidance, the MSRB stated, will not promote a one-size-fits-all continuing education program and will not create a safe harbor.[28] The MSRB responded that it intends to provide implementation guidance in a webinar shortly following approval of the proposed rule change.[29] In addition, the MSRB stated that it intends to issue additional guidance, including sample documentation, at least 90 days prior to the implementation date.[30] The MSRB also noted that although it is proposed a January 1, 2018 effective date, municipal advisors would have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver the appropriate training to comply with the annual training requirements for calendar year 2018.[31] Accordingly, the MSRB believes that municipal advisor firms will have sufficient time to implement procedures reasonably designed to achieve compliance with the continuing education requirements.[32]

2. Additional Guidance on ''Appropriate Enforcement Authority''

NAMA requested that the MSRB provide additional interpretive guidance regarding the scope of the power of the ''appropriate enforcement authority'' to require, pursuant to amended Rule G–3(i)(ii)(D), training for individuals or a

[15] *Id.*

[16] MSRB Rule G–9(h) generally requires municipal advisors to preserve the books and records described in MSRB Rule G–8(h) for a period of not less than five years for purposes of consistency with SEC Rule 15Ba1–8 of the Act on books and records to be made and maintained by municipal advisors. *See* Exchange Act Release No. 73415 (October 23, 2014), 79 FR 64423 (October 29, 2014) (SR–MSRB–2014–06).

[17] *Id.*

[18] *See* Notice of Filing.

[19] *See* NAMA Letter.

[20] *Id.*

[21] *See* MSRB Response Letter.

[22] *See* NAMA Letter.

[23] *Id.*

[24] *See* Notice of Filing.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Id.*

[32] *Id.*

group within a municipal advisor following an examination.[33]

The MSRB stated that this provision is designed to provide the appropriate examining authority the discretion to determine, in the course of examining and enforcing compliance with MSRB rules, whether an associated person(s) of a municipal advisor requires additional training.[34] The MSRB believes the provision is consistent with similar authority provided under MSRB Rule G–3(h)(ii)(D) with respect to the continuing education requirements for dealers.[35]

3. Economic Impact of MSRB Rulemaking

NAMA stated that the MSRB should empirically evaluate the economic impact that the proposed rule change would have on sole practitioners and small municipal advisor firms, as well as the potential economic impact the entire municipal advisor regulatory regime has municipal advisors.[36] In expressing its concerns, NAMA cited to a response it provided to a MSRB request for comment regarding an earlier stage of this rulemaking initiative where it stated the MSRB should recognize the multiple roles a principal in a small municipal advisor firm or a sole-practitioner municipal advisor has to their clients under the rulemaking regime already imposed by the MSRB and that the additional requirements of the proposed rule change for all municipal advisor and especially sole practitioners and smaller firms should be considered along with the already existing regulatory burden imposed by MSRB rules and not create an overwhelming economic or administrative burden on these professionals.[37]

The MSRB stated that it has evaluated and articulated the economic impact associated with the proposed rule change in Notice of Filing in accordance with its Policy on the Use of Economic Analysis in MSRB Rulemaking[38] and that it believes that the proposed rule change is consistent with the requirements of Section 15B(b)(2)(L)(iv) of the Act[39] which provides that MSRB rules with respect to municipal advisors may not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.[40] The MSRB also stated that it plans to assess retrospectively the impact and effectiveness of the municipal advisory framework once it is more fully in place and that the Board has discussed the importance of this future analysis to understanding the benefits and costs of the municipal advisory regulatory regime.[41]

4. Standards of Conduct Applicable to Municipal Advisor Clients

NAMA requested that the MSRB adopt a clarifying amendment to proposed Rule G–3(i)(ii)(B)(2)(a) to include ''obligated persons'' to the language of the proposed rule change to accommodate municipal advisors that have obligated person clients and not municipal entity clients.

The MSRB believes that NAMA's suggested change would materially change the spirit and intent of the proposed rule change.[42] The MSRB stated that the fiduciary duty standard is a keystone principal of the regulatory framework for municipal advisors and every municipal advisor needs to address the fiduciary duty obligation in their continuing education program.[43] According to the MSRB, it recognizes that municipal advisory activities can vary from firm to firm and the proposed rule change therefore affords a municipal advisor sufficient flexibility to determine the extent and scope of the fiduciary duty training that needs to be included in its continuing education program based on the municipal advisory activities in which the firm engages.[44]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letter received, and the MSRB Response Letter. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the proposed rule change is consistent with Sections 15B(b)(2)(A), 15B(b)(2)(L) and 15B(b)(2)(G) and of the Act.[45] Section 15B(b)(2)(A) of the Act states that the MSRB's rules shall provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security, and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, unless such municipal securities broker or municipal securities dealer meets such standards of operational capability and such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.[46] The Commission believes the proposed rule change is consistent with Section 15B(b)(2)(A) in that the proposed rule will provide for minimum levels of training for persons engaged in municipal advisor activities, which is in the public interest and for the protection of investors, municipal entities and obligated persons.

Section 15B(b)(2)(L) of the Act[47] *provides that the MSRB's rules shall, with respect to municipal advisors:* Prescribe means reasonably designed to prevent acts, practices, and courses of business as are not consistent with a municipal advisor's fiduciary duty to its clients; provide continuing education requirements for municipal advisors; provide professional standards; and not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud. The Commission believes the proposed rule change is consistent with Section 15B(b)(2)(L) in that the proposed rule will establish continuing education program requirements for municipal advisors. Requiring municipal advisors to establish a formal continuing education program for covered persons will ensure that individuals qualified as either a municipal advisor

[33] *See* NAMA Letter.

[34] *See* MSRB Response Letter.

[35] *Id.*

[36] *See* NAMA Letter.

[37] *Id. See also* Letter to Ronald W. Smith, MSRB, from Susan Gaffney, Executive Director, National Association of Municipal Advisors, dated November 14, 2016.

[38] *See* Policy on the Use of Economic Analysis in MSRB Rulemaking, MSRB, available at: *http://msrb.org/rules-and-interpretations/economic-analysis-policy.*

[39] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[40] *See* MSRB Response Letter. *See* also Notice of Filing.

[41] *See* MSRB Response Letter.

[42] *Id.*

[43] *Id. See* also Notice of Filing.

[44] *See* MSRB Response Letter.

[45] 15 U.S.C. 78*o*–4(b)(2)(A), 78*o*–4(b)(2)(L) and 78*o*–4(b)(2)(G).

[46] 15 U.S.C. 78*o*–4(b)(2)(A).

[47] 15 U.S.C. 78*o*–4(b)(2)(L).

representative or as a municipal advisor principal are kept informed of issues that affect their job responsibilities and of regulatory developments, which is in furtherance of the protection of investors against fraud and misconduct. The Commission also finds that the proposed rule change is consistent with Section 15B(b)(2)(L)(iv) of the Act in that it will not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud. Although the proposed rule change will affect all municipal advisors, including small municipal advisors, the proposed rule change is a necessary and appropriate regulatory burden in order to protect investors, municipal entities and obligated persons.

The Commission also finds that the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act[48] which provides that the MSRB's rules shall prescribe records to be made and kept by municipal securities brokers, municipal securities dealers, and municipal advisors and the periods for which such records shall be preserved. The proposed rule change will, among other things, assist in ensuring that municipal advisors are complying with the amendments to proposed MSRB Rule G–3 by extending the existing recordkeeping requirements applicable to municipal advisors to include making and maintaining records relating to their continuing education program. Establishing a requirement for municipal advisors to maintain records reflecting their continuing education programs will assist the appropriate examining authority that examines municipal advisors in monitoring and promoting compliance with the proposed rule change.

In approving the proposed rule change, the Commission also has considered the impact of the proposed rule change on efficiency, competition, and capital formation.[49] The Commission 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 grants municipal advisors flexibility to develop regulatory training based on firm size, organizational structure, and scope of business activities. In addition, the proposed rule change allows for the development of a single training plan that is consistent with each needs analysis conducted by a dealer-municipal advisor. Moreover, dealer-municipal advisors can incorporate identified, firm-specific training needs, with respect to their municipal advisory activities, into their existing training programs, as long as any offered training is consistent with the written training plan(s). Also, the Commission believes requiring municipal advisor's to meet continuing education requirements will promote compliance by municipal advisors with the regulations and laws that protect investors, municipal entities and obligated person by requiring them to keep informed of current issues and regulatory developments that affect their job responsibilities and will reduce the risk that users of municipal advisory services would receive advice that results in harm or negative impact. This improved compliance, in turn, will likely improve the market for municipal advisory services and its efficient operation. Furthermore, the Commission believes that the potential burdens created by the proposed rule change are to be likely outweighed by the benefits.

For the reasons noted above, the Commission believes that the proposed rule change is consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change (SR–2017–02) be, and hereby is, approved.

For the Commission, pursuant to delegated authority.[51]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10303 Filed 5–19–17; 8:45 am]

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[48] 15 U.S.C. 78*o*–4(b)(2)(G).

[49] 15 U.S.C. 78c(f).

[50] 15 U.S.C. 78s(b)(2).

[51] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80697; File No. SR–BX–2017–023]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Fees at Rule 7004 and Chapter XV, Section 11

May 16, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 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 fees at Rule 7004 and Chapter XV, Section 11 to adopt a fee schedule to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''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 places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt a fee schedule to establish the fees for Industry Members related to the CAT NMS Plan.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the

Exchange Act[5] and Rule 608 of Regulation NMS thereunder,[6] the CAT NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[8] and approved by the Commission, as modified, on November 15, 2016.[9] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[10] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[11] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[12] Accordingly, BX submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are SRO members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

• *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below)[13]

• *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (Jan. 30, 2017), 82 FR 9258 (February 3, 2017).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[9] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[10] The Plan also serves as the limited liability company agreement for the Company.

[11] Section 11.1(b) of the CAT NMS Plan.

[12] *Id.*

[13] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. BX will issue an information circular (''Circular'') to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [14] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [15]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [16] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[17]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[18] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[19] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [20]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[21] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[22] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[23] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[24]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [25] in the CAT funding model. While there are multiple factors

[14] Approval Order at 84796.

[15] *Id.* at 84794.

[16] *Id.* at 84795.

[17] *Id.* at 84794.

[18] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[19] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[20] Approval Order at 84796.

[21] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[22] Approval Order at 85005.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 84796.

that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[26] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[27]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[28] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[29]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [30] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [31]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[32] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [33] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [34]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. BX notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is

[26] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[27] Section 11.3(b) of the CAT NMS Plan.

[28] Section 11.2(c) of the CAT NMS Plan.

[29] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[30] Section 11.2(e) of the CAT NMS Plan.

[31] Approval Order at 84796.

[32] *Id.* at 84792.

[33] 26 U.S.C. 501(c)(6).

[34] Approval Order at 84793.

required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

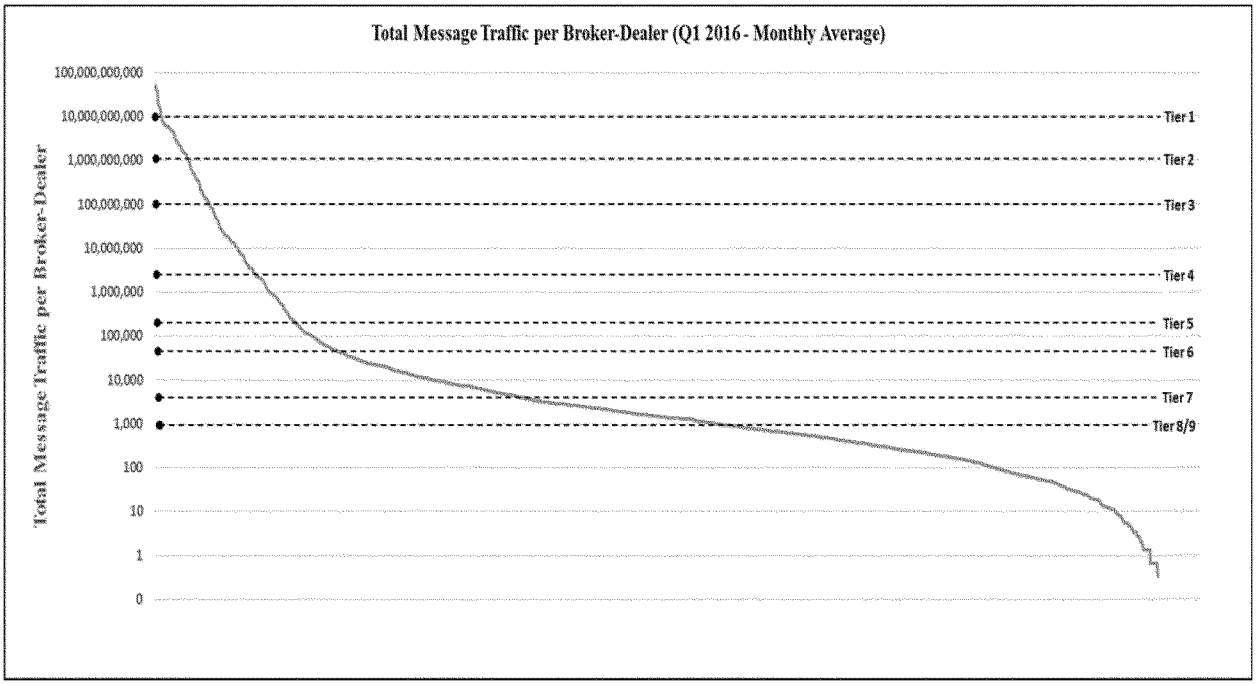
The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three

months.[35] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[36] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[37]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [38]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[39]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue

[35] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (March 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[36] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[37] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[38] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[39] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (percent)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other

than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume (percent)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and

Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[40]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount ($)
Plan Processor	Operational Costs	37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[41] 5,000,000

[40] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

Cost category	Cost component	Amount ($)
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [42]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [43]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [44]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38

[41] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[42] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[43] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[44] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")—Continued

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES (“EV”)

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\%\ \text{of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\%\ \text{of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Total		1,631		38,033,484
Equity Execution Venues	Tier 1 Tier 2	13 40	253,500 155,280	3,295,500 6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1 Tier 2	11 4	230,460 158,448	2,535,060 633,792
Total		15		3,168,852
Total				50,709,036
Excess [46]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [47]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2).	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1).	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2).	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1).	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1).	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1). • Tier 4 (x1).	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1). • Tier 4 (x1). • Tier 7 (x1).	• Tier 2 (x1)	796,595

[46] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[47] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. BX will issue a Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[48] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[49] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then BX will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. BX notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, BX notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[48] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[49] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

BX proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on BX's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 6810 and Chapter IX, Section 8(a) (Consolidated Audit Trail—Definitions), respectively.

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

BX proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[50] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

[50] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. BX will provide Industry Members with details regarding the manner of payment of CAT Fees by Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[51]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, BX proposed to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[52] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[53] 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, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

BX believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [54] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, BX believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

BX believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, BX believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, BX believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current

[51] Section 11.4 of the CAT NMS Plan.

[52] 15 U.S.C. 78f(b).

[53] 15 U.S.C. 78f(b)(4) and (5).

[54] Approval Order at 84697.

number of Equity and Options Execution Venues.

Finally, BX believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [55] requires that SRO rules not impose any burden on competition that is not necessary or appropriate. BX 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. BX notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist BX in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, BX believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, BX does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, BX believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

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.[56] 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–BX–2017–023 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–2017–023. 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–2017–023, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10301 Filed 5–19–17; 8:45 am]

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[55] 15 U.S.C. 78f(b)(8).

[56] 15 U.S.C. 78s(b)(3)(A)(ii).

[57] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80694; File No. SR–NYSEMKT–2017–26]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule

May 16, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

notice is hereby given that, on May 10, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 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 NYSE MKT Equities Price List (''Price List'') and the NYSE Amex Options Fee Schedule (''Fee Schedule'') to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''). The proposed 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange submits this fee filing to amend the Price List and the Fee Schedule which will require Industry Members that are NYSE MKT members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below)[14]
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)
- *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] *See* Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] Section 12.1(b) [sic] of the CAT NMS Plan.

[14] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [15] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [16]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [17] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[18]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[19] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[20] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [21]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting

[15] Approval Order at 84796.

[16] *Id.* at 84794.

[17] *Id.* at 84795.

[18] *Id.* at 84794.

[19] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[20] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[21] Approval Order at 84796.

requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[22] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[23] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[24] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[25]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [26] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[27] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[28]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[29] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[30]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [31] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [32]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[33] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[ ] to the benefit of any private shareholder or individual.'' [34] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [35]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. The Exchange notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating

[22] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[23] Approval Order at 85005.

[24] *Id.*

[25] *Id.*

[26] *Id.* at 84796.

[27] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[28] Section 11.3(b) of the CAT NMS Plan.

[29] Section 11.2(c) of the CAT NMS Plan.

[30] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[31] Section 11.2(e) of the CAT NMS Plan.

[32] Approval Order at 84796.

[33] *Id.* at 84792.

[34] 26 U.S.C. 501(c)(6).

[35] Approval Order at 84793.

Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

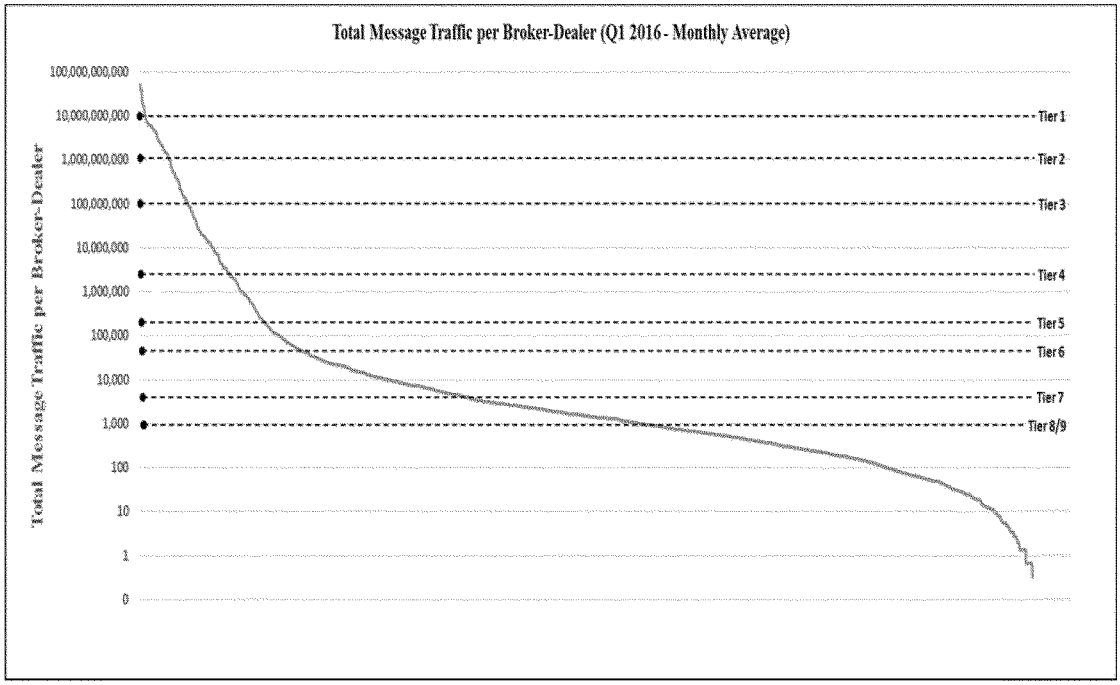
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message

traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[36] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[37] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[38]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).''[39]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[40]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange,

[36] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[37] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[38] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[39] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[40] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for

fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and

equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[41]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consists of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual

[41] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[42] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [43]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [44]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [46]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

[42] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[43] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[44] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[46] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\text{\% of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\text{\% of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES ("EV")

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\text{\% of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann. CAT Costs}] \times 25\%\ [\text{EV \% of Tot. Ann. CAT Costs}] \times 5\%\ [\text{\% of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right)$$

$$\div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [47]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees:[48]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472

[47] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[48] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

INDUSTRY MEMBER COMPLEXES—Continued

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[49] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[50] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then the Exchange will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. The Exchange notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, the Exchange notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

[49] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[50] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fees

The Exchange proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on the Exchange's Industry Members. The proposed fee change has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) sets forth the definitions applicable to the proposed Consolidated Audit Trail Funding Fees. Proposed paragraph (a)(1) states that, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security,'' and ''Participant'' are defined as set forth in Rule 6810 (Consolidated Audit Trail—Definitions) of the CAT Compliance Rule, as adopted by the Exchange for its equities and options trading platforms.[51]

The Exchange proposes to impose different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the Exchange proposes to define the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Exchange Act that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members pursuant to this proposed rule change.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

The Exchange proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed rule change.

Paragraph (b)(1) of the proposed rule change sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435

[51] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEMKT–2017–02).

Tier	Percentage of industry members	Quarterly CAT fee
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[52] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed rule change states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee change, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. The Exchange will provide Industry Members with details regarding the manner of payment of CAT Fees by Trader Update.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[53]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) the Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, proposed paragraph (c)(2) states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) the Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[54] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. The Exchange believes the proposed rule change is also consistent with Section 6(b)(5) of the Act,[55] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or

[52] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

[53] Section 11.4 of the CAT NMS Plan.

[54] 15 U.S.C. 78f(b)(4).

[55] 15 U.S.C. 78f(b)(6) [sic].

clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [56] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, the Exchange believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, the Exchange believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, the Exchange believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

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

Section 6(b)(8) of the Act [57] require [sic] that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. 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 provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing a similar proposed fee change to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Exchange does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, the Exchange believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

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) [58] of the Act and subparagraph (f)(2) of Rule 19b–4 [59] 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

[56] Approval Order at 84697.

[57] 15 U.S.C. 78f(b)(8).

[58] 15 U.S.C. 78s(b)(3)(A).

[59] 17 CFR 240.19b–4(f)(2).

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) [60] 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–NYSEMKT–2017–26 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–NYSEMKT–2017–26. 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–NYSEMKT–2017–26 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10298 Filed 5–19–17; 8:45 am]

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[60] 15 U.S.C. 78s(b)(2)(B).

[61] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80684; File No. SR–ISE–2017–39]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Modify Fees and Rebates for PIM Orders

May 16, 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 May 1, 2017, Nasdaq ISE, LLC (''ISE'' or ''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

The Exchange proposes to amend the Schedule of Fees to modify fees charged and rebates provided for orders executed in the Price Improvement Mechanism.

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.

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 Schedule of Fees to modify fees charged and rebates provided for orders executed in the Price Improvement Mechanism (''PIM''). In particular, the proposed rule change makes the following changes for both regular and complex orders in Select Symbols [3] and Non-Select Symbols: [4] (1) Amends the fee PIM orders other than Priority Customer [5] orders to be $0.10 per contract, regardless of the size of the order; (2) provides discounted fees for PIM orders such that members that execute an average daily volume (''ADV'') of 7,500 or more contracts in the PIM in a given month will pay a fee of $0.05 per contract, and Members that execute an ADV of 12,500 or more contracts in the PIM in a given month will not pay a fee for PIM orders; (3) amends the fee for Responses to PIM orders to be $0.20 per contract; and (4) eliminates the PIM break-up rebate. Each of these proposed changes are described in more detail below.

Fee for PIM Orders

Currently, regular and complex PIM orders of 100 or fewer contracts in Select and Non-Select Symbols are charged a fee of $0.05 per contract for Market Maker,[6] Non-Nasdaq ISE Market Maker,[7] Firm Proprietary,[8] Broker-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[5] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

[6] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* Nasdaq ISE Rule 100(a)(25).

[7] A ''Non-Nasdaq ISE Market Maker'' is a market maker as defined in section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[8] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

Dealer, and Professional Customer[9] orders (''non-Priority Customer orders'');[10] Priority Customer orders receive free executions in the PIM. This fee for non-Priority Customer PIM orders of 100 or fewer contracts is reduced to $0.03 per contract for orders executed by Members that have an ADV of 20,000 or more Priority Customer contracts in a given month executed in the PIM.[11] PIM orders of more than 100 contracts pay the fee for Crossing Orders, which is $0.20 per contract for Non-Nasdaq ISE Market Maker, Firm Proprietary, Broker-Dealer, and Professional Customer orders for both regular and complex orders in Select and Non-Select Symbols.[12] Regular Market Maker orders in Select Symbols and Market Maker complex orders in both Select and Non-Select Symbols are charged a fee of $0.20 per contract; Regular Market Maker orders in Non-Select Symbols are also charged a fee of $0.20 per contract if sent by an Electronic Access Member (''EAM'') and are otherwise charged a fee of $0.25 per contract, subject to applicable tier discounts.[13]

The Exchange now proposes to: (1) Adopt a fee of $0.10 per contract for non-Priority Customer orders executed in the PIM, and (2) remove the distinction between PIM orders of 100 or fewer contracts and PIM orders of more than 100 contracts. As proposed, non-Priority Customer PIM orders for both regular and complex, and in both Select and Non-Select Symbols, will be charged a fee of $0.10 per contract. In addition, the Exchange proposes to allow members to qualify for lower fees (or no fees) based on the amount of volume they execute in the PIM. In particular, members that execute an ADV of 7,500 or more contracts in the PIM in a given month will be charged a reduced fee of $0.05 per contract, and members that execute an ADV of 12,500 or more contracts will not be charged a fee for PIM orders. As is the case for the Exchange's other volume based fees, the discounted fees will be applied retroactively to all eligible PIM volume in that month once the threshold has been reached.

PIM Response Fees and Break-Up Rebates

Currently, for regular orders in Select and Non-Select Symbols, the Exchange charges all market participants a fee of $0.50 per contract for Responses to Crossing Orders. For complex orders, the fee for Responses to Crossing Orders is $0.48 per contract in Select Symbols for all market participants, and in Non-Select Symbols is $0.91 per contract for Market Maker orders and $0.96 per contract for Non-Nasdaq ISE Market Maker, Firm Proprietary, Broker-Dealer, Professional Customer, and Priority Customer orders. In addition, the Exchange provides a PIM break-up rebate for contracts that are submitted to PIM that do not trade with their contra order.[14] This PIM break-up Rebate is provided to Non-Nasdaq ISE Market Maker, Firm Proprietary, Broker-Dealer, Professional Customer, and Priority Customer orders, and is $0.35 per contract for regular and complex orders in Select Symbols, $0.15 per contract for regular orders in Non-Select Symbols, and $0.80 per contract for complex orders in Non-Select Symbols. The Exchange now proposes to (1) charge a lower fee of $0.20 per contract for Responses to PIM orders for all market participants, and (2) eliminate the PIM break-up rebate provided for contracts that do not trade with their contra order.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[15] in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,[16] 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.

Fee for PIM Orders

The Exchange believes that the proposed fees for PIM orders are reasonable and equitable because they are designed to increase participation in the PIM. In particular, the Exchange believes that the proposed fee for PIM orders is reasonable and equitable as it is designed to reward members that send a high volume of PIM orders to the Exchange. As proposed, although the Exchange is removing incentives for small PIM orders of 100 or fewer contracts, members will pay a fee for PIM orders that remains lower than the fees charged for other Crossing Orders, and will qualify for volume based discounts, including free executions in the PIM for members that meet the higher proposed volume threshold. The Exchange believes that this fee structure will incentivize members to execute their orders in the PIM to the benefit of all market participants that trade on the Exchange. Furthermore, the Exchange believes that this proposed change is not unfairly discriminatory as all non-Priority Customer orders will continue to be subject to the same fees, and can qualify for further discounts based on volume executed in the PIM. Priority Customer orders will also continue to receive free executions in the PIM. The Exchange believes that it is equitable and not unfairly discriminatory to charge lower fees for Priority Customer orders as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including, Professional Customers, who will generally submit a higher number of orders than Priority Customers. Furthermore, the Exchange notes that all market participants can qualify for free executions in the PIM if the member executes the required volume of contracts in the PIM.

PIM Response Fees and Break-Up Rebates

The Exchange also believes that the proposed changes to PIM response fees and break-up rebates are reasonable and equitable as they are designed to make it more attractive for market participants

[9] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[10] Fees apply to the originating and contra order. Firm Proprietary and Non-Nasdaq ISE Market Maker contracts traded are subject to the Crossing Fee Cap, as provided in section IV.H of the Schedule of Fees. The Schedule of Fees is currently missing a reference indicating that footnote 6 under section II., Complex Order Fees and Rebate, relating to the Crossing Fee Cap applies to the fee for PIM orders. The Exchange proposes to add this reference.

[11] This discounted fee is applied retroactively to all eligible PIM volume in that month once the threshold has been reached. Priority Customer ADV includes all volume in all symbols and order types. All eligible volume from affiliated Members will be aggregated in determining total affiliated Priority Customer ADV, provided there is at least 75% common ownership between the Members as reflected on each Member's Form BD, Schedule A. For purposes of determining Priority Customer ADV, any day that the regular order book is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

[12] Fees apply to the originating and contra order. Firm Proprietary and Non-Nasdaq ISE Market Maker contracts traded are subject to the Crossing Fee Cap, as provided in section IV.H of the Schedule of Fees.

[13] *See* Schedule of Fees, section IV.C.

[14] The applicable fee is applied to any contracts for which a rebate is provided. For complex orders submitted to the PIM the rebate is provided per contract leg except when those contracts trade against pre-existing orders and quotes on the Exchange's order books.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

to respond to PIM auctions, thereby increasing price improvement opportunities for PIM orders. As proposed, market participants that respond to PIM auctions will pay a response fee that is significantly lower than that charged for responses to other Crossing Orders, and members that initiate a PIM auction will no longer qualify for break-up rebates if they enter an order into the PIM that does not trade against its contra order. The Exchange believes that these changes will make it easier for firms to participate in the PIM by responding to these auctions with price improvement. Furthermore, the Exchange does not believe that the proposed rule change is unfairly discriminatory as all market participants that respond to PIM auctions will be charged the same fee for Responses to PIM orders, and no market participants will be eligible for PIM break-up rebates, which are being eliminated.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[17] 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. To the contrary, the Exchange believes that the proposed fee change is pro-competitive as it is designed to provide incentives for members to submit orders to the PIM, and to encourage members to respond to PIM auctions and thereby increase price improvement opportunities for orders submitted to the PIM. 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.

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,[18] and Rule 19b–4(f)(2)[19] 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–2017–39 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–2017–39. 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–2017–39 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10306 Filed 5–19–17; 8:45 am]

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[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80688; File No. SR-BatsBYX–2017–10]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.27 of Bats BYX Exchange, Inc. To Modify the Date of Appendix B Web Site Data Publication Pursuant To the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 16, 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 May 4, 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

[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).

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 the 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 for the Pre-Pilot Period and Pilot Period [7] publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence on April 28, 2017.[8] The Exchange is proposing to amend Rule 11.27.08 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

Pursuant to this proposed amendment, the Exchange or DEA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017.[9] Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[10] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange or DEA's Web site by October 28, 2017.

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.

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 consider a methodology to mitigate concerns raised in connection with the publication of Appendix B 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 [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19(b)–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 the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[15]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest

[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 Exchange Rule 11.27.

[8] *See* Exchange Rule 11.27.08. *See also* Securities Exchange Act Release No. 80220 (March 13, 2017), 82 FR 14259 (March 17, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[9] The Exchange initially submitted this proposed rule change on April 28, 2017. (SR–BatsBYX–2017–08). On May 4, 2017, the Exchange withdrew SR–BatsBYX–2017–08 and submitted this filing.

[10] FINRA, on behalf of 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] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[17]

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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBYX–2017–10 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–BatsBYX–2017–10. 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–BatsBYX–2017–10 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[16] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBZX–2017–31; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca–2017–49; SR–NYSEMKT–2017–24.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80696; File No. SR–NASDAQ–2017–046]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7004 and Chapter XV, Section 14

May 16, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 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, 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 fees at Rule 7004 and Chapter XV, Section 14 to adopt a fee schedule to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''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

The purpose of the proposed rule change is to adopt a fee schedule to establish the fees for Industry Members related to the CAT NMS Plan.

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC,

Continued

NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[5] and Rule 608 of Regulation NMS thereunder,[6] the CAT NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[8] and approved by the Commission, as modified, on November 15, 2016.[9] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[10] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[11] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[12] Accordingly, Nasdaq submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are SRO members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

• *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[13])

• *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for

and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (Jan. 30, 2017), 82 FR 9258 (February 3, 2017).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[9] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[10] The Plan also serves as the limited liability company agreement for the Company.

[11] Section 11.1(b) of the CAT NMS Plan.

[12] *Id.*

[13] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. Nasdaq will issue an information circular (''Circular'') to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [14] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [15]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [16] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[17]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[18] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[19] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [20]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[21] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[22] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[23] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[24]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [25] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most

[14] Approval Order at 84796.

[15] *Id.* at 84794.

[16] *Id.* at 84795.

[17] *Id.* at 84794.

[18] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[19] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[20] Approval Order at 84796.

[21] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[22] Approval Order at 85005.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 84796.

significant cost drivers for the CAT.[26] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[27]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[28] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[29]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [30] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [31]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[32] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [33] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [34]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. Nasdaq notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating

[26] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[27] Section 11.3(b) of the CAT NMS Plan.

[28] Section 11.2(c) of the CAT NMS Plan.

[29] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[30] Section 11.2(e) of the CAT NMS Plan.

[31] Approval Order at 84796.

[32] *Id.* at 84792.

[33] 26 U.S.C. 501(c)(6).

[34] Approval Order at 84793.

Committee establishing at least five and no more than nine tiers.

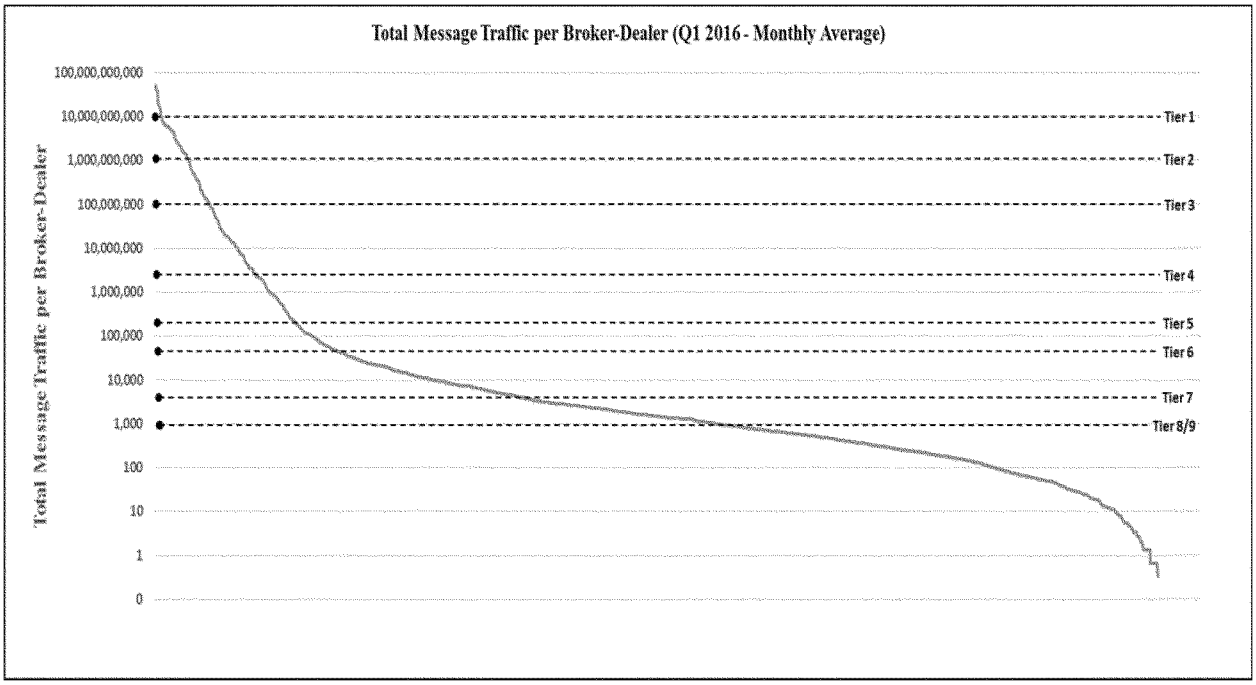
The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) an ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry Member Tier	Monthly average message traffic per industry member (Orders, Quotes and Cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of Industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three

months.[35] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[36] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[37]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [38]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[39]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue

[35] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (March 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[36] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[37] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[38] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[39] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above

with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume %
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated

between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[40]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
	Third Party Support Costs	5,200,000
Non-Plan Processor	Operational Reserve	[41] 5,000,000
	Insurance Cost	3,000,000

[40] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

[41] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

Cost category	Cost component	Amount
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [42]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT Fees paid annually [43]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT Fee	Quarterly CAT Fee	CAT Fees Paid Annually [44]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT Fee	Quarterly CAT Fee	CAT Fees Paid Annually [45]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25

[42] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[43] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[44] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")—Continued

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\text{\% of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\text{\% of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\text{\% of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\text{\% of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\text{\% of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\text{\% of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\text{\% of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\text{\% of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\text{\% of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\text{\% of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\text{\% of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\text{\% of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\text{\% of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\text{\% of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\text{\% of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\text{\% of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\text{\% of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\text{\% of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue Tier	Estimated Number of Equity Execution Venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES (“EV”)

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\%\ \text{of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\%\ \text{of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1 Tier 2	11 4	230,460 158,448	2,535,060 633,792
Total		15		3,168,852
Total				50,709,036
Excess [46]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [47]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1).	• Tier 1 (x4) • Tier 2 (x2).	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1).	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2).	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM Complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1).	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1).	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1).	N/A	808,472
Industry Member Complex 5	• Tier 4 (x1). • Tier 2 (x1) • Tier 3 (x1). • Tier 4 (x1). • Tier 7 (x1).	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such

[46] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[47] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. Nasdaq will issue a Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[48] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[49] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then Nasdaq will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. Nasdaq notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, Nasdaq notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

TABLE II.C–2—2014 ACTUAL SUPPLY

[Million RINs]

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[48] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[49] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

TABLE II.C–2—2014 ACTUAL SUPPLY—Continued

[Million RINs]

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

Nasdaq proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on Nasdaq's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 6810 and Chapter IX, Section 8(a) (Consolidated Audit Trail—Definitions), respectively.

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

Nasdaq proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[50] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will

[50] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. Nasdaq will provide Industry Members with details regarding the manner of payment of CAT Fees by Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[51]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, Nasdaq proposed to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[52] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[53] 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, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

Nasdaq believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [54] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, Nasdaq believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

Nasdaq believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, Nasdaq believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, Nasdaq believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, Nasdaq believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [55] requires that SRO rules not impose any burden on competition that is not necessary or

[51] Section 11.4 of the CAT NMS Plan.

[52] 15 U.S.C. 78f(b).

[53] 15 U.S.C. 78f(b)(4) and (5).

[54] Approval Order at 84697.

[55] 15 U.S.C. 78f(b)(8).

appropriate. Nasdaq 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. Nasdaq notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist Nasdaq in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, Nasdaq believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, Nasdaq does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, Nasdaq believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

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.[56] 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–NASDAQ–2017–046 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–2017–046. 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–2017–046, and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10300 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[56] 15 U.S.C. 78s(b)(3)(A)(ii).

[57] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80698; File No. SR–NYSEARCA–2017–52]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services, and the NYSE Arca Schedule of Options Fees and Charges To Adopt the Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 16, 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 May 10, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Arca Fee Schedule''), and the NYSE Arca Schedule of Options Fees and Charges (''Arca Options Fee Schedule''), to adopt the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''). 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[11] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[12] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[13] Accordingly, the Exchange submits this fee filing to amend the Arca Fee Schedule and the Arca Options Fee Schedule which will require Industry Members that are NYSE Arca members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[14])
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)
- *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)
- *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] *See* Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] The Plan also serves as the limited liability company agreement for the Company.

[12] Section 11.1(b) of the CAT NMS Plan.

[13] Section 12.1(b) [sic] of the CAT NMS Plan.

[14] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [15] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [16]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [17] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[18]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[19] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[20] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [21]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly

[15] Approval Order at 84796.

[16] *Id.* at 84794.

[17] *Id.* at 84795.

[18] *Id.* at 84794.

[19] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[20] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[21] Approval Order at 84796.

situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[22] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[23] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[24] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[25]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [26] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[27] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[28]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[29] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[30]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [31] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [32]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[33] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[ ] to the benefit of any private shareholder or individual.'' [34] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [35]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. The Exchange notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as

[22] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[23] Approval Order at 85005.

[24] *Id.*

[25] *Id.*

[26] *Id.* at 84796.

[27] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[28] Section 11.3(b) of the CAT NMS Plan.

[29] Section 11.2(c) of the CAT NMS Plan.

[30] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[31] Section 11.2(e) of the CAT NMS Plan.

[32] Approval Order at 84796.

[33] *Id.* at 84792.

[34] 26 U.S.C. 501(c)(6).

[35] Approval Order at 84793.

well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

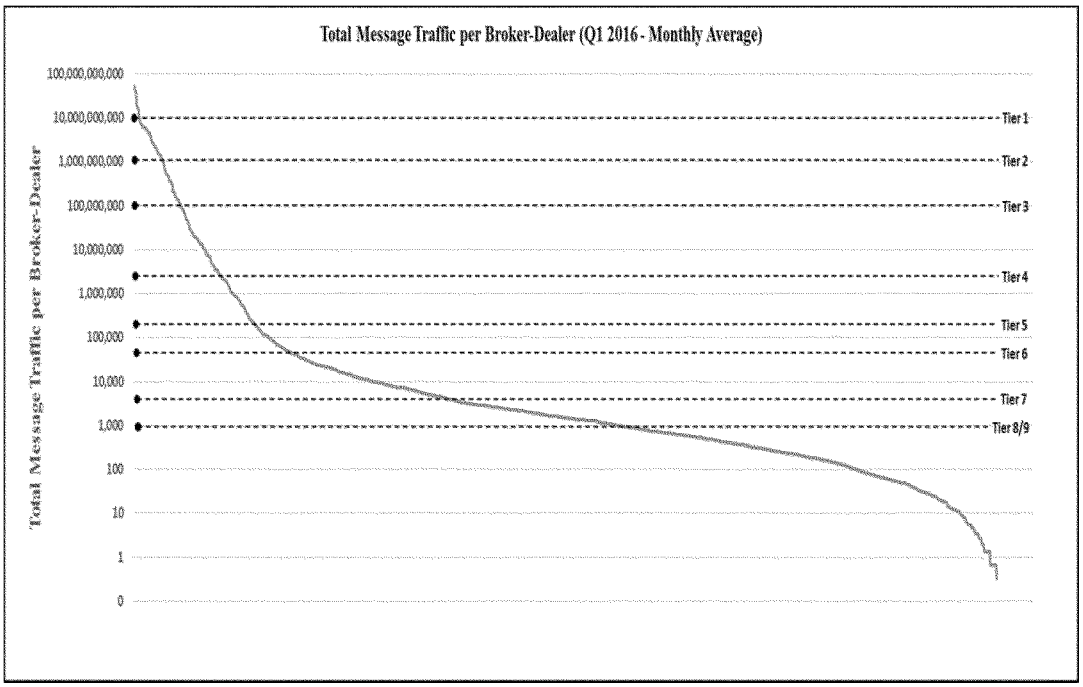
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative

breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[36] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[37] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[38]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [39]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[40]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and

[36] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[37] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[38] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[39] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[40] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery

Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity execution venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options execution venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[41]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consists of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the

[41] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [43]

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[42] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [44]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [46]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

[42] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[43] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[44] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[46] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS

["IM"]

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES

["EV"]

Equity execution venue tier	Percentage of equity execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity execution venue tier	Estimated number of equity execution venues
Tier 1	13

Equity execution venue tier	Estimated number of equity execution venues
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\text{\% of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\text{\% of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES

["EV"]

Options execution venue tier	Percentage of options execution venues	Percentage of execution venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options execution venue tier	Estimated number of options execution venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\text{\% of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}]\ \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann. CAT Costs}] \times 25\%\ [\text{EV \% of Tot. Ann. CAT Costs}] \times 5\%\ [\text{\% of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right)$$

$$\div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [47]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [48]

EXECUTION VENUE COMPLEXES

Execution venue complex	Listing of equity execution venue tiers	Listing of options execution venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

[47] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[48] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. The Exchange will issue a Trader Update to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[49] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[50] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then the Exchange will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. The Exchange notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, the Exchange notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[49] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[50] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options execution venue	Market share rank	Tier	Options execution venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fees

The Exchange proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on the Exchange's Industry Members. The proposed fee change has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) sets forth the definitions applicable to the proposed Consolidated Audit Trail Funding Fees. Proposed paragraph (a)(1) states that, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security,'' and ''Participant'' are defined as set forth in Rule 6.6810 (Consolidated Audit Trail—Definitions) of the CAT Compliance Rule, as adopted by the Exchange for its equities trading platform,[51] and Rule 11.6810 (Consolidated Audit Trail—Definitions) of the CAT Compliance Rule, as adopted by the Exchange for its options trading platform.[52]

The Exchange proposes to impose different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the Exchange proposes to define the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Exchange Act that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members pursuant to this proposed rule change.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

The Exchange proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed rule change.

Paragraph (b)(1) of the proposed rule change sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[53] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed rule change states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee change, regardless of whether the Industry Member is a

[51] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEArca–2017–04).

[52] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEArca–2017–03).

[53] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. The Exchange will provide Industry Members with details regarding the manner of payment of CAT Fees by Trader Update.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[54]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, proposed paragraph (c)(2) states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[55] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. The Exchange believes the proposed rule change is also consistent with Section 6(b)(5) of the Act,[56] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. The Exchange believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [57] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, the Exchange believes that the total level of the CAT Fees is reasonable.

In addition, the Exchange believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, the Exchange believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, the Exchange believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

[54] Section 11.4 of the CAT NMS Plan.

[55] 15 U.S.C. 78f(b)(4).

[56] 15 U.S.C. 78f(b)(6) [sic].

[57] Approval Order at 84697.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [58] require [sic] that the Exchange's rules not impose any burden on competition that is not necessary or appropriate. 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 provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing a similar proposed fee change to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Exchange believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Exchange does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Exchange does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, the Exchange believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

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) [59] of the Act and subparagraph (f)(2) of Rule 19b–4 [60] 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) [61] 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–NYSEARCA–2017–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2017–52. 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–NYSEARCA–2017–52 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10302 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[58] 15 U.S.C. 78f(b)(8).

[59] 15 U.S.C. 78s(b)(3)(A).

[60] 17 CFR 240.19b–4(f)(2).

[61] 15 U.S.C. 78s(b)(2)(B).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80687; File No. SR–BatsBZX–2017–31]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.27 of Bats BZX Exchange, Inc. To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 16, 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 May 4, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I 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 the 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 for the Pre-Pilot Period and Pilot Period[7] publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence on April 28, 2017.[8] The Exchange is proposing to amend Rule 11.27.08 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

Pursuant to this proposed amendment, the Exchange or DEA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017.[9] Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[10] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange or DEA's Web site by October 28, 2017.

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.

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 consider a methodology to mitigate concerns raised in connection with the publication of Appendix B 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 19(b)–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

[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. 77105 (February 10, 2016), 81 FR 8112 (February 17, 2016); *and* 77310 (March 7, 2016), 81 FR 13012 (March 11, 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 Exchange Rule 11.27.

[8] *See* Exchange Rule 11.27.08. *See also* Securities Exchange Act Release No. 80207 (March 10, 2017), 82 FR 14056 (March 16, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[9] The Exchange initially submitted this proposed rule change on April 28, 2017. (SR–BatsBZX–2017–27). On May 4, 2017, the Exchange withdrew SR–BatsBZX–2017–27 and submitted this filing.

[10] FINRA, on behalf of 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).

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 the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[15]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[17]

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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BatsBZX–2017–31 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10309 Filed 5–19–17; 8:45 am]

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[15] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[16] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBYX–2017–10; SR–BatsEDGA–2017–10; SR–BatsEDGX–2017–19; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR–Phlx–2017–33; SR–NYSE–2017–19; SR–NYSEArca-2017–49; SR–NYSEMKT–2017–24.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80690; File No. SR–MIAX–2017–21]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rules 301, Just and Equitable Principles of Trade; Rule 308, Exemptions From Position Limits; Rule 404, Series of Option Contracts Open for Trading; Rule 514, Priority of Quotes and Orders; Rule 1325, Telemarketing; and Rule 1400, Definitions

May 16, 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 May 15, 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, 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 is filing a proposal to amend Exchange Rule 301, Just and Equitable Principles of Trade; Rule 308, Exemptions from Position Limits; Rule 404, Series of Option Contracts Open for Trading; Rule 514, Priority of Quotes and Orders; Rule 1325, Telemarketing; and Rule 1400, Definitions.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rules 301.02, 308(a)(7)(vi), 308(b)(6),404.02(d), 514(e)(2), 1325(n)(20), and 1400(l) to make minor non-substantive corrective changes.

First, the Exchange propose to amend Exchange Rule 301, Just and Equitable Principles of Trade, Interpretations and Policies .02, to convert the numerical list item identifiers to alphabetical identifiers to properly conform to the hierarchical heading scheme used throughout the Exchange's rulebook. Additionally, there are two alphabetical identifiers, ''A'' and ''B'', located further in the paragraph which must be converted to numerical identifiers ''1'' and ''2'' respectively, to align to the hierarchical heading scheme of the Exchange's Rulebook. Therefore, the Exchange proposes to replace the numerical identifiers with alphabetical identifiers located in the beginning of the paragraph, and to then in turn replace the alphabetical identifiers with numerical identifiers for the references which occur later in the paragraph.

Second, the Exchange proposes to amend Exchange Rule 308, Exemptions from Position Limits, to correct an incorrect cross reference. Exchange Rule 308(a)(7)(vi) states that a ''Member on its own behalf or on behalf of a designated aggregation unit pursuant to Rule 308(a)(iv) shall also report . . . ''. The reference to paragraph (a)(iv) of Rule 308 is incorrect as 308(a)(7)(iv) is the correct section, which is titled Effect on Aggregation of Account Positions. Therefore, the Exchange proposes to replace the reference to paragraph (a)(iv) with (a)(7)(iv). Additionally, the Exchange proposes to amend paragraph (b)(6) of Rule 308 to replace the alphabetical list identifiers (''A'' through ''D'') with romanette identifiers ''i'' through ''iv'' respectively, to align to the hierarchical heading scheme of the Exchange's Rulebook.

Third, the Exchange proposes to amend Exchange Rule 404, Series of Option Contracts Open for Trading, Interpretations and Policies .02, Short Term Option Series Program, to correct a typographical error in paragraph (d). The fourth sentence in the paragraph begins, ''Market makers,'' whereas ''makers'' should be capitalized. Therefore, the Exchange proposes to amend the rule to replace the term ''Market makers'' with ''Market Makers.''

Fourth, the Exchange proposes to amend Exchange Rule 514, Priority of Quotes and Orders, to correct an invalid cross reference in paragraph (e)(2) of the Rule. Exchange Rule 514(e)(2) describes ''Market Maker non-priority quotes, (as described in Rule 517(b)(1)(ii)) and Market Maker orders in both assigned and non-assigned classes.'' The reference to paragraph 517(b)(1)(ii) is incorrect as 517(b)(1)(ii) describes the Priority Quote Width Standard, whereas 517(b)(1)(iii) describes Non-Priority Quotes. Therefore, the Exchange proposes to replace the reference to 517(b)(1)(ii) with 517(b)(1)(iii).

Fifth, the Exchange proposes to amend Exchange Rule 1325, Telemarketing, to correct a typographical error in paragraph (n) subsection (20) where the word telemarketer is incorrectly spelled ''telelmarketer.''

Lastly, the Exchange proposes to amend Exchange Rule 1400, Definitions, to make a minor non-substantive correction to paragraph (l). Exchange Rule 1400(l) provides the definition of the OPRA Plan as, ''the plan filed with the SEC pursuant to Section 11Aa(1)(C)(iii) of the Exchange Act, approved by the SEC and declared effective as of January 22, 1976, as from time to time amended.'' The reference to 11Aa(1)(C)(iii) is incorrect as the correct citation format is 11A(a)(1)(C)(iii). Therefore, the Exchange propose to replace 11Aa(1)(C)(iii) with 11A(a)(1)(C)(iii).

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) of the Act [4] 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 Exchange believes the proposed rule changes promote just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because the proposed rule change corrects errors in the hierarchical heading scheme to provide uniformity in the Exchange's rulebook; corrects incorrect cross references; and corrects minor typographical errors. The Exchange notes that the proposed changes do not alter the application of each rule. As such, the proposed amendments would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and national exchange system. In particular, the Exchange believes that the proposed rule changes will provide greater clarity to Members [5] and the public regarding the Exchange's Rules. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will have no impact on competition as it is not designed to address any competitive issues but rather to add additional clarity to existing rules and to remedy minor non-substantive issues in the text of various rules identified in this proposal.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition as the Rules apply equally to all Exchange Members.

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.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 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.

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 [6] and Rule 19b–4(f)(6) [7] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–21 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–2017–21. 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–2017–21 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10312 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 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.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80689; File No. SR–BatsEDGX–2017–19]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.22 of Bats EDGX Exchange, Inc. To Modify the Date of Appendix B Web Site Data Publication Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program

May 16, 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 May 4, 2017, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I 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 11.22 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 11.22(b) (Compliance with Data Collection Requirements) [5] implements the data collection and Web site publication requirements of the Plan.[6] Rule 11.22(b).08 provides, among other things, that the requirement that the

[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 11.22(b). *See also* Securities Exchange Act Release Nos. 77416 (March 22, 2016), 81 FR 17225 (March 28, 2016); *and* 78798 (September 9, 2016), 81 FR 63532 (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).

Exchange or Designated Examining Authority (''DEA'') make certain data for the Pre-Pilot Period and Pilot Period [7] publicly available on their Web site pursuant to Appendix B and C to the Plan shall commence on April 28, 2017.[8] The Exchange is proposing to amend Rule 11.22.08 to delay the Appendix B data Web site publication date until August 31, 2017. The Exchange is proposing to further delay the Web site publication of Appendix B data until August 31, 2017 to permit additional time to consider a methodology to mitigate concerns raised in connection with the publication of Appendix B data.

Pursuant to this proposed amendment, the Exchange or DEA would publish the required Appendix B data for the Pre-Pilot Period through April 30, 2017, by August 31, 2017.[9] Thereafter, Appendix B data for a given month would be published within 120 calendar days following month end.[10] Thus, for example, Appendix B data for May 2017 would be made available on the Exchange or DEA's Web site by September 28, 2017, and data for the month of June 2017 would be made available on the Exchange or DEA's Web site by October 28, 2017.

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.

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 consider a methodology to mitigate concerns raised in connection with the publication of Appendix B 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 19(b)–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 the date of filing.

The Exchange notes that the proposed rule change is intended to mitigate confidentiality concerns raised in connection with Section VII(A) of the Plan, which provides that the data made publicly available will not identify the Trading Center that generated the data. The Exchange states that the additional time would allow consideration of a methodology to mitigate concerns related to the publication of Appendix B data.[15]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will synchronize the timing for publication of Appendix B data for all Participants, which should enhance the consistency and usefulness of the data.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on the date of filing.[17]

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:

[7] Unless otherwise defined herein, capitalized terms have the meaning ascribed to them in Exchange Rule 11.22.

[8] *See* Exchange Rule 11.22.08. *See also* Securities Exchange Act Release No. 80208 (March 10, 2017), 82 FR 14092 (March 16, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Robert L.D. Colby, Executive Vice President and Chief Legal Officer, FINRA, dated February 28, 2017.

[9] The Exchange initially submitted this proposed rule change on April 28, 2017. (SR–BatsEDGX–2017–17). On May 4, 2017, the Exchange withdrew SR–BatsEDGX–2017–17 and submitted this filing.

[10] FINRA, on behalf of 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] The Commission recently approved a FINRA proposal to implement an aggregated, anonymous grouped masking methodology for the publication of Appendix B data related to OTC trading activity. *See* Securities Exchange Release No. 80551, (April 28, 2017), 82 FR 20948 (May 4, 2017). *See also* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Executive Vice President FINRA, dated April 28, 2017.

[16] The Commission recently granted exemptive relief to the Participants delay the publication of their Appendix B data until August 31, 2017. *See* Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Jennifer Piorko Mitchell, Vice President and Deputy Corporate Secretary, FINRA, dated April 28, 2017. The Commission notes that other Participants have submitted proposed rule changes to delay the publication of Appendix B data until August 31, 2017. *See e.g.,* SR–BatsBZX–2017–31; BatsBYX–2017–10; SR–BatsEDGA–2017–10; SR–BX–2017–022; SR–CHX–2017–07; SR–FINRA–2017–010; SR–IEX–2017–12; SR–NASDAQ–2017–044; SR-Phlx-2017–33; SR–NYSE–2017–19; SR–NYSEArca-2017–49; SR–NYSEMKT–2017–24.

[17] 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–BatsEDGX–2017–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2017–19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BatsEDGX–2017–19 and should be submitted on or before June 12, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10311 Filed 5–19–17; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15128 and #15129]

Texas Disaster #TX–00480

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of TEXAS dated 05/11/2017.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/29/2017.

Effective Date: 05/11/2017.

Physical Loan Application Deadline Date: 07/10/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 02/12/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Van Zandt

Contiguous Counties:

Texas: Henderson, Hunt, Kaufman, Rains, Smith, Wood

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses With Credit Available Elsewhere	6.430
Businesses Without Credit Available Elsewhere	3.215
Non-Profit Organizations With Credit Available Elsewhere	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.215
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15128B and for economic injury is 151290.

The State which received an EIDL Declaration # is TEXAS.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: May 11, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–10325 Filed 5–19–17; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension of Approval and Merger of Collections: Statutory Licensing Authority

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) an extension of approval for the information collections required from those seeking licensing authority under 49 U.S.C. 10901–03 and consolidation authority under sections 11323–26. The Board is also seeking approval to merge into this collection (OMB Control Number: 2140–0023) the collection of information about interchange commitments (OMB Control Number: 2140–0016).

The Board previously published a notice about this collection on January 26, 2017 in the **Federal Register**. That notice allowed for a 60-day public review and comment period. No comments were received.

DATES: Comments on this information collection should be submitted by June 21, 2017.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board: Statutory Licensing Authority.'' These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Chad Lallemand, Surface Transportation Board Desk Officer, by email at *oria_submission@omb.eop.gov;* by fax at (202) 395–6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503. Please also direct comments to Chris Oehrle, Surface Transportation Board,

395 E Street SW., Washington, DC 20423–0001, or to *pra@stb.gov.*

FOR FURTHER INFORMATION CONTACT: For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0284 or at *Michael.Higgins@stb.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board currently collects information from those seeking licensing authority under OMB Control Number 2140–0023 and, under that collection, requires the disclosure of information about rail interchange commitments, which is also addressed under OMB Control Number 2140–0016. This request proposes to combine collections under Control Numbers 2140–0016 and 2140–0023 with 2140–0023 being the survivor. The Board will request to discontinue Control Number 2140–0016 upon OMB approval of the merger.

For each collection, comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection 1

Title: Statutory Licensing Authority.

OMB Control Number: 2140–0023.

STB Form Number: None.

Type of Review: Extension with change (The number of respondents increased from 74 to 76. The number of applications decreased from 2 to 1; the number of petitions decreased from 18 to 12; and the number of notices increased from 103 to 113.)

Respondents: Rail carriers and non-carriers seeking statutory licensing or consolidation authority or an exemption from filing an application for such authority.

Number of Respondents: 76 [1].

Estimated Time per Response:

ESTIMATED HOURS PER RESPONSE

Type of filing	Number of hours per response under 49 U.S.C. 10901–03 and 11323–26
Applications	524
Petitions *	58
Notices *	19

* Under section 10502, petitions for exemption and notices of exemption are permitted in lieu of an application.

Frequency: On occasion.

NUMBER OF RESPONSES IN FY 2015

Type of filing	Number of filings under 49 U.S.C. 10901–03 and 11323–26
Applications	1
Petitions *	12
Notices *	113

* Under section 10502, petitions for exemption and notices of exemption are permitted in lieu of an application.

Total Burden Hours (annually including all respondents): 3,367 (sum of estimated hours per response × number of responses for each type of filing)

Total ''Non-hour Burden'' Cost: None identified. Filings are submitted electronically to the Board.

Needs and Uses: As mandated by Congress, persons seeking to construct, acquire or operate a line of railroad and railroads seeking to abandon or to discontinue operations over a line of railroad or, in the case of two or more railroads, to consolidate their interests through merger or a common-control arrangement are required to file an application for prior approval and authority with the Board. *See* 49 U.S.C. 10901–03, 11323–26. Under 49 U.S.C. 10502, persons may seek an exemption from many of the application requirements of sections 10901–03 and 11323–26 by filing with the Board a petition for exemption or notice of exemption in lieu of an application. The collection by the Board of these applications, petitions, and notices (including collection of disclosures of rail interchange commitments under 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), and 1180.4(g)(4)) enables the Board to meet its statutory duty to regulate the referenced rail transactions.

Description of Collection 2

Title: Disclosure of Rail Interchange Commitments.

OMB Control Number: 2140–0016.

STB Form Number: None.

Type of Review: Merger.

Respondents: Noncarriers and carriers seeking an exemption to acquire (through purchase or lease) or to operate a rail line, if the proposed transaction would create an interchange commitment.

Number of Respondents: Four.

Estimated Time per Response: Eight hours.

Frequency: On occasion.

Total Burden Hours (*annually including all respondents*): 32 hours.

Total ''Non-hour Burden'' Cost: None identified. Filings may be submitted electronically to the Board.

Needs and Uses: Under 49 U.S.C. 10502, noncarriers and carriers may seek an exemption from the prior approval requirements of sections 10901, 10902, and 11323 to acquire (through purchase or lease) or to operate a rail line. These transactions may create agreements with interchange commitments. If the interchange commitments limit the future interchange of traffic with third parties, then certain information must be disclosed to the Board about those commitments. 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), 1180.4(g)(4). The collection of this information facilitates the case-specific review of interchange commitments and enables the Board's monitoring of their usage generally.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information.

Dated: May 17, 2017.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–10420 Filed 5–19–17; 8:45 am]

BILLING CODE 4915–01–P

[1] Approximately 40% of the filings are additional filings submitted by railroads that had already submitted filings during the time period.

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: April 1–30, 2017.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, 717–238–0423, ext. 1312, *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(e):

1. Mount Nittany Medical Center, ABR–201704001, College Township, Centre County, Pa.; Consumptive Use of Up to 0.0750 mgd; Approval Date: April 10, 2017.

Approvals By Rule Issued Under 18 CFR 806.22(f):

1. Chief Oil & Gas, LLC, Pad ID: Romisoukas Drilling Pad, ABR–201209021.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 3, 2017.
2. Chief Oil & Gas, LLC, Pad ID: T. Brown Drilling Pad, ABR–201210006.R1, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 12, 2017.
3. SWN Production Company, LLC, Pad ID: Coyle Well Pad, ABR–201205006.R1, Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 12, 2017.
4. SWN Production Company, LLC, Pad ID: Moore Well Pad, ABR–201205021.R1, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 12, 2017.
5. SWN Production Company, LLC, Pad ID: Wheeler Well Pad, ABR–201205022.R1, Silver Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 12, 2017.
6. SWN Production Company, LLC, Pad ID: O'Reilly Well Pad, ABR–201205023.R1, Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 12, 2017.
7. SWN Production Company, LLC, Pad ID: Humbert Pad (RU–8), ABR–201206003.R1, New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 12, 2017.
8. SWN Production Company, LLC, Pad ID: KOZIAL PAD, ABR–201206016.R1, New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 12, 2017.
9. SWN Production Company, LLC, Pad ID: Marcucci_Jones Pad, ABR–201205017.R1, Stevens Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 17, 2017.
10. Chief Oil & Gas, LLC, Pad ID: Teeter Drilling Pad, ABR–201210013.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 17, 2017.
11. Energy Corporation of America, Pad ID: COP 324 A, ABR–201208011.R1, Girard Township, Clearfield County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: April 24, 2017.
12. Chief Oil & Gas, LLC, Pad ID: Tague West Drilling Pad, ABR–201210012.R1, Lemon Township, Wyoming County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 24, 2017.
13. Chief Oil & Gas, LLC, Pad ID: SGL 12 D DRILLING PAD, ABR–201704002, Leroy Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: April 26, 2017.
14. SWEPI, LP, Pad ID: Owlett 843R, ABR–201204007.R1, Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 27, 2017.
15. SWEPI, LP, Pad ID: Hepler 235, ABR–201204008.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 27, 2017.
16. Pennsylvania General Energy Company, LLC, Pad ID: COP Tract 293 Pad B, ABR–201206006.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.5000 mgd; Approval Date: April 28, 2017.
17. Pennsylvania General Energy Company, LLC, Pad ID: COP Tract 293 Pad C, ABR–201207010.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 3.5000 mgd; Approval Date: April 28, 2017.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: May 16, 2017.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2017–10289 Filed 5–19–17; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule project rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: April 1–30, 2017.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, 717–238–0423, ext. 1312, *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Rescinded ABR Issued:

1. Ultra Resources, Inc., Pad ID: Brown #1 Pad Site, ABR–201510004, West Branch Township, Potter County, Pa., Rescind Date: April 24, 2017.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: May 16, 2017.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2017–10290 Filed 5–19–17; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on June 8, 2017, starting at 1:00 p.m. Eastern Standard Time. Arrange oral presentations by June 1, 2017.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Kerri Smith, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–2371; fax (202) 267–5075; email *Kerri.Smith@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on June 8, 2017, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

The Agenda includes:

1. Status Report from the FAA
2. Interim Recommendation Report
   a. ARAC Input to Support Regulatory Reform of Aviation Regulations
   b. Air Traffic Controller Training Working Group
3. Status Reports From Active Working Groups
   a. ARAC
   i. Rotorcraft Occupant Protection Working Group
   ii. Rotorcraft Bird Strike Working Group
   iii. Load Master Certification Working Group
   iv. Airman Certification Systems Working Group
   b. Transport Airplane and Engine (TAE) Subcommittee
   i. Transport Airplane Metallic and Composite Structures Working Group—Transport Airplane Damage-Tolerance and Fatigue Evaluation
   ii. Transport Airplane Crashworthiness and Ditching Evaluation Working Group
   iii. Engine Harmonization Working Group- Engine Endurance Testing Requirements—Revision of Section 33.87
   iv. Airworthiness Assurance Working Group
   v. Ice Crystal Icing Working Group
   vi. Avionics Systems Harmonization Working Group
   vii. Flight Test Harmonization Working Group—Phase 3
4. Any Other Business

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than May 26, 2017. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers are responsible for paying long-distance charges.

The public must arrange by June 1, 2017 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on May 16, 2017.

Dale Bouffiou,

Alternate Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2017–10411 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–28, Drone Amplified, LLC]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before June 12, 2017.

ADDRESSES: You may send comments identified by Docket Number FAA–2017–0276 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility 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.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility 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: Jake Troutman, (202) 683–7788, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 16, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0276.

Petitioner: Drone Amplified, LLC.

Section of 14 CFR Affected: 107.36; 137.19(c); 137.19(d); 137.19(e)(2)(ii)(iii)(iv)(v); 137.31(a) and (b); 137.33(a); 137.41(c); 137.42.

Description of Relief Sought: Drone Amplified, LLC (Drone Amplified) is seeking an exemption to commercially operate the DJI Matrice 600 small unmanned aircraft system (UAS) with line of sight operation, during the day, at altitudes under 400 feet above ground level (AGL), to operate for commercial agricultural related services by performing interior ignitions with the small UAS to aid firefighters performing prescribed burns in remote and sparsely populated locations.

[FR Doc. 2017–10410 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2016–0024]

Project Management Plan Guidance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice announces and outlines the purpose and contents of Project Management Plans, when they are required, and the preferred form and procedure for submission of these Plans to FHWA. The Guidance clarifies prior Guidance, including when to prepare plan updates.

DATES: This Guidance is effective on May 22, 2017.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit all comments by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.
- *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For questions about this notice contact Ms. LaToya Johnson, FHWA Office of Infrastructure, (202) 366–0479, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, or via email at *latoya.johnson@dot.gov.* For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, (202) 366–1373, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, or via email at *jomar.maldonado@dot.gov.* Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the Project Management Plan Guidance is available for download and public inspection under the docket number noted above at the Federal eRulemaking portal at: *http://www.regulations.gov.* You may submit or retrieve comments online through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Publishing Office's Web page at: *https://www.gpo.gov/fdsys/.* Late comments will be considered to the extent practicable.

Background

Major projects are defined in 23 U.S.C. 106(h) as projects receiving Federal financial assistance with an estimated total cost of $500,000,000, or other projects as may be identified by the Secretary. Major projects are typically large, complex projects designed to address major highway needs and require the investment of significant financial resources. The preparation of a Project Management Plan, as required by 23 U.S.C. 106(h), ensures successful project delivery and the maintenance of public trust, support, and confidence throughout the life of the project. The Plans clearly define the responsibilities of the agency leadership and management team. Further, such plans document the procedures and processes to provide timely information to project decisionmakers.

The Project Management Plan Guidance replaces the existing January 2009 guidance. Current guidance is over 7 years old and in need of clarification. This new guidance is less prescriptive, in light of an increased understanding of Project Management Plans by FHWA and Project Managers. Further, a recent DOT Office of Inspector General audit expressed the need for more clarity in the guidance on when to prepare Project Management Plan updates.[1] Finally, while current guidance includes best practices for managing major projects, these practices are not included in the new guidance. Rather, best management practices will be developed as a separate resource to be shared with project sponsors and FHWA staff.

A copy of the Project Management Plan Guidance is available for download and public inspection under the docket number noted above at the Federal eRulemaking portal at: *http://www.regulations.gov.*

Authority: 23 U.S.C. 106(h); 49 CFR 1.85.

Dated: May 15, 2017.

Walter C. Waidelich, Jr.,

Acting Deputy Administrator, Federal Highway Administration.

[FR Doc. 2017–10262 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Bronx County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed construction project known as the Hunts Point Interstate Access Improvement Project, in Bronx County, New York.

FOR FURTHER INFORMATION CONTACT: Harold Fink, Deputy Chief Engineer, New York State Department of Transportation, Hunters Point Plaza 47–40 21st Street, Long Island City, New York 11101, Telephone: (718) 482–4683; or Peter W. Osborn, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 7th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an Environmental Impact Statement (EIS) in accordance with the National

[1] FHWA Met Basic Requirements but can Strengthen Guidance and Controls for Financial and Project Management Plans, FHWA, Report No. ST–2015–018 (Jan. 2015), *available at https://www.oig.dot.gov/library-item/32336.*

Environmental Policy Act (NEPA) on a proposal to improve access between the Hunts Point Peninsula and the Sheridan and Bruckner Expressways (I–895 and I–278).

The Hunts Point Peninsula is located in the South Bronx, New York, and is home to the Hunts Point Food Distribution Center, the largest food distribution facility in the nation. The Hunts Point Peninsula is also home to many industrial and commercial properties outside of the food distribution center. There is also a residential area in the northeastern portion of the peninsula. To access the food distribution center, vehicles must exit the interstate highway network and use local streets. The needs for the project are to improve access to and from the Hunts Point Peninsula and the Hunts Point Food Distribution Center/commercial establishments, to address the existing non-standard geometric features of the Bruckner/Sheridan Interchange to improve operations, and to address infrastructure deficiencies on the Bruckner Expressway viaduct and ramps and truss bridge carrying westbound Bruckner Expressway and Bruckner Boulevard over Amtrak.

The purpose of the project is to provide improved access between the Hunts Point Peninsula and the Sheridan and Bruckner Expressways for automobiles and trucks traveling to and from the commercial businesses located on the peninsula. In addition, the project will address structural and operational deficiencies related to the existing infrastructure within the established project limits.

A reasonable range of alternatives is currently being developed and will be refined during the NEPA scoping process in consideration of agency and public comments received.

Letters describing the proposed action and soliciting comments will be sent to Cooperating and Participating Agencies. Public and agency outreach will include a formal public scoping meeting, a public hearing, and meetings with Cooperating and Participating Agencies. Public notice will be given of the date, time, and location of the scoping meeting and hearing. To assist in determining the scope of issues to be addressed and identifying the significant issues related to the proposed action, the general public will have the opportunity to submit written comments at the scoping meeting and during a scoping comment period. The draft EIS will be available for public and agency review and comment prior to the public hearing.

Comments or questions concerning this proposed action should be directed to the NYSDOT and FHWA at the addresses provided above.

Issued on: May 8, 2017.

Peter W. Osborn,

Division Administrator, Albany, New York.

[FR Doc. 2017–10260 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2017–0002–N–15]

Survey of Plant and Insular Tourist Railroads Subject to FRA Bridge Safety Standards

AGENCY: Federal Railroad Administration (FRA) Department of Transportation (DOT).

ACTION: Notice and request for information.

SUMMARY: FRA is issuing this notice to supplement a prior notice and request for comments by which FRA requested railroads serving a plant, and moving railroad equipment over bridges within the plant, or the plant itself, to advise FRA by email or telephone if there are railroad bridges within the plant potentially subject to FRA Bridge Safety Standards. FRA also requested insular tourist railroads with tracks supported by one or more bridges to advise FRA of the existence of their bridges by email or telephone. This notice provides the email address railroads should use and extends the date to submit comments in response to the prior notice.

DATES: Comments must be received no later than July 21, 2017.

FOR FURTHER INFORMATION CONTACT: David Killingbeck, Chief Engineer—Structures, Bridge & Structures Division, Office of Technical Oversight, FRA, 1200 New Jersey Avenue SE., 3rd Floor—West, Washington, DC, 20590, (202) 493–6251.

SUPPLEMENTARY INFORMATION: Email notifications responding to FRA's notice and request for information published April 11, 2017 (*see* 82 FR 17498) should be sent to *FRAPlantTouristSurvey@dot.gov* and include the name of the plant or insular tourist railroad, that entity's address (including city and State), and a contact name, telephone number, and email address. Notification may also be made by telephone to David Killingbeck at (202) 493–6251. The date for comments in response to the notice and request for information published in the **Federal Register** on April 11, 2017, has been extended to the date listed in the **DATES** section above.

John Seguin,

Acting Chief Counsel.

[FR Doc. 2017–10294 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. DOT–OST–2010–0140]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this notice announces the Department of Transportation's (Department) intention to reinstate an Office of Management and Budget (OMB) control number for the collection and posting of certain aviation consumer protection-related information from U.S. carriers and foreign carriers. On April 25, 2011, the DOT issued a final rule that, among other things, extended existing consumer protection requirements that previously applied only to U.S. carriers to foreign carriers and required that certain U.S. and foreign air carriers report tarmac delay information to the DOT for passenger operations that experience a tarmac delay time of 3 hours or more at a U.S. airport (See, DOT–OST–2010–0140). This request seeks to reinstate the control number that is associated with the information collection requirements in that rule, OMB Control Number 2105–0561.

DATES: Comments on this notice must be received by July 21, 2017. Interested persons are invited to submit comments regarding this proposal.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor Room W–12/140, Washington, DC 20590–0001;
- *Hand delivery:* West Building Ground Floor, Room W–12/140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays. The telephone number is 202–366–9329.

FOR FURTHER INFORMATION CONTACT: Kimberly Graber or Daeleen Chesley, Office of the Secretary, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (C–70), Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9342 (voice) 202–366–7152 (fax) or at *Kimberly.Graber@dot.gov* or *Daeleen.Chesley@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Submission of Miscellaneous Information Collection Systems as Required by the Department's Rules to Enhance Airline Passenger Protections.

OMB Control Number: 2105–0561.

On April 25, 2011, the Department issued a rule to enhance airline passenger protections that, among other things, extended to foreign carriers the requirement to post tarmac delay plans, customer service plans, and contracts of carriage on their Web sites. This requirement had previously only applied to U.S. carriers. The rule also required that U.S. air carriers that operate passenger service and foreign air carriers that operate scheduled passenger service to or from the U.S. retain for two years certain information about any ground delay that lasts at least three hours, adopt a Customer Service Plan, audit its adherence to the plan annually, and retain the results for two years. In addition, a prior rule issued on December 30, 2009, required that each reporting air carrier (*i.e.,* currently U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenues) display on its Web site information on each listed flight's on-time performance for the previous month for both the carrier's flights and those of its non-reporting code-share carriers.

A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

This notice addresses five information collection requirements concerning information collection requirements set forth in the Department's airline passenger protection rules. The reinstated OMB control number will be applicable to all information collection systems set forth in this notice. For each of these information collections, the title, a description of the respondents, and an estimate of the annual recordkeeping and periodic reporting burden are set forth below:

1. Requirement to post customer service plans and contracts of carriage on a carrier's Web site. (259.2 and 259.6)

Title: Posting of Customer Service Plan and Contract of Carriage on Web site.

Respondents: U.S. carriers that operate scheduled passenger or public charter service and foreign air carriers operating scheduled passenger or public charter service to or from the United States, using any aircraft with a designed seating capacity of 30 or more seats. Applicable to U.S. carriers that have a Web site and foreign carriers that have a Web site marketed toward U.S. consumers.

Estimated Number of Respondents: 45 U.S. airlines and 65 foreign carriers.

Estimated Total Burden on Respondents: 27 hours and 30 minutes (1,650 minutes, average of 15 minutes per U.S. carrier to post plans and contracts of carriage on Web site).

Frequency: One time per respondent.

2. Requirement to retain for two years information about any tarmac delay that lasts at least three hours. (259.2 and 259.4)

Title: Retaining Ground Delay Information.

Respondents: U.S. carriers that operate or market scheduled or public charter passenger service using any aircraft with a designed seating capacity of 30 or more seats, and foreign air carriers that operate or market scheduled or public charter passenger service to and from the United States using any aircraft with a designed seating capacity of 30 or more seats. To be covered, the tarmac delay must have occurred at a U.S. large hub, medium hub, small hub or non-hub airport.

Estimated Number of Respondents: 61 U.S. and 93 foreign carriers.

Estimated Annual Burden on Respondents: A maximum of 88 hours (5,280 minutes) for a U.S. respondent and a maximum of 32 hours (1,920 minutes) for a foreign respondent. The estimate was calculated multiplying the estimated time to retain information about one ground delay (2 hours) by the total number of ground delay incidents lasting at least three hours per U.S. respondent (a maximum of 44 incidents, derived from analysis of tarmac delays for CY2016).

For foreign respondents, the estimate was similarly calculated by multiplying the estimated time to retain information about one ground delay (4 hours) by the total number of ground delay incidents lasting at least three hours for CY2016 (a maximum of 8 incidents).

Estimated Total Annual Burden: A maximum of 530 hours (31,800 minutes) for all respondents. For U.S. carriers, the subtotal was determined by multiplying the sum of the total per report time (2 hours) for U.S. carriers by the total number of CY2016 ground delay incidents lasting at least three hours for all U.S. carriers (159 total incidents). For foreign carriers the subtotal was determined by multiplying the per report time (4 hours) for foreign carriers multiplied by the total number of ground delay incidents lasting at least three hours for the foreign carriers (53 total incidents). The estimate was calculated by adding the sum of the two subtotals for all CY2016 tarmac delays lasting at least three hours (318 hours for U.S. carriers plus 212 hours for foreign carriers).

Frequency: A maximum of 44 ground delay information sets to retain per year for a single respondent. (*N.b.* Some air carriers may not experience any ground delay incidents of at least three hours in a given year, while one air carrier experienced 44 three-hour plus delays in CY2016 according to data reported to the Bureau of Transportation Statistics).

3. Requirement that certain U.S. and foreign air carriers retain for two years the results of its annual self-audit of its compliance with its Customer Service Plan. (259.2 and 259.5)

Title: Retaining Self-audit of Customer Service Plan.

Respondents: U.S. carriers that operate scheduled passenger service using any aircraft with a designed seating capacity of 30 or more seats, and foreign air carriers that operate scheduled passenger service to and from the United States using any aircraft with a designed seating capacity of 30 or more seats.

Number of Respondents: 45 U.S. and 70 foreign carriers.

Estimated Annual Burden on Respondents: 15 minutes per year for each respondent. The estimate was calculated by multiplying the estimated time to retain a copy of the carrier's self-audit of its compliance with its Customer Service Plan by the number of audits per carrier in a given year (1).

Estimated Total Annual Burden: A maximum of 28 hours and 30 minutes (1,725 minutes) for all respondents. The estimate was calculated by multiplying the time in a given year for each carrier to retain a copy of its self-audit of its compliance with its Customer Service Plan (15 minutes) by the total number of covered carriers (115 carriers).

Frequency: One information set to retain per year for each respondent.

4. Requires that each large U.S. carrier display on its Web site, at a point before the consumer selects a flight for purchase, the following information for each listed flight regarding its on-time performance during the last reported month: The percentage of arrivals that were on time (within 15 minutes of scheduled arrival time), the percentage of arrivals that were more than 30 minutes late (with special highlighting if the flight was more than 30 minutes late more than 50 percent of the time), and the percentage of flight cancellations if the flight is cancelled more than 5% of the time. In addition, a marketing/reporting carrier display delay data for its non-reporting code-share carrier(s). (234.11)

Title: Displaying On-time performance Information on Carrier Web site.

Respondents: Currently every U.S. carrier that accounts for at least one percent of scheduled passenger revenue and maintains a Web site.[1]

Number of Respondents: 12 carriers.

Estimated Annual Burden on Respondents: 2 hours per month (24 hours) to cover both updates of a carrier's own delay data and updates of code-share delay data.

Estimated Total Annual Burden: No more than 288 hours (17,280 minutes) a year for all respondents. The estimate was calculated by multiplying the total number of hours per carrier per year for management of data links (24) by the number of covered carriers (12).

Frequency: Updating information for each flight listed on Web site 12 times per year (1 time per month) for each respondent (for both own carrier delay data and code-share delay data).

5. Requirement that certain carriers report tarmac delay data for tarmac delays exceeding 3 hours to the Department on a monthly basis. (244.2)

Title: Reporting Tarmac Delay Data for Tarmac Delays Exceeding 3 Hours

Respondents: U.S. carriers that operate scheduled passenger service or public charter service using any aircraft with a designed seating capacity of 30 or more seats, and foreign air carriers that operate scheduled passenger service to and from the United States using any aircraft with a designed seating capacity of 30 or more seats. To be covered, the tarmac delay must have occurred at a U.S. large hub, medium hub, small hub or non-hub airport.

Number of Respondents: 61 U.S. and 70 foreign carriers.

Estimated Annual Burden on Respondents: 0.0 to 22.0 hours per U.S. respondent (the latter if 44 three-hour plus tarmac delays must be reported) and 0.0 to 4 hours per foreign respondent (the latter if 8 three-hour plus tarmac delays must be reported). This is estimating that each report takes 30 minutes to submit.

Estimated Total Annual Burden: 106 hours (6,360 minutes) for all respondents.

Frequency: One information set to submit per incident for each respondent that experiences a tarmac delay of 3 hours or more (212 three-hour plus tarmac delay reports total were submitted in CY16 to the Bureau of Transportation Statistics).

We invite comments on (a) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record on the docket.

Issued this 9th day of May, 2017, at Washington, DC.

Blane Workie,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 2017–10344 Filed 5–19–17; 8:45 am]

BILLING CODE 4910–9X–P

[1] On January 1, 2018, covered carriers (*i.e.* ''reporting carriers'') will include air carriers that operate scheduled passenger service that accounts for at least 0.5 percent and less than 1.0 percent of domestic scheduled passenger revenue and that market flights directly to consumers via a Web site. The requirement will be included as part of this reinstated OMB Control Number. However, the requirement will not impact newly reporting carriers that do not maintain a Web site that displays flight schedules.

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request(s) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on the collection(s) listed below.

DATES: Comments should be received on or before June 21, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Form 2032—Contract Coverage Under Title II of the Social Security Act.

OMB Control Number: 1545–0137.

Type of Review: Extension without change of a currently approved collection.

Abstract: U.S. citizens and resident aliens employed abroad by foreign affiliates of American employers are exempt from social security taxes. Under Internal Revenue Code section 3121(1), American employers may file an agreement on Form 2032 to waive this exemption and obtain social security coverage for U.S. citizens and resident aliens employed abroad by their foreign affiliates. The American employers can later file Form 2032 to cover additional foreign affiliates as an amendment to their original agreement.

Form: 2032.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 158.

Title: Form 4562—Depreciation and Amortization (Including Information on Listed Property).

OMB Control Number: 1545–0172.

Type of Review: Extension without change of a currently approved collection.

Abstract: Taxpayers use Form 4562 to: claim a deduction for depreciation and/or amortization; make a section 179

election to expense depreciable assets; and answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).

Form: 4562.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 488,368,447.

Title: Application for Reward for Original Information.

OMB Control Number: 1545–0409.

Type of Review: Form 211 is the official application form used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by Internal Revenue Code Section 7623. The data is used to determine and pay rewards to those persons who voluntarily submit information.

Form: 211.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 15,000.

Title: 26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records.

OMB Control Number: 1545–0798.

Type of Review: IRC section 6001 requires, in part, that every person liable for tax, or for the collection of that tax keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 30,275,950.

Title: TD 8556 (Final)—Computation and Characterization of Income and Earnings and Profits Under the Dollar Approximate Separate Transactions Method of Accounting (DASTM).

OMB Control Number: 1545–1051.

Type of Review: Extension without change of a currently approved collection.

Abstract: For taxable years after the final regulations are effective, taxpayers operating in hyperinflationary currencies must use the U.S. dollar as their functional currency and compute income using the dollar approximate separate transactions method (DASTM). Small taxpayers may elect an alternate method by which to compute income or loss. For prior taxable years in which income was computed using the profit and loss method, taxpayers may elect to recompute their income using DASTM.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,000.

Title: Application for Extension of Time to File Information Returns.

OMB Control Number: 1545–1081.

Type of Review: Extension without change of a currently approved collection.

Abstract: Form 8809 is used to request an extension of time to file Forms W–2, W–2G, 1042–S, 1094–C, 1095, 1097, 1098, 1099, 3921, 3922, 5498, and 8027. The IRS reviews the information contained on the form to determine whether an extension should be granted.

Form: 8809.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 237,000.

Title: PS–19–92 (TD 9420–Final) Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit.

OMB Control Number: 1545–1102.

Type of Review: Extension without change of a currently approved collection.

Abstract: This document contains final regulations that amend the utility allowances regulations concerning the low-income housing tax credit. The final regulations update the utility allowance regulations to provide new options for estimating tenant utility costs. The final regulations affect owners of low-income housing projects who claim the credit, the tenants in those low-income housing projects, and the State and local housing credit agencies that administer the credit.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 4,008.

Title: Capitalization of Interest.

OMB Control Number: 1545–1265.

Type of Review: Extension without change of a currently approved collection.

Abstract: The regulations require taxpayers to maintain contemporaneous written records of estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change their methods of accounting for the capitalization of interest.

Form: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 116,767.

Title: Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1545–2256.

Type of Review: Extension without change of a currently approved collection.

Abstract: This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

Form: None.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 266,680.

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

Dated: May 17, 2017.

Jennifer P. Leonard,

Treasury PRA Clearance Officer.

[FR Doc. 2017–10359 Filed 5–19–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Agency Information Collection Activity: Study on Provision of Interments in Veterans' Cemeteries During Weekends

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Emergency Clearance Notification.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the Department of Veterans Affairs (VA) is providing notice of its agency request for emergency clearance for the ''Study on Provision of Interments in Veterans' Cemeteries during Weekends'' under the National Cemetery Administration (NCA). In response to the requirements of Public Law 114–315, enacted December 16, 2016, it is a requirement to conduct a study of interest in initiating a weekend burial option in VA national cemeteries. Specifically, Section 304 calls for the study on provision of interments to include consultation with interested agencies and members of the public.

DATES: This notification is published in the **Federal Register** to inform the public of VA's study. May 22, 2017.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at 202–461–5870 or email *cynthia.harvey-pryor@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This clearance request is being made pursuant to Section 3506(c)(2)(A) of the PRA. Public Law 114–315, section 304, enacted by the U.S. Congress and signed by the President on December 16, 2016, makes a specific request for the collection and reporting of the information covered by this request. Neither the Department of Veterans Affairs nor the National Cemetery Administration has conducted any collection of data specifically targeted to this topic. This request is for emergency OMB clearance to conduct collection of information. Submission of the report is required within 180 days of the enactment of Public Law 114–315. This makes the report due not later than June 16, 2017.

Authority: Authority: 44 U.S.C. 3501–3521; Public Law 114–315.

Title: Study on Provision of Interments in Veterans Cemeteries during Weekends.

OMB Control Number: 2900–NEW.

Type of Review: Emergency clearance.

Abstract: As stated in the referenced law, ''The Secretary of Veterans Affairs shall conduct a study on the feasibility and the need for providing increased interments in veterans' cemeteries on Saturdays and Sundays to meet the needs of surviving family members to properly honor the deceased.'' The information collected shall be used to provide the data to be included in the reporting on the required study. The survey will be distributed by email, with participants being asked to respond to the survey via an internet web link. Collected responses will immediately be available as part of the composite report.

Affected Public: Individuals or Households; State, Local and Tribal Governments.

Estimated Annual Burden: 13,097 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One time only.

Estimated Number of Respondents: 157,168.

a. Living Veteran: 130,000;

b. Next of Kin of Veterans or eligible family member interred in a national cemetery: 10,000;

c. Managers of State or Tribal Veterans Cemeteries: 150;

d. Veterans Service Organizations: 18;

e. Funeral Directors: 17,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–10361 Filed 5–19–17; 8:45 am]

BILLING CODE 8320–01–P

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