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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1471

RIN 0551–AB00

Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule makes amendments to regulations for the Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust Fund) and the Agriculture Wool Apparel Manufacturers Trust Fund (Wool Trust Fund) programs. This final rule makes minor changes to the Department of Agriculture's administration of the Wool Trust Fund, required by section 12603 of the Agriculture Improvement Act of 2018. Statutory changes were made with respect to two of the four types of payments available under the Wool Trust Fund, the Refund of Duties Paid on Imports of Certain Wool Products (Wool Duty Refund program) and the Payments to Manufacturers of Certain Worsted Wool Fabrics (Wool Grant program). In addition, new regulatory language is required to update the payment expiration calendar year and for submission of affidavits that apply to all four payments made available under the Wool Trust Fund. This final rule also makes minor changes to the Department of Agriculture's administration of the Agriculture Pima Trust Fund per section 12602 of the Agriculture Improvement Act of 2018. New regulatory language is required for updating the payment expiration calendar year and to include information in the required affidavit of yarn spinners.

DATES: This final rule is effective February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Benjamin Chan, Director for Grant Programs Branch, Global Programs, Foreign Agricultural Service, USDA; email: *pimawool@fas.usda.gov,* 202–720–8877.

SUPPLEMENTARY INFORMATION:

Background

Purpose of the Regulatory Action

On March 9, 2015, FAS published a final rule in the **Federal Register** (80 FR 12321) for the Agriculture Pima Trust and the Agriculture Wool Trust programs. That rule was subsequently amended on November 18, 2016, (81 FR 81657) based on comments received to add details for the Refund of Duties Paid on Imports of Certain Wool Products payment. This current rule reflects minor changes to the Department of Agriculture's administration of the Wool Trust Fund, made by section 12603 of the Agriculture Improvement Act of 2018. This rule also reflects minor changes to the Department of Agriculture's administration of the Agriculture Pima Trust Fund made by Section 12602 of the Agriculture Improvement Act of 2018.

Effective Date and Notice and Comment

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** for interested persons to be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation and requires a 30-day delay in the effective date of rules, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involves matters relating to contracts and therefore the requirements in section 553 do not apply.

The Office of Management and Budget (OMB) designated this rule as not major under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, FAS is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review.

Accordingly, this rule is effective upon publication in the **Federal Register**.

Executive Order 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13573 for the analysis of costs and benefits to loans apply to rules that are determined to be significant. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a federal policy to alleviate unnecessary regulatory burdens on the American people.

OMB designated this rule as not significant for the purposes of Executive Order 12866 and was not reviewed by OMB. A cost-benefit assessment of this rule was not required for either Executive Orders 12866 or 13563.

Executive Order 12372

This final rule is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' which requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This rule does not preempt State or local laws, regulations, or policies unless they

present an irreconcilable conflict with this rule. This rule will not be retroactive.

Executive Order 13132

This final rule has been reviewed under Executive order 13132, ''Federalism.'' The policies contained in this final rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this final rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

USDA has assessed the impact of this rule on Indian Tribes and determined that this rule does not have Trial implications that required Tribal consultation under Executive Order 13175. If a Tribe requests consultation, FAS will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this final rule because FAS is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA that apply to CCC activities (7 CFR part 799). FAS has determined that NEPA does not apply to this final rule and that no environmental assessment or environmental impact statement will be prepared.

Unfunded Mandates Reform Act

This final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), this rule does not change the information collection approved by OMB under control number 0551–0044.

E-Government Act Compliance

FAS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information, services, and for other purposes. The forms, regulations, and other information collection activities required to be utilized by a person subject to this final rule are available at: *http://www.fas.usda.gov.*

List of Subjects in 7 CFR Part 1471

Agricultural commodities, imports.

Accordingly, 7 CFR part 1471 is amended as follows:

PART 1471—PIMA AGRICULTURE COTTON TRUST FUND (AGRICULTURE PIMA TRUST) AND AGRICULTURE WOOL APPAREL MANUFACTURERS TRUST FUND (AGRICULTURE WOOL TRUST)

■ 1. The authority citation for part 1471 is revised to read as follows.

Authority: Sections 501–506, Pub. L. 106–200, (114 Stat. 299–304); section 4002, Pub. L. 108–429 (7 U.S.C. 7101 note); section 1633, Pub. L. 109–280 (120 Stat. 1166); section 325, Pub. L. 110–343 (122 Stat. 3875); sections 12314 and 12315, Pub. L. 113–79 (7 U.S.C. 2101 note and 7101 note); and sections 12602 and 12603, Pub. L. 115–334 (7 U.S.C. 2101 note).

Subpart A—Agriculture Pima Trust

§ 1471.1 [Amended]

■ 2. Amend § 1471.1(b)(2) by removing ''2015 through 2018'' and adding ''2019 through 2023'' in its place.

■ 3. Amend § 1471.2 as follows:

■ a. In the introductory text, remove the year ''2018'' and add the year ''2023'' in its place;

■ b. In paragraph (b) introductory text, remove the phrase ''2013 and'';

■ c. In paragraph (b)(1), remove the first occurrence of the year ''2013'' and add the words ''the prior calendar year'' in its place and remove the phrase ''calendar year 2013'' and add the phrase ''the prior calendar year'' in its place;

■ c. In paragraph (b)(2), remove the phrase ''calendar year 2013'' and add the words ''the prior calendar year'' in its place;

■ d. In paragraph (c) introductory text, remove the phrase ''calendar year 2013'' and add the phrase ''the prior calendar year'' in its place; and

■ e. Add paragraphs (c)(3) and (4).

The additions read as follows:

§ 1471.2 Pima cotton payments.

* * * * *

(c) * * *

(3) A yarn spinner will not receive an amount under paragraph (b)(1) of this section that exceeds the cost of pima cotton that was:

(i) Purchased during the prior calendar year; and

(ii) Used in spinning any cotton yarns.

(4) The Secretary will reallocate any amounts reduced by reason of the limitation under paragraph (b) of this section to spinners using the ratio described in paragraph (b) of this section, disregarding production of any spinner subject to that limitation.

■ 4. Amend § 1471.3 as follows:

■ a. In paragraphs (a) and (c) remove the phrase ''calendar year 2013'' and add the phrase ''the prior calendar year'' in its place;

■ b. In paragraph (b), remove the phrase ''During 2013'' and in its place the phrase ''In the prior calendar year''; and

■ c. Add paragraph (d).

The addition reads as follows:

§ 1471.3 Affidavit of producers of ring spun pima cotton yarn.

* * * * *

(d) The dollar amount of pima cotton purchased during the prior calendar year that was used in spinning any cotton yarns, and for which the producer maintains supporting documentation.

§ 1471.4 [Amended]

■ 5. Amend § 1471.4 as follows:

■ a. In paragraph (a)(1), remove the phrase ''and during calendar year 2013'';

■ b. In paragraph (a)(2), remove the phrase ''calendar year 2013'' and add ''the prior calendar year'' in its place; and

■ c. In paragraph (a)(4), remove the phrase ''2013 and in''.

Subpart B—Agriculture Wool Trust

§ 1471.10 [Amended]

■ 6. Amend § 1471.10, in paragraph (b)(2) by removing ''2015 through 2019'' and adding the years ''2019 through 2023'' in its place.

Dated: January 14, 2020.

Robert Stephenson,

Executive Vice President, Commodity Credit Corporation.

In concurrence with:

Dated: December 23, 2019.

Clay Hamilton,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 2020–01296 Filed 2–4–20; 8:45 am]

BILLING CODE 3410–10–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 600 and 604

RIN 3052–AD17

Organization and Functions; Farm Credit Administration Board Meetings

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA or Agency) issues a final rule amending its regulations to reflect changes in the Agency's organizational structure and to correct the mailing address for the McLean office.

DATES: This regulation will become effective no earlier than 30 days after publication in the **Federal Register** during which either one or both Houses of Congress are in session. We will publish a document announcing the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul K. Gibbs, Associate Director, Office of Regulatory Policy, Farm Credit Administration, (703) 883–4203, TTY (703) 883–4056;

or

Autumn R. Agans, Senior Attorney, Office of General Counsel, Farm Credit Administration, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objective of this final rule is to reflect changes to FCA's organizational structure and to correct the mailing address for the McLean office.

II. Overview

On November 5, 2019, the FCA Board approved an organizational chart that created the Office of Data Analytics and Economics. This change will allow the Agency to continue on its path to becoming a more data-driven policymaking organization. Further, there are sections of 12 CFR 604.425(a)and 604.440 that only list the FCA Board address as McLean, excluding the street address.

III. Organizational Structure

The Freedom of Information Act, 5 U.S.C. 552, requires, in part, that each Federal agency publish in the **Federal Register**, for the guidance of the public, a description of its organization structure. Accordingly, we revise our regulations as follows:

1. Changing § 600.4(a) by:

a. Removing the Office of Management Services from the responsibilities of the Chief Operating Officer listed in paragraph (a)(7) and replacing it with the Office of Agency Services;

b. Adding the Office of Information Technology, the Office of Chief Financial Officer and the Office of Data Analytics and Economics to the responsibilities of the Chief Operating Officer listed in paragraph (a)(7);

c. Removing personnel security programs from the programs overseen by the Office of Chief Financial Officer listed in paragraph (a)(9) and adding personnel security programs to the services managed by the Office of Agency Services listed in paragraph (a)(8); and

d. Adding the Office of Data Analytics and Economics in the organizational structure as one of FCA's primary offices, in a new section.

2. Adding 1501 Farm Credit Drive to the address in the first line of § 604.425(a).

3. Adding 1501 Farm Credit Drive to the address in the last line of § 604.440.

IV. Certain Findings

We have determined that the amendments involve Agency management and personnel and other minor technical changes. Therefore, the amendments do not constitute a rulemaking under the Administrative Procedure Act (APA), 5 U.S.C. 551, 553(a)(2). Under the APA, the public may participate in the promulgation of rules that have a substantial impact on the public. The amendments to our regulations relate to Agency management and personnel are a minor technical change only and have no direct impact on the public and, therefore, do not require public participation.

Even if these amendments were a rulemaking under 5 U.S.C. 551, 553(a)(2) of the APA, we have determined that notice and public comment are unnecessary and contrary to the public interest. Under 5 U.S.C. 553(b)(A) and (B) of the APA, an agency may publish regulations in final form when they involve matters of agency organization or where the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. As discussed above, these amendments result from recent office reorganizations. Because the amendments will provide accurate and current information on the organization of FCA, it would be contrary to the public interest to delay amending the regulations.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System (System), considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 600

Organization and functions (Government agencies).

12 CFR Part 604

Farm Credit Administration Board Meetings.

For the reasons stated in the preamble, parts 600 and 604 of chapter VI, title 12 of the Code of Federal Regulations, are amended as follows:

PART 600—ORGANIZATION AND FUNCTIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: Secs. 5.7, 5.8, 5.9, 5.10, 5.11, 5.17, 8.11 of the Farm Credit Act (12 U.S.C. 2241, 2242, 2243, 2244, 2245, 2252, 2279aa–11).

■ 2. Revise § 600.4 to read as follows:

§ 600.4 Organization of the Farm Credit Administration.

(a) *Offices and functions.* The primary offices of the FCA are:

(1) *Office of Inspector General.* The Office of Inspector General conducts independent audits, inspections, and investigations of Agency programs and operations and reviews proposed legislation and regulations.

(2) *Secretary to the Board.* The Secretary to the Board serves as the parliamentarian for the Board and keeps permanent and complete records and minutes of the acts and proceedings of the Board.

(3) *Equal Employment and Inclusion Director.* The Office of Equal Employment and Inclusion manages and directs the Agency-wide Diversity, Inclusion, and Equal Employment Opportunity Program for FCA and FCSIC. The office serves as the chief liaison with the Equal Employment Opportunity Commission and the Office of Personnel Management on all EEO, diversity, and inclusion issues. The office provides counsel and leadership to Agency management to carry out its continuing policy and program of nondiscrimination, affirmative action, and diversity.

(4) *Designated Agency Ethics Official.* The Designated Agency Ethics Official is designated by the FCA Chairman to administer the provisions of title I of the Ethics in Government Act of 1978, as amended, to coordinate and manage FCA's ethics program and to provide liaison to the Office of Government Ethics with regard to all aspects of FCA's ethics program.

(5) *Office of Congressional and Public Affairs.* The Office of Congressional and Public Affairs performs Congressional liaison duties and coordinates and disseminates Agency communications.

(6) *Office of Secondary Market Oversight.* The Office of Secondary Market Oversight regulates and examines the Federal Agricultural Mortgage Corporation for safety and soundness and compliance with law and regulations.

(7) *Office of the Chief Operating Officer.* The Chief Operating Officer has broad responsibility for planning, directing, and controlling the operations of the Offices of Agency Services, Chief Financial Officer, Examination, Regulatory Policy, Information Technology, Data Analysis and Economics, and General Counsel in accordance with the operating philosophy and policies of the FCA Board.

(8) *Office of Agency Services.* The Office of Agency Services, manages human capital and administrative services for the Agency. This includes providing the following services to the Agency: Staffing and placement, personnel security programs, job evaluation, compensation and benefits, payroll administration, performance management and awards, employee relations, employee training and development, contracting, acquisitions, records and property management, supply services, agency purchase cards, design, publication, and mail service.

(9) *Office of the Chief Financial Officer.* The Office of the Chief Financial Officer, manages and delivers timely, accurate, and reliable financial services to the Agency. The office establishes financial policies and procedures and oversees the formulation and execution of the Agency's budget. The office reports periodically on the status of the Agency's financial position, results of operations, and budgetary resources. It also oversees the Agency's travel management and internal controls.

(10) *Office of Regulatory Policy.* The Office of Regulatory Policy develops policies and regulations for the FCA Board's consideration; evaluates regulatory and statutory prior approvals; manages the Agency's chartering activities; and analyzes policy and strategic risks to the System.

(11) *Office of Examination.* The Office of Examination evaluates the safety and soundness of FCS institutions and their compliance with law and regulations and manages FCA's enforcement and supervision functions.

(12) *Office of Information Technology.* The Office of Information Technology manages and delivers the Agency's information technology, data analysis infrastructure, and the security supporting Agency technology resources.

(13) *Office of Data Analytics and Economics.* The Office of Data Analytics and Economics evaluates strategic risks to the System using data, analytics, economic trends, and other risk factors. The Office serves as a steward for Agency data and as a provider of information for objective, evidence-based decision making across the Agency. The Office facilitates an agency wide strategy for analytics and collaborates across Offices on business intelligence tools and development of models to meet the strategic needs of the Agency.

(14) *Office of General Counsel.* The Office of General Counsel provides legal advice and services to the FCA Chairman, the FCA Board, and Agency staff.

(b) *Additional information.* You may obtain more information on the FCA's organization by visiting our website at *http://www.fca.gov.* You may also contact the Office of Congressional and Public Affairs:

(1) In writing at FCA, 1501 Farm Credit Drive, McLean, Virginia 22102–5090;

(2) By email at *info-line@fca.gov;* or

(3) By telephone at (703) 883–4056.

PART 604—FARM CREDIT ADMINISTRATION BOARD MEETINGS

■ 3. The authority citation for part 604 continues to read as follows:

Authority: Secs. 5.9, 5.17 of the Farm Credit Act; 12 U.S.C. 2243, 2252.

■ 4. In § 604.425, revise paragraph (a) to read as follows:

§ 604.425 Announcement of meetings.

(a) The Board meets in the offices of the Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, on the second Thursday of each month, unless the Board fixes a different time and/or place for a meeting and follows the requirements of paragraph (b) of this section.

* * * * *

■ 5. Revise § 604.440 to read as follows:

§ 604.440 Requests for information.

Requests to the Farm Credit Administration for information about the time, place, and subject matter of a meeting, whether it or any portion thereof is closed to the public, and any requests for copies of the transcript or minutes, or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 604.420 of this part, shall be addressed to the Secretary to the Board, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: January 23, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–01411 Filed 2–4–20; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0764; Airspace Docket No. 19–AGL–25]

RIN 2120–AA66

Amendment of Class E Airspace; Winona, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Winona Municipal Airport-Max Conrad Field, Winona, MN. This action is due to an airspace review caused by the decommissioning of the Winona VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport. The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, May 21, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Winona Municipal Airport-Max Conrad Field, Winona, MN, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 54525; October 10, 2019) for Docket No. FAA–2019–0764 to amend the Class E airspace extending upward from 700 feet above the surface at Winona Municipal Airport-Max Conrad Field, Winona, MN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends the Class E airspace extending upward from 700 feet above the surface to within 6.6-mile radius (decreased from a 7-mile radius) of the Winona Municipal Airport-Max Conrad Field, and within 4-miles each side of the 119° bearing from the airport extending from the 6.6-mile radius to 11.6 miles southeast of the airport, and within 2-mile each side of the 299° bearing from the airport extending from the 6.6 miles radius to 9.3 miles northwest of the airport, removing the exclusion verbiage as it is no longer required and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is necessary due to an airspace review caused by the decommissioning of the Winona VOR, which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MN E5 Winona, MN [Amended]

Winona Municipal Airport-Max Conrad Field, MN
(Lat. 44°04′47″ N, long. 91°42′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Winona Municipal Airport-Max Conrad Field, and within 4 miles each side of the 119° bearing from the airport extending from the 6.6-mile radius to 11.6 miles southeast the airport, and within 2 miles each side of the 299° bearing from the airport extending from the 6.6-mile radius to 9.3 miles northwest of the airport.

Issued in Fort Worth, Texas, on January 29, 2020.

Steve Szukala,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–02130 Filed 2–4–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9893]

RIN 1545–BP14

Determination of the Maximum Value of a Vehicle for Use With the Fleet-Average and Vehicle Cents-Per-Mile Valuation Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document sets forth final regulations regarding special valuation rules for employers and employees to use in determining the amount to include in an employee's gross income for personal use of an employer-provided vehicle. The final regulations reflect changes made by the Tax Cuts and Jobs Act (TCJA).

DATES: *Effective Date:* These regulations are effective February 5, 2020.

Applicability Date: For dates of applicability, see § 1.61–21(d)(5)(v)(H) and § 1.61–21(e)(6).

FOR FURTHER INFORMATION CONTACT: Stephanie Caden at (202) 317–4774 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

If an employer provides an employee with a vehicle that is available to the employee for personal use, the value of the personal use must generally be included in the employee's income under section 61 of the Internal Revenue Code (the Code). In addition, benefits paid as remuneration for employment, including the personal use of employer-provided vehicles, generally are wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) and the Collection of Income Tax at Source on Wages (federal income tax withholding). Sections 3121(a), 3306(b), and 3401(a).

The amount that must be included in the employee's income and wages for the personal use of an employer-provided vehicle generally is determined by reference to the vehicle's fair market value (FMV). However, for many years, § 1.61–21 has provided special valuation rules for employer-provided vehicles (the prior final regulations).[1] If an employer chooses to use a special valuation rule, the special value is treated as the FMV of the benefit for income tax and employment tax purposes. § 1.61–21(b)(4). As discussed further in this Background section of this preamble, two such special valuation rules, the fleet-average valuation rule and the vehicle cents-per-mile valuation rule, are set forth in § 1.61–21(d)(5)(v) and § 1.61–21(e), respectively. These two special valuation rules are subject to limitations, including that they may be used only in connection with vehicles having values that do not exceed a maximum amount set forth in the regulations.

Section 1.61–21(e)(1)(iii)(A) of the prior final regulations provided that the vehicle cents-per-mile valuation rule could be used only to value the personal use of a vehicle having a value no greater than $12,800 (the sum of the maximum recovery deductions allowable under section 280F(a)(2) for the recovery period of the vehicle). Section 1.61–21(d)(5)(v)(D) of the prior final regulations provided that the fleet-average valuation rule could be used only to value the personal use of vehicles having values no greater than $16,500. (The fleet-average valuation rule uses the term ''automobile'' rather than ''vehicle.'' For convenience, this preamble uses the term ''vehicle'' except in specific discussions of the fleet-average valuation rule or the section 280F depreciation limitations.) Sections 1.61–21(d)(5)(v)(D) and 1.61–21(e)(1)(iii)(A) of the prior final regulations provided that each of these maximum values was adjusted annually pursuant to section 280F(d)(7).

1. The Fleet-Average Valuation Rule

The fleet-average valuation rule is an optional component of a special valuation rule called the automobile lease valuation rule set forth in § 1.61–21(d). Under the automobile lease valuation rule, the value of the personal use of an employer-provided automobile available to an employee for an entire year is the portion of the annual lease value determined under the regulations (Annual Lease Value) relating to the availability of the automobile for personal use. Furthermore, provided the FMV of the automobile does not exceed the maximum value permitted under § 1.61–21(d)(5)(v), an employer with a fleet of 20 or more automobiles may use a fleet-average value for purposes of calculating the Annual Lease Value of any automobile in the fleet.

The fleet-average value is the average of the fair market values of all the automobiles in the fleet. However, § 1.61–21(d)(5)(v)(D) of the prior final regulations provided that the value of an employee's personal use of an automobile could not be determined under the fleet-average valuation rule for a calendar year if the FMV of the automobile on the first date the automobile was made available to the employee exceeded the base value of $16,500, as adjusted annually pursuant to section 280F(d)(7). Section 1.61–21(d)(5)(v)(D) provided that the first such adjustment would be for calendar year 1989, subject to minor modifications to the section 280F(d)(7) formula specified in the regulations. In other words, under the prior final regulations, the maximum value for use of the fleet-average valuation rule was the base value of $16,500, as adjusted annually under section 280F(d)(7) every year since 1989.

Prior to enactment of TCJA, the automobile price inflation adjustment of section 280F(d)(7)(B) was calculated using the ''new car'' component of the Consumer Price Index (CPI) ''automobile component.'' Beginning in 2005, the IRS began to calculate the price inflation adjustment for trucks and vans separately from cars using the ''new truck'' component of the CPI, and continued using the ''new car'' component of the CPI for automobiles other than trucks and vans. See Rev. Proc. 2005–48, 2005–32 I.R.B. 271. For 2017, the year of the enactment of TCJA, the maximum value for use of this rule was $21,100 for a passenger automobile and $23,300 for a truck or van. See Notice 2017–03, 2017–2 I.R.B. 368.

[1] T.D. 8256, 54 FR 28576, July 6, 1989, as amended by T.D. 8389, 57 FR 1868, Jan. 16, 1992; T.D. 8457, 57 FR 62192, Dec. 30, 1992; T.D. 9597, 77 FR 45480, Aug. 1, 2012; T.D. 9849, 84 FR 9231, March 14, 2019.

Section 1.61–21(d)(5)(v)(B) provides that the fleet-average valuation rule may be used by an employer as of January 1 of any calendar year following the calendar year in which the employer acquires a sufficient number of automobiles to total a fleet of 20 or more, each one satisfying the maximum value requirement of § 1.61–21(d)(5)(v)(D). The Annual Lease Value calculated for automobiles in the fleet, based on the fleet-average value, must remain in effect for the period that begins with the first January 1 the fleet-average valuation rule is applied by the employer to the automobiles in the fleet and ends on December 31 of the subsequent calendar year. The Annual Lease Value for each subsequent two-year period is calculated by determining the fleet average value of the automobiles in the fleet as of the first January 1 of such period. An employer may cease using the fleet-average valuation rule as of any January 1.

2. The Vehicle Cents-Per-Mile Valuation Rule

Another special valuation rule is the vehicle cents-per-mile rule in § 1.61–21(e). Under § 1.61–21(e), if an employer provides an employee with the use of a vehicle that the employer reasonably expects will be regularly used in the employer's trade or business throughout the calendar year (or such shorter period as the vehicle may be owned or leased by the employer), or that satisfies the requirements of § 1.61–21(e)(1)(ii) (*i.e.,* the vehicle is actually driven at least 10,000 miles in the year and use of the vehicle during the year is primarily by employees), the value of the personal use may be determined based on the applicable standard mileage rate multiplied by the total number of miles the vehicle is driven by the employee for personal purposes.

Section 1.61–21(e)(1)(iii)(A) provides that the value of the personal use may not be determined under the vehicle cents-per-mile valuation rule for a calendar year if the fair market value of the vehicle on the first date the vehicle is made available to the employee exceeds the sum of the maximum recovery deductions allowable under section 280F(a) for a five-year period for an automobile first placed in service during that calendar year (whether or not the automobile is actually placed in service during that year), as adjusted by section 280F(d)(7). The prior final regulations provided that, under this rule, with respect to a vehicle placed in service in or after 1989, the limitation on value was $12,800, as adjusted under section 280F(d)(7). In other words, under the prior final regulations, the maximum value of a vehicle for use of the vehicle cents-per-mile valuation rule was the base value of $12,800, as adjusted annually under section 280F(d)(7) since 1989. As with the fleet-average valuation rule, beginning in 2005, the IRS calculated the price inflation adjustment for trucks and vans separately from cars. See Rev. Proc. 2005–48. For 2017, the maximum value for use of the vehicle cents-per-mile valuation rule was $15,900 for a passenger automobile and $17,800 for a truck or van. See Notice 2017–03.

Section 1.61–21(e)(5)(i) states that an employer must adopt the vehicle cents-per-mile valuation rule for a vehicle to take effect by the first day on which the vehicle is used by an employee of the employer for personal use (or, if another special valuation rule called the commuting valuation rule of § 1.61–21(f) is used when the vehicle is first used by an employee of the employer for personal use, the first day on which the commuting valuation rule is not used). Section 1.61–21(e)(5)(ii) also provides, in part, that once the vehicle cents-per-mile valuation rule has been adopted for a vehicle by an employer, the rule must be used by the employer for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

3. TCJA Changes and the Maximum Vehicle Values for 2018 and 2019

TCJA made the following amendments to the Code:

(1) For owners of passenger automobiles, section 280F(a), as modified by section 13202(a)(1) of TCJA, imposes dollar limitations on the depreciation deduction for the year the taxpayer places the passenger automobile in service and for each succeeding year. The amendments made by TCJA substantially increase the maximum annual dollar limitations on the depreciation deductions for passenger automobiles. The new dollar limitations are based on the depreciation, over a five-year recovery period, of a passenger automobile with a cost of $50,000 (formerly $12,800, as adjusted).

(2) Section 11002(d)(8) of TCJA amended section 280F(d)(7)(B) effective for tax years beginning after December 31, 2017. Pursuant to these amendments, the price inflation amount for automobiles (including trucks and vans) is calculated using both the CPI automobile component and the Chained Consumer Price Index for All Urban Consumers (C–CPI–U) automobile component.

a. Notice 2019–08—The Maximum Value for 2018

To implement the changes described above, Notice 2019–08, 2019–3 I.R.B. 354, provides interim guidance for 2018 on new procedures for calculating the price inflation adjustments to the maximum vehicle values for use with the special valuation rules under § 1.61–21(d) and (e) using section 280F(d)(7), as modified by sections 11002 and 13202 of the Act. Notice 2019–08 states that the Treasury Department and the IRS anticipate that further guidance will be issued in the form of proposed regulations and expect that the regulations will be consistent with the rules set forth in Notice 2019–08.

Notice 2019–08 provides that, consistent with the substantial increase in the dollar limitations on depreciation deductions under section 280F(a), as modified by section 13202(a)(1) of TCJA, the Treasury Department and the IRS intend to amend § 1.61–21(d) and (e) to incorporate a higher base value of $50,000 as the maximum value for use of the vehicle cents-per-mile and fleet-average valuation rules effective for the 2018 calendar year. Notice 2019–08 further states that the Treasury Department and the IRS intend that the regulations will be modified to provide that this $50,000 base value will be adjusted annually using section 280F(d)(7) for 2019 and subsequent years. Accordingly, Notice 2019–08 provides that, for 2018, the maximum value for use of the vehicle cents-per-mile and fleet-average valuation rules is $50,000.

Finally, for 2018 and 2019, Notice 2019–08 provides that the Treasury Department and the IRS will not publish separate maximum values for trucks and vans for use with the fleet-average and vehicle cents-per-mile valuation rules. As noted above, TCJA amended section 280F(d)(7)(B) to make inflation adjustments based on the CPI and C–CPI–U automobile component. The C–CPI–U automobile component does not currently have separate components for new cars and new trucks. Accordingly, due to the lack of data, the Treasury Department and the IRS will publish only one maximum value of a vehicle for use with the vehicle cents-per-mile and fleet-average valuation rules beginning in 2019.

b. Notice 2019–34—The Maximum Vehicle Value for 2019

Notice 2019–34, 2019–22 I.R.B. 1257, provides that the inflation-adjusted

maximum value of an employer-provided vehicle (including cars, vans, and trucks) first made available to employees for personal use in calendar year 2019 for which the vehicle cents-per-mile valuation rule provided under § 1.61–21(e), or the fleet-average valuation rule provided under § 1.61–21(d), may be used, is $50,400. Notice 2019–34 also provides information about the manner in which the Treasury Department and the IRS intend to publish this maximum vehicle value in the future.

As noted in Notice 2019–34, Rev. Proc. 2010–51, 2010–51 I.R.B. 883, as modified by Rev. Proc. 2019–46, 2019–49 I.R.B. 1301, provides rules for using optional standard mileage rates in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. Section 2.12(1) of Rev. Proc. 2010–51 provides that the IRS publishes both the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes, and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate (FAVR) plan, in a separate annual notice. See, *e.g.,* Notice 2019–02, 2019–02 I.R.B. 281.

Notice 2019–34 indicates that, in amending § 1.61–21(d) and (e) to incorporate a higher base value of $50,000 as the maximum value for use with the vehicle cents-per-mile and the fleet-average valuation rules, the IRS and Treasury Department expect that the maximum value for use of those rules for 2019 and subsequent years will be the same as the maximum standard automobile cost that may be used in computing the allowance under a FAVR plan. Accordingly, Notice 2019–34 provides that the maximum value for use with the fleet-average and vehicle cents-per-mile valuation rules will be published in the annual notice providing the standard mileage rates for use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost that may be used in computing the allowance under a FAVR plan.

Notice 2019–34 also provides that the Treasury Department and the IRS intend to revise § 1.61–21(d) to include a transition rule for any employer that did not qualify to use the fleet-average valuation rule prior to January 1, 2018 because the inflation-adjusted maximum value requirement of § 1.61–21(d)(5)(v)(D), as published by the IRS in a notice or revenue procedure applicable to the year the automobile was first made available to any employee of the employer, was not met. In such a case, under the transition rule, the employer may adopt the fleet-average valuation rule for 2018 or 2019, provided the requirements of § 1.61–21(d)(5)(v) are met for that year using the maximum values set forth in Notice 2019–08 ($50,000) or Notice 2019–34 ($50,400), respectively.

In addition, Notice 2019–34 states that the Treasury Department and the IRS intend to revise § 1.61–21(e) to provide a transition rule for vehicles first made available to employees for personal use before calendar year 2018, if the employer did not qualify under § 1.61–21(e)(5) to adopt the vehicle cents-per-mile valuation rule for the vehicle on the first day on which the vehicle was used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of § 1.61–21(e)(1)(iii) as published by the IRS in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use. In such a case, under the transition rule, the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of a vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in Notice 2019–08 ($50,000) or Notice 2019–34 ($50,400), respectively.

Similarly, Notice 2019–34 also provides that the Treasury Department and the IRS intend to amend § 1.61–21(e) to provide a transition rule for a vehicle first placed in service before calendar year 2018 if the commuting valuation rule of § 1.61–21(f) was used when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule on the first day on which the commuting valuation rule was not used because the vehicle had a fair market value in excess of the inflation-adjusted maximum permitted under § 1.61–21(e)(1)(iii) as published by the IRS in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used. Under the transition rule, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year based on the maximum fair market value of the vehicle for purposes of the vehicle cents-per-mile valuation rule set forth in Notice 2019–08 or Notice 2019–34, respectively.

With respect to the transition rules described above, Notice 2019–34 adds that, consistent with § 1.61–21(e)(5), an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

4. Notice of Proposed Rulemaking

On August 23, 2019, a notice of proposed rulemaking was published in the **Federal Register** (84 FR 44258) that was consistent with Notice 2019–08 and Notice 2019–34 and reflected changes made by TCJA to the depreciation limitations in section 280F. The notice of proposed rulemaking proposed revisions to § 1.61–21(d) and § 1.61–21(e) to increase, effective for the 2018 calendar year, the maximum base fair market value of a vehicle for use of the fleet-average and vehicle cents-per-mile valuation rules to $50,000. The proposed regulations further provided that the maximum fair market value of a vehicle for use of the fleet-average and vehicle cents-per-mile valuation rules will be adjusted annually under section 280F(d)(7), as amended by the TCJA, and the adjusted maximum fair market value will be included in the annual notice published by the IRS providing the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost for purposes of an allowance under a FAVR plan. See, *e.g.,* Notice 2019–02. Additionally, the proposed regulations provide transition rules that permit employers that could not adopt the fleet-average or vehicle cents-per-mile valuation rules prior to 2018 (because a vehicle had a fair market value in excess of the maximum permitted under the prior final regulations), to use the special valuation rules for the first time in 2018 or 2019.

No public hearing on the proposed regulations was requested or held. No comments responding to the proposed regulations were received. Therefore, the proposed regulations are adopted as final regulations without substantive change.

Explanation of Provisions

These final regulations update the fleet-average and vehicle cents-per-mile valuation rules described in § 1.61–21(d) and (e), respectively, to align the limitations on the maximum vehicle fair market values for use of these special valuation rules with the changes made by the Act to the depreciation limitations in section 280F. Specifically, consistent with the substantial increase in the dollar limitations on depreciation

deductions under section 280F(a), these final regulations increase, effective for the 2018 calendar year, the maximum base fair market value of a vehicle for use of the fleet-average or vehicle cents-per-mile valuation rule to $50,000. Consistent with §§ 1.61–21(d)(5)(v)(D) and 1.61–21(e)(1)(iii)(A) of prior final regulations, the maximum fair market value of a vehicle for purposes of the fleet-average and vehicle cents-per-mile valuation rules is adjusted annually under section 280F(d)(7). This annual adjustment will be calculated in accordance with section 280F(d)(7) as amended by TCJA.

Consistent with the expectation expressed in Notice 2019–34 and in the notice of proposed rulemaking, the inflation-adjusted maximum fair market value for a vehicle for purposes of the fleet-average and vehicle cents-per-mile valuation rules will be included in the annual notice published by the IRS providing the standard mileage rates for the use of an automobile for business, charitable, medical, and moving expense purposes and the maximum standard automobile cost for purposes of an allowance under a FAVR plan. See, *e.g.,* Notice 2019–02.

Furthermore, consistent with Notice 2019–34 and the proposed regulations, the following transition rules are included in these final regulations:

(1) With respect to the fleet-average valuation rule, if an employer did not qualify to use the fleet-average valuation rule prior to January 1, 2018, with respect to an automobile because the fair market value of the automobile exceeded the inflation-adjusted maximum value requirement of § 1.61–21(d)(5)(v)(D), as published by the IRS in a notice or revenue procedure applicable to the year the automobile was first made available to any employee of the employer, the employer may adopt the fleet-average valuation rule for 2018 or 2019, provided the fair market value of the automobile does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively.

(2) With respect to the vehicle cents-per-mile valuation rule, for a vehicle first made available to any employee of the employer for personal use before calendar year 2018, if an employer did not qualify under § 1.61–21(e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which the vehicle was used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of § 1.61–21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use, the employer may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year with respect to the vehicle, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. Similarly, if the commuting valuation rule of § 1.61–21(f) was utilized when the vehicle was first used by an employee of the employer for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule on the first day on which the commuting valuation rule was not used because the vehicle had a fair market value in excess of the inflation-adjusted limitation of § 1.61–21(e)(1)(iii), as published by the IRS in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. However, consistent with § 1.61–21(e)(5), an employer that adopts the vehicle cents-per-mile valuation rule must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of § 1.61–21(f), use the commuting valuation rule with respect to the vehicle.

Special Analyses

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

It is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the final regulations update existing regulations to comport with the statutory changes to section 280F made by the Act. Although the final regulations might affect a substantial number of small entities, the economic impact of the final regulations is not expected to be significant.

Since the current vehicle valuation rules in the regulations are tied to inflation adjustments under section 280F, the statutory changes to section 280F necessitate modifications to the procedures for calculating annual inflation adjustments to the maximum fair market value of a vehicle permitted for use with the fleet-average and vehicle cents-per-mile special valuation rules. These revised special valuation rules are consistent with the base values and methodology used for section 280F purposes and simplify the determination of the amount employers must include in employees' income and wages for income and employment tax purposes for the personal use of employer-provided vehicles. The modifications made by these final regulations to the maximum fair market value of a vehicle permitted for use with the fleet-average and vehicle cents-per-mile special valuation rules, and the transition rules provided in connection with these final regulations, increase the number of employers and employees that may take advantage of the special valuation rules, without increasing costs to the employer.

Pursuant to section 7805(f), the proposed regulations preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received.

Drafting Information

The principal author of these regulations is Stephanie Caden of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Tax). However, other personnel from the IRS and the Treasury Department participated in their development.

Statement of Availability

The IRS Notices, Revenue Procedures and the Notice of Proposed Rulemaking cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805* * *

■ **Par. 2.** Section 1.61–21 is amended by revising paragraph (d)(5)(v)(D), adding

paragraphs (d)(5)(v)(G) and (H), revising paragraph (e)(1)(iii)(A), revising paragraph (e)(5)(i), and adding paragraphs (e)(5)(vi) and (e)(6), to read as follows:

§ 1.61–21 Taxation of fringe benefits.

* * * * *

(d) * * *

(5) * * *

(v) * * *

(D) *Limitations on use of fleet-average rule.* The rule provided in this paragraph (d)(5)(v) may not be used for any automobile the fair market value of which (determined pursuant to paragraphs (d)(5)(i) through (iv) of this section as of the first date on which the automobile is made available to any employee of the employer for personal use) exceeds $50,000, as adjusted by section 280F(d)(7). The first such adjustment shall be for calendar year 2019. In addition, the rule provided in this paragraph (d)(5)(v) may only be used for automobiles that the employer reasonably expects will regularly be used in the employer's trade or business. For rules concerning when an automobile is regularly used in the employer's business, see paragraph (e)(1)(iv) of this section.

* * * * *

(G) *Transition rule for 2018 and 2019.* Notwithstanding paragraph (d)(5)(v)(B) of this section, an employer that did not qualify to use the fleet-average valuation rule prior to January 1, 2018, with respect to any automobile (including a truck or van) because the fair market value of the vehicle exceeded the inflation-adjusted maximum value requirement of paragraph (d)(5)(v)(D) of this section, as published by the Service in a notice or revenue procedure applicable to the year the vehicle was first made available to any employee of the employer, may adopt the fleet-average valuation rule for 2018 or 2019 with respect to the vehicle, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively.

(H) *Applicability date.* Paragraphs (d)(5)(v)(D), and (G) of this section apply to taxable years beginning on or after February 5, 2020. Notwithstanding the first sentence of this paragraph (d)(5)(v)(H), any taxpayer may choose to apply paragraph (d)(5)(v)(G) of this section beginning on or after January 1, 2018.

* * * * *

(e) * * *

(1) * * *

(iii) * * *

(A) *In general.* The value of the use of an automobile (as defined in paragraph (d)(1)(ii) of this section) may not be determined under the vehicle cents-per-mile valuation rule of this paragraph (e) for a calendar year if the fair market value of the automobile (determined pursuant to paragraphs (d)(5)(i) through (iv) of this section as of the first date on which the automobile is made available to any employee of the employer for personal use) exceeds $50,000, as adjusted by section 280F(d)(7). The first such adjustment shall be for calendar year 2019.

* * * * *

(5) * * *

(i) *Use of the vehicle cents-per-mile valuation rule by an employer.* An employer must adopt the vehicle cents-per-mile valuation rule of this paragraph (e) for a vehicle to take effect by the first day on which the vehicle is used by an employee of the employer for personal use (or, if the commuting valuation rule of paragraph (f) of this section is used when the vehicle is first used by an employee of the employer for personal use, the first day on which the commuting valuation rule is not used).

* * * * *

(vi) *Transition rule for 2018 and 2019.* For a vehicle first made available to any employee of an employer for personal use before calendar year 2018, an employer that did not qualify under this paragraph (e)(5) to adopt the vehicle cents-per-mile valuation rule on the first day on which the vehicle is used by the employee for personal use because the fair market value of the vehicle exceeded the inflation-adjusted limitation of paragraph (e)(1)(iii) of this section, as published by the Service in a notice or revenue procedure applicable to the year the vehicle was first used by the employee for personal use, may first adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. Similarly, for a vehicle first made available to any employee of the employer for personal use before calendar year 2018, if the commuting valuation rule of paragraph (f) of this section was used when the vehicle was first used by the employee for personal use, and the employer did not qualify to switch to the vehicle cents-per-mile valuation rule of this paragraph (e) on the first day on which the commuting valuation rule of paragraph (f) of this section was not used because the vehicle had a fair market value in excess of the inflation-adjusted limitation of paragraph (e)(1)(iii) of this section, as published by the Service in a notice or revenue procedure applicable to the year the commuting valuation rule was first not used, the employer may adopt the vehicle cents-per-mile valuation rule for the 2018 or 2019 taxable year, provided the fair market value of the vehicle does not exceed $50,000 on January 1, 2018, or $50,400 on January 1, 2019, respectively. However, in accordance with paragraph (e)(5)(ii) of this section, an employer that adopts the vehicle cents-per-mile valuation rule pursuant to this paragraph (e)(5)(vi) must continue to use the rule for all subsequent years in which the vehicle qualifies for use of the rule, except that the employer may, for any year during which use of the vehicle qualifies for the commuting valuation rule of paragraph (f) of this section, use the commuting valuation rule with regard to the vehicle.

(6) *Applicability date.* Paragraphs (e)(1)(iii)(A) and (e)(5)(i) and (vi) of this section apply to taxable years beginning on or after February 5, 2020. Notwithstanding the first sentence of this paragraph (e)(6), any taxpayer may choose to apply paragraph (e)(5)(vi) of this section beginning on or after January 1, 2018.

* * * * *

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: January 17, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2020–02158 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[USCG–2019–0916]

2019 Quarterly Listings; Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notification of expired temporary rules issued.

SUMMARY: This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, and special local regulations, all of limited duration

and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between October 2019 and December 2019, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Yeoman First Class Glenn Grayer, Office of Regulations and Administrative Law, telephone (202) 372–3862.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of the safety zones, security zones, or special local regulations listed in this notice by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, and special local regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Docket No.	Rule type	Location	Effective date
USCG–2019–0770	Safety Zones (Part 165)	Santa Cruz Island, CA	9/3/2019
USCG–2019–0810	Safety Zones (Part 165)	Port Jefferson, NY	9/18/2019
USCG–2019–0786	Safety Zones (Part 165)	Ludlow, KY	10/2/2019
USCG–2019–0808	Safety Zones (Part 165)	COTP New York Zone	10/4/2019

The following unpublished rules were placed in effect temporarily during the period between October 2019 and December 2019 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the following table.

USCG–2019–0840	Safety Zones (Part 165)	Union City, CA	10/4/2019
USCG–2019–0839	Safety Zones (Part 165)	Union City, CA	10/4/2019
USCG–2019–0832	Security Zones (Part 165)	New Orleans, LA	10/5/2019
USCG–2019–0777	Special Local Regulations (Part 100)	Helena, AR	10/5/2019
USCG–2019–0616	Security Zones (Part 165)	Lake Charles, LA	10/11/2019
USCG–2019–0831	Special Local Regulations (Part 100)	San Diego, CA	10/13/2019
USCG–2019–0851	Safety Zones (Part 165)	Union City, CA	10/15/2019
USCG–2019–0854	Safety Zones (Part 165)	Pittsburgh, PA	10/17/2019
USCG–2019–0716	Safety Zones (Part 165)	Pittsburgh, PA	10/19/2019
USCG–2019–0576	Safety Zones (Part 165)	Rich Passage, WA	10/20/2019
USCG–2019–0863	Safety Zones (Part 165)	Pittsburgh, PA	10/23/2019
USCG–2019–0707	Security Zones (Part 165)	Jacksonville Beach, FL	10/24/2019
USCG–2019–0873	Security Zones (Part 165)	Washington, DC	10/25/2019
USCG–2019–0858	Safety Zones (Part 165)	Groton, CT	11/1/2019
USCG–2019–0677	Security Zones (Part 165)	San Diego, CA	11/6/2019
USCG–2019–0888	Safety Zones (Part 165)	San Francisco, CA	11/7/2019
USCG–2019–0073	Safety Zones (Part 165)	Miami River, FL	12/3/2019
USCG–2019–0886	Safety Zones (Part 165)	Toledo, OH	11/11/2019
USCG–2019–0930	Security Zones (Part 165)	Helena Island, SC	11/27/2019
USCG–2019–0939	Security Zones (Part 165)	Hallandale Beach, FL	12/7/2019
USCG–2019–0944	Safety Zones (Part 165)	Rochester, PA	12/10/2019
USCG–2019–0927	Safety Zones (Part 165)	Berkeley, CA	12/14/2019
USCG–2019–0928	Safety Zones (Part 165)	Sausalito, CA	12/14/2019
USCG–2019–0941	Safety Zones (Part 165)	San Francisco, CA	12/19/2019
USCG–2019–0957	Safety Zones (Part 165)	San Francisco, CA	12/31/2019
USCG–2019–0913	Safety Zones (Part 165)	COTP New York Zone	12/31/2019

Dated: January 27, 2020.

M.W. Mumbach,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2020–01660 Filed 2–4–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0662; FRL–10004–63–Region 7]

Air Plan Approval; Missouri; Restriction of Emissions From Batch-Type Charcoal Kilns

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a Missouri State Implementation Plan (SIP) revision received on March 7, 2019. The submission revises a Missouri regulation that establishes emission limits for batch-type charcoal kilns based on operational parameters to reduce emissions of particulate matter (PM_{10}), volatile organic compounds (VOCs) and carbon monoxide (CO). Specifically, the revisions to the rule add definitions specific to the rule, update references to test methods, remove unnecessary words, remove an obsolete requirement which applied only during the phase-in period of the rule that ended December 31, 2005, clarify a provision for an alternative operating temperature, and make other minor edits. These revisions are administrative in nature and do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between State and federally-approved rules.

DATES: This final rule is effective on March 6, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2019–0662. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Region 7 Office, Air Quality and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7016; email address *casburn.tracey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

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II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
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I. Background

On December 6, 2019, the EPA proposed approval to revise the SIP revisions to a State rule that restricts emissions from batch-type charcoal kilns in the **Federal Register**. *See* 84 FR 66853. The EPA solicited comments on the proposed SIP revision and received no comments.

II. What is being addressed in this document?

The EPA is approving a request to revise the Missouri SIP received on March 7, 2019. Missouri requested that the EPA approve revisions it made to a State rule found at title 10, division 10 of the code of state regulations—10 CSR 10–6.330 ''Restriction of Emissions from Batch-Type Charcoal Kilns''. A detailed discussion of the submission, and the EPA's review of it, was provided in the EPA's December 6, 2019, notice of proposed rulemaking document published in the **Federal Register**. *See* 84 FR 66853. The EPA received no comments during the public comment period.

III. Have the requirements for approval of a SIP revision been met?

The State submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of the revisions from August 1, 2018, to October 4, 2018, and held a public hearing on September 27, 2018. The State received and addressed four comments. As explained in more detail in the technical support document (TSD) which is part of this docket, the SIP revision submission meets the substantive requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is ammending the Missouri SIP by approving the State's request to revise 10 CSR 10–6.330,''Restriction of Emissions From Batch-Type Charcoal Kilns.'' Approval of these revisions will ensure consistency between State and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

V. Incorporation by Reference

In this document, the EPA is approving regulatory text in an EPA final rule that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

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

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

• Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Particulate matter, Volatile organic compounds.

Dated: January 21, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA is ammending 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.330'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.330	Restiction of Emissions From Batch-type Charcoal Kilns.	3/30/2019	2/5/2020, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2020–01300 Filed 2–4–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–HQ–OAR–2016–0194; FRL–10004–56–OAR]

RIN 2060–AS61

Revisions to the Petition Provisions of the Title V Permitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is revising its regulations to streamline and clarify processes related to submission and review of title V petitions. This final rule implements changes in three key areas: Method of petition submittal to the agency, required content and format of petitions, and administrative record requirements for permits. In the first area, the EPA is establishing an electronic submittal system as the preferred method of submittal, with specified email and physical addresses as alternate routes to submit petitions. By doing so, the agency anticipates (and has already seen) improved tracking of petitions. To help petitioners in preparing their petitions, as well as the EPA in reviewing and responding to petitions, the EPA is finalizing its proposal to incorporate certain content and format requirements into the regulations, codifying practices that the EPA has described in prior orders responding to petitions and the preamble to the proposal for this rule. Finally, the EPA is requiring permitting authorities to prepare a written response to comments (RTC) document if significant comments are received during the public participation process on a draft permit, and requiring that the RTC, when applicable, be sent to the agency with the proposed permit and necessary documents including the statement of basis for its 45-day review. This change is anticipated to provide more complete permit records during the EPA's 45-day review period for proposed permits, the 60-day petition window, and the EPA's review of any petition submitted, and thus reduce the likelihood that the Administrator will grant a petition because of an incomplete permit record.

DATES: The effective date of this final rule is April 6, 2020.

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID No. EPA–HQ–OAR–2016–0194. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information might not be publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically in *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For further general information on this action, contact Ms. Carrie Wheeler, Office of Air Quality Planning and Standards (OAQPS), Air Quality Policy Division, U.S. EPA, Mail Code C504–03, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; by telephone at (919) 541–9771; or by email at *wheeler.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by the revisions to the EPA's regulations include anyone who may submit a title V petition on a proposed title V permit prepared by a state, local or tribal title V permitting authority pursuant to its EPA-approved title V permitting program. Entities also potentially affected by this rule include state, local and tribal permitting authorities responsible for implementing the title V permitting program. Entities that may be interested in, though not directly affected by, this rule include owners and operators of major stationary sources or other sources that are subject to the title V permitting requirements, as well as the general public who would have an interest in knowing about title V permitting actions and associated public hearings but do not intend to submit a petition.

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

In addition to being available in the docket, an electronic copy of this **Federal Register** document will be posted at the regulations section of our Title V Operating Permits website, under Regulatory Actions, at *https://www.epa.gov/title-v-operating-permits/current-regulations-and-regulatory-actions.*

C. How is this document organized?

The information presented in this document is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. How is this document organized?
II. Background for Final Rulemaking
III. Summary of the Final Rule Requirements
A. Petition Submission
1. Petition Submission to the EPA
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B. Required Petition Content and Format
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C. Administrative Record Requirements
1. Response to Comments
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3. Correction to Incorrect Reference
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5. Notification to the Public
D. Documents That May Be Considered in Reviewing Petitions
IV. Responses to Significant Comments on the Proposed Rule
A. Electronic Submittal System for Petitions
1. Summary of Proposal
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D. Documents That May Be Considered in Reviewing Petitions
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V. Implementation
VI. Determination of Nationwide Scope and Effect
VII. Environmental Justice Considerations
VIII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)
M. Determination Under CAA Section 307(d)
IX. Statutory Authority

II. Background for Final Rulemaking

Title V of the CAA establishes an operating permit program. Section 505 of the CAA requires permitting authorities to submit each proposed title V permit to the EPA Administrator (''Administrator'') for review for a 45-day period before issuing the permit as final. The Administrator shall object to issuance of the permit if the Administrator determines that the permit contains provisions that are not in compliance with the applicable requirements under the CAA. If the Administrator does not object to the permit during the 45-day EPA review period, any person may petition the Administrator within 60 days after the expiration of the 45-day review period to take such action (hereinafter ''title V petition'' or ''petition'').[1] As the EPA explained in proposing the initial title V regulations, the title V petition opportunity serves an important purpose because title V permits are frequently complex documents, and given the brevity of the agency review period there may be occasions when the EPA does not recognize during that review period that certain permit provisions are not in compliance with applicable requirements of the Act. 56 FR 21751 (May 10, 1991). Following more than 20 years of experience with title V petitions, and taking into account feedback from various stakeholders, the agency proposed changes to 40 CFR part 70 that were intended to provide clarity and transparency to the petition process and to improve the efficiency of that process. 81 FR 57822 (August 24, 2016).

In that proposed rule, the EPA discussed five key areas, each of which was anticipated to increase stakeholder access to and understanding of the petition process and aid the EPA's review of petitions. First, the EPA proposed regulatory provisions that provide direction as to how petitions should be submitted to the agency. Second, the EPA proposed regulatory provisions that describe the expected format and minimum required content for title V petitions. Third, the proposal required that permitting authorities respond in writing to any significant

[1] The procedural requirements for title V petitions are addressed in section 505(b)(2) of the CAA and in 40 CFR 70.8(d) of the current implementing regulations.

comments received during the public comment period for draft title V permits, and to provide that response and statement of basis with the proposed title V permit to the EPA for the agency's 45-day review period.[2] Fourth, guidance was provided in the form of ''recommended practices'' for various stakeholders to help ensure title V permits have complete administrative records and comport with the requirements of the Clean Air Act (CAA or Act). Fifth, to increase familiarity with the post-petition process, the preamble presented information on the agency's interpretation of certain title V provisions of the CAA and its implementing regulations regarding the steps following an EPA objection in response to a title V petition, as previously discussed in specific title V orders. The agency did not propose to take any action in connection with the fourth and the fifth areas. Rather, the discussion on those topics was provided purely for purposes of increasing public awareness.[3]

This final rulemaking notice does not repeat all the discussion from the proposal, but interested readers are referred to the preamble of the proposed rule for additional background and for the discussion on the fourth and fifth areas, which are not discussed further in this notice.

III. Summary of the Final Rule Requirements

This section provides a summary of the requirements of the final rule. Further discussion of these requirements, including implementation and summaries of our responses to significant comments received on the proposed rule, are provided in subsequent sections. In this final action, three of the key areas mentioned in Section II of this document are addressed: Requirements related to the submission of petitions; required petition content and format; and administrative record requirements for proposed permits submitted to EPA for review. First, the EPA is finalizing a regulatory provision requiring that petitioners use one of three identified methods for petition submittal, with a preference for petitions to enter the agency through the electronic submittal system. Second, petition content and format requirements are being changed to describe the information expected by, and necessary for, the agency to effectively review a claim of permit or permit process deficiency. Third, the EPA is finalizing a requirement for permitting authorities to respond in writing to significant comments (when such comments are received during the public comment period). The permitting authority must provide certain documents including the statement of basis and (when applicable) the written response to comment document along with the proposed permit for the EPA's 45-day review period. To provide additional clarity and transparency around the petition process, the agency is also finalizing the proposed regulatory text describing the documents that may be considered when reviewing title V petitions. Finally, as described below in this preamble the EPA intends, where practicable, to make key dates publicly available on the EPA Regional websites (*i.e.,* the end of the agency's 45-day review period and the end of the 60-day period in which a petition can be submitted).

A. Petition Submission

1. Petition Submission to EPA

As proposed, the EPA is adding a new provision to part 70 that requires petitions to be submitted using one of three methods listed in the new § 70.14, using specific information provided on the title V petitions website. Petitioners are encouraged to submit title V petitions through the electronic submittal system, the agency's preferred method. The EPA has developed an electronic submittal system for title V petitions through the Central Data Exchange (CDX), and information on how to access and use the system is available at the title V petitions website: *http://www.epa.gov/title-v-operating-permits/title-v-petitions.* While the current electronic submittal system was designed using CDX, the EPA recognizes that adjustments to the system or an entirely different electronic submittal system may be needed in the future. Therefore, the title V petitions website will provide access to the designated electronic submittal system in use at any given time, which will remain the primary and preferred method for receiving title V petitions. The electronic submittal system allows for a direct route to the appropriate agency staff, and it also provides immediate confirmation that the EPA has received the petition and any attachments.

There are two other acceptable methods for submitting a title V petition listed in 40 CFR 70.14. First, the petition may be submitted to the agency through the email address designated for that purpose on the title V petitions website. The current email address for this purpose is: *titlevpetitions@epa.gov.* This address was originally established as an alternative method for use in instances when the electronic submittal system is not available, and the agency anticipates that this type of electronic submission would primarily be used if a petitioner experiences technical difficulty when trying to submit a petition through the electronic submittal system. Second, the new § 70.14 provides for submission of a petition in paper to a designated physical address. The EPA is providing this alternative because it recognizes that there may be situations in which electronic submission is not feasible. The agency anticipates that this alternative would mainly be used by petitioners without access to the internet at the time of petition submittal. The current address designated for submission of paper petitions (by mail or by courier) is: U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Operating Permits Group Leader, 109 T.W. Alexander Dr. (C504–05), Research Triangle Park, NC 27711. Additional information on these alternative methods for submittal is available at the title V petitions website.

As described in our responses to comments in Section IV of this document, the EPA is making this change to improve the tracking of petitions and to reduce confusion for petitioners. The agency strives to make the submittal system easy to use and to provide to petitioners automatic receipts that give assurance a petition was received within the required time frame. Since the public comment period for the proposal closed, all title V petitions entering the agency that the EPA is aware of have been electronically received through the CDX system or *titlevpetitions@epa.gov.* Some duplicate paper copies have also been sent to the new physical address. The regulatory text at § 70.14 finalized in this action explains that once a petition and any attachments have been successfully submitted using one method (*e.g.,* once an automatic receipt is received through the CDX system), duplicate copies should not be submitted via another method. Duplicate submissions are unnecessary, and if petitioners only submit a petition using one method, it

[2] The term ''statement of basis'' is not defined in the CAA or in 40 CFR part 70; however, it is often used to refer to the requirement in 40 CFR 70.7(a)(5) for a permitting authority to provide a statement that sets forth the legal and factual basis for the permit conditions. Permitting authorities may call it ''statement of basis'' or may choose alternate language to identify this document.

[3] Additionally, in the interest of transparency and clarity, the preamble included a discussion of certain prior interpretations and applications of the title V provisions. The agency did not propose to change or solicit comment on these prior interpretations or applications, but rather, it repeated the information as a convenience for the public.

will expedite the administrative process and improve the EPA's efficiency in reviewing petitions. Consistent with the discussion in the proposal, the regulatory revisions finalized in this action also provide that the agency is not obligated to consider petitions submitted through any means other than the three identified in this rule.

2. Required Copies of the Petition to the Permitting Authority and Applicant

The EPA is also finalizing a revision to the part 70 regulations to add language to 40 CFR 70.8(d) that requires the petitioner to provide copies of its petition to the permitting authority and the permit applicant. Section 505(b)(2) of the Act already contains this requirement, but it was not previously specified in the part 70 regulations. This revision now fills that gap in the regulations.

B. Required Petition Content and Format

1. Required Petition Content

As proposed, the EPA is revising part 70 to require standard content that must be included in a title V petition, laying out the agency's expectations with more specificity to assist petitioners in understanding how to make their petitions complete and to enhance the EPA's ability to review and respond to them promptly. Under the revisions finalized in this action, a new section of the title V part 70 regulations, 40 CFR 70.12, adds the following list of required elements:

- Identification of the proposed permit on which the petition is based.[4] A petition would be required to provide the permit number, version number, or any other information by which the permit can be readily identified. In addition, the petition must specify whether the relevant permit action is an initial issuance, renewal, or modification/revision, including minor modifications/revisions.
- Identification of Petition Claims. Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with the applicable requirements under the Act or requirements under part 70. Any argument or claim the petitioner wishes the EPA to consider in support of each issue raised must be contained within the body of the petition or in an attachment, provided that the body of the petition provides a specific citation to the referenced information in the attachment and an explanation of how that information supports the claim. In determining whether to object, the Administrator will not consider information incorporated into the petition by reference. The EPA is finalizing this requirement because merely incorporating by reference an argument or claim presented elsewhere (for example, in comments offered during the public comment period on a draft permit, or, as another example, in claims raised in a different title V petition) is generally not sufficient to demonstrate that the Administrator must object to a particular title V permit. Yet, without such a requirement, petitioners might be tempted to rely on such incorporation rather than fully presenting the claim to the agency in the petition with an adequate demonstration of why an objection is appropriate to the particular permit at issue. The full presentation of claims in the petition should help expedite the administrative process and improve the EPA's efficiency in reviewing petitions. However, petitions may and should still provide citations to support each claim presented in the petition (*e.g.,* citations to caselaw, statutory and regulatory provisions, or portions of the permit record), along with an explanation of how the cited material supports the claim, as needed. For each claim raised, the new § 70.12 provides that the petition must identify the following:
  - The specific grounds for an objection, citing to a specific permit term or condition where applicable.
  - The applicable requirement under the CAA or requirement under part 70 that is not met. The term ''applicable requirement'' of the CAA for title V purposes is defined in 40 CFR 70.2. Note that under that definition, the term ''applicable requirement'' includes only requirements under the Clean Air Act, and does not include other requirements (*e.g.,* under the Endangered Species Act or the Clean Water Act) to which a source may be subject.
  - An explanation of how the term or condition in the proposed permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable requirement under the CAA or requirement under part 70.
  - If the petition claims that the permitting authority did not provide for the public participation procedures required under 40 CFR 70.7(h), the petition must identify specifically the required public participation procedure that was not provided.
  - Identification of where the issue in the claim was raised with reasonable specificity during the public comment period provided for in 40 CFR 70.7(h), citing to any relevant page numbers in the public comment as submitted and attaching the submitted public comment to the petition. If the grounds for the objection were not raised during the public comment period, the petitioner must demonstrate that it was impracticable to raise such objections within the period unless they arose after such a period, as required by section 505(b)(2) of the Act and 40 CFR 70.8(d).
  - Unless the exception under CAA section 505(b)(2) and 40 CFR 70.8(d) discussed in the immediately preceding bullet applies, the petition must identify where the permitting authority responded to the public comment, including the specific page number(s) in the document where the response appears, and explain how the permitting authority's response to the comment is inadequate to address the claimed deficiency. If the written RTC does not address the public comment at all or if there is no RTC, the petition should state that.

In addition to including all specified content, it is important that the information provided in the petition or any analysis completed by the petitioner also be accurate. However, including all the required content would not necessarily result in the Administrator granting an objection on any particular claim raised in a petition. For example, a petitioner could include all the required information but not demonstrate noncompliance, or the petition might point to a specific permit term as not being adequate to comply with a standard established under the CAA, but the EPA may determine that the standard does not apply to the source.

CAA Section 505(b)(2) and the implementing regulations at 40 CFR 70.8(d) provide for a 60-day window in which to file a title V petition, which runs from the expiration of the EPA's 45-day review period. A petition received after the 60-day petition deadline is not timely; therefore, it is important that the agency have sufficient information to determine if a petition was timely filed. Timeliness may be shown by the electronic receipt date generated upon submittal of the petition through the agency's electronic submittal system, the date and time the emailed petition was received, or the postmark date generated for a paper copy mailed to the agency's designated

[4] The proposed permit is the version of the permit the permitting authority forwards to the EPA for the agency's 45-day review under CAA section 505(b)(1). A proposed permit may be for any of the following permit actions: Initial permit, renewal permit, or permit modification/revision.

physical address.[5] It is helpful, but not required, for the petition to provide key dates, such as the end of the public comment period provided under 40 CFR 70.7(h) (or parallel regulations in an EPA-approved state, local or tribal title V permitting program), or the conclusion of the EPA's 45-day review period for the proposed permit.

The use of incorporation by reference of other documents, in whole or in part, into petitions has created inefficiencies in the EPA's review of such petitions. As noted earlier in this section, under ''identification of petition issues'' in the new mandatory content requirements, the EPA requires any claim or argument a petitioner wishes the EPA to consider in support of an issue raised as a petition claim to be included in the body of a petition, or if reference is made to an attachment, the body of the petition must provide a specific citation to the referenced information and an explanation of how the referenced information supports the claim. Merely incorporating a claim or argument into a petition by reference from another document is inconsistent with the petitioner's demonstration obligations under the statute and would extend the petition review time as the agency spends time searching for and then attempting to decipher the petitioner's intended claim. In the EPA's experience, where claims have been incorporated by reference it is typically not clear that the specific grounds for objection have been adequately presented by the petitioner, which could lead to the EPA denying because the petition has failed to meet the demonstration burden. Relatedly, petitioners have sometimes used incorporation by reference to include comments from a comment letter in a petition, but a comment letter alone would typically not address a state's response to the comment. *See, e.g. In the Matter of Consolidated Environmental Management, Inc.—Nucor Steel Louisiana,* Order on Petition Numbers VI–2010–05, VI–2011–06 and VI–2012–07 (January 30, 2014) at 16 (noting that the ''mere incorporation by reference . . . without any attempt to explain how these comments relate to an argument in the petition and without confronting [the State's] reasoning supporting the final permit is not sufficient to satisfy the petitioner's demonstration burden''). In practice, the EPA has found that the incorporation of public comments or other documents by reference into a petition can lead to confusion concerning the rationale for the petitioner's arguments, as it is frequently unclear which part of the comment or document is incorporated, how it relates to the particular argument in the petition, and the precise intent of the incorporation. In addition, the incorporation of comments or other documents by reference increases the agency's review time, as the EPA would have to review more than one document in an attempt to fully determine the argument that a petitioner is making.

The EPA intends this change to help ensure that petitions received clearly state the main points in the petition, and if petitioners want to support their claim with attachment of additional materials, that they cite to the information in the attachment with an explanation as to why they are citing to it. The full presentation of claims in the petition is anticipated to help expedite the administrative process and improve the EPA's efficiency in reviewing petitions. However, petitions may and should still provide citations to support each claim presented in the petition (*e.g.,* citations to caselaw, statutory and regulatory provisions, or portions of the permit record), along with an explanation of how the cited material supports the claim, as needed. To illustrate, the EPA provided an example claim in the proposal, and this still serves as a concise and effective presentation of a hypothetical claim that includes all pieces of required content, including citations to two exhibits. *See* 81 FR 57836 (August 24, 2016).

For further transparency and clarity, the EPA reiterates from the proposal that some types of information are not necessary to include when preparing an effective petition. In doing so, the EPA hopes to ease the effort associated with preparing a petition while promoting succinctness. For example, while a petitioner needs to cite to the legal authority supporting its specific claim, a petition does not need to include background or history on general aspects of the CAA. If a petitioner wishes to include additional information for an alternate purpose unrelated to the EPA's review of the specific petition claim, the EPA recommends appending this information to the petition as a separate document and identifying the purpose for which it is provided.

As described in our responses to comments in Section IV of this document, commenters generally supported the regulatory text the EPA is finalizing in 40 CFR 70.12. A few commenters requested clarity on particular elements such as timeliness and the inclusion of information within the body of the petition, and in response the agency revised the regulatory text and supplemented the descriptions in this preamble with additional information that may provide further explanation as to the expectations for petitions. The EPA anticipates that these mandatory petition content requirements will help petitioners to succinctly focus their claims and present them effectively. Further, it will likely decrease the instances in which the Administrator denies a petition because the petitioner did not provide an adequate demonstration.

2. Required Petition Format

In this final rule, the EPA requires the use of a standard format that follows the same order as identified in the previous section regarding the list of required petition content. Regulatory language to this effect is included in the new provision, 40 CFR 70.12. The EPA anticipates this standard organization will reduce review time as the general location of specific details will now be the same in every petition received. These format requirements may help petitioners better understand what is, and what isn't, necessary in an effective title V petition.

Most commenters addressed content and format together; only two commenters submitted supportive comments specifically focused on format only. Therefore, the EPA addressed relevant comments on both content and format in Section IV of this document and is finalizing the formatting requirements as proposed.

C. Administrative Record Requirements

1. Response to Comments

Under the existing 40 CFR 70.7(h)(5), a permitting authority is required to keep a record of the commenters and also of the issues raised during the public participation process so that the Administrator may fulfill the obligation under CAA section 505(b)(2) to determine whether a title V petition may be granted. This provision also currently requires that such records be available to the public. As proposed, the EPA is revising 40 CFR 70.7 and adding new regulatory language that requires that a permitting authority also respond

[5] The agency notes that it does not generally expect that petitioners would need to include additional information in the petition itself to demonstrate that the petition was timely submitted, as the electronic receipt date from the electronic submittal system, the receipt date on the email submission, or the postmark date generated for a paper copy mailed to the agency's designated physical address should generally be sufficient to determine whether a submission was timely. However, if the petitioner wishes to provide additional explanation regarding a petition's timeliness, they may do so in the petition.

in writing to significant comments received during the public participation process for a draft title V permit.[6] Such responses can be (and often are) prepared and collected together in one RTC document, which can be made available to the public in various ways, such as by posting on the permitting authority's website.

Significant comments in this context include, but are not limited to, comments that concern whether the title V permit includes terms and conditions addressing federal applicable requirements and requirements under part 70, including adequate monitoring and related recordkeeping and reporting requirements. It is the responsibility of the permitting authority to determine, in the first instance, if a comment submitted during the public comment period on a draft permit is significant.

2. Statement of Basis

The statement of basis document, which describes the legal and factual basis for the permit terms or conditions, is a necessary component for an effective permit review. The existing regulations in place prior to today's action required permitting authorities to send this ''statement of basis'' to the EPA and ''to any other person who requests it'' but did not identify a particular time frame for doing so. 40 CFR 70.7(a)(5) (2018). In most situations, the permitting authority makes the statement of basis document available for the public comment period on the draft permit, for the EPA's 45-day review period, and during the 60-day petition period. To address any occasions where it may be absent during these steps in the permit issuance process, the EPA is finalizing new language in the part 70 regulations that reaffirms its importance and requires its inclusion at all points in the permit review process for every permit. To that end, the EPA is revising 40 CFR 70.4(b), 70.7(h) and 70.8(a) to specifically identify that the statement of basis document is a required document, to be included during the public comment period and the EPA's 45-day review period.[7] Commenters suggested the originally proposed language be changed, as the ''statement of basis'' is not a term defined under 40 CFR 70.2. Therefore, in this final rule, the EPA has revised the new regulatory text to refer to ''the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis')''

3. Correction to Incorrect Reference

In this final rule, the EPA is also amending 40 CFR 70.4(b) to correct a reference. The regulations at 70.4(b) address the requirements for initial state submissions for part 70 operating permit programs, with 70.4(b)(3) requiring that the submission include a legal opinion that demonstrates that the state has adequate legal authority to carry out several listed functions. One of those functions relates to public availability of certain information for title V permitting. Specifically, the existing language in 40 CFR 70.4(b)(3)(viii) read: ''Make available to the public any permit application, compliance plan, permit, and monitoring and compliance, certification report pursuant to section 503(e) of the Act, except for information entitled to confidential treatment pursuant to section 114(c) of the Act. The contents of a part 70 permit shall not be entitled to protection under section 115(c) of the Act.'' However, the parallel statutory provision in CAA section 503(e) refers to section 114(c) of the Act, not 115(c), stating that: ''The contents of a permit shall not be entitled to protection under section 7414(c) of this title.'' Consistent with the focus of 40 CFR 70.4(b)(3)(viii), CAA section 114(c) pertains to the availability of records, reports, and information to the public, whereas CAA section 115(c) is a reciprocity provision for a statutory section addressing endangerment of public health or welfare in foreign countries from air pollution emitted in the United States. Therefore, the EPA is revising the citation in the last sentence of 40 CFR 70.4(b)(3)(viii) to correctly refer to section 114(c) of the Act to ensure the regulations comport with CAA section 503(e).

4. Commencement of the EPA 45-Day Review Period

The agency considers both the statement of basis and the written RTC (where applicable) to be integral components of the permit record. Having access to these critical documents during the EPA's 45-day review period should improve the efficiency of the agency's review. Further, such access also ensures that these documents are completed and available during the petition period under CAA section 505(b)(2). Therefore, the EPA is revising part 70 to require that any proposed permit that is transmitted to the agency for its 45-day review must include both the statement of basis and the written RTC (where applicable) among the necessary information as described in 40 CFR 70.8.

While many permitting authorities use a sequential review process, in which the public comment period (which typically lasts 30 days) closes before the proposed permit is sent to the EPA for its 45-day review, other permitting authorities conduct the public comment period and 45-day EPA review period concurrently for some permits, particularly in situations where the permitting authority does not anticipate receiving significant public comments on the draft permit. This process is commonly referred to as ''concurrent'' (or ''parallel'') review. This final rule now distinguishes between the two review processes by identifying the different document(s) required for each.

For sequential review, the permitting authority must submit the necessary documents including the statement of basis and a written RTC (if a significant comment was received during the public comment period) with the proposed permit as described in 40 CFR 70.8(a)(1) and 40 CFR 70.8(a)(1)(i). The Administrator's 45-day review period for this proposed permit will not begin until all such materials have been received by the EPA.

For concurrent review, the permitting authority must submit the necessary documents including the statement of basis with the proposed permit to begin the EPA's 45-day review, per 40 CFR 70.8(a)(1) and 40 CFR 70.8(a)(1)(ii). Because the public comment period is not yet complete, the written RTC is not required at this time. However, if a significant public comment is received during the public participation process, the Administrator will no longer consider the submitted permit a proposed permit. In such instances, the permitting authority will need to consider those comments, make any necessary revisions to the permit or permit record, prepare a written RTC, and submit the revised proposed permit to the EPA with the RTC, the statement of basis, and any other required supporting information, with any revisions that were made to address the public comments, in order to start the EPA's 45-day review period.

5. Notification to the Public

Because the 60-day petition period runs from the end of the EPA's 45-day review period, and the date a proposed permit is received by the EPA has not always been apparent, the petition deadline has sometimes been unclear to members of the public who might be interested in submitting petitions. To

[6] The EPA is aware that many permitting authorities elect to respond to all comments. While the EPA does not require permitting authorities to respond to all comments (but rather all *significant* comments), the Agency does not intend to discourage permitting authorities from that practice.

[7] The text in 40 CFR 70.7(a)(5) remains unchanged.

date, the agency has encouraged permitting authorities to provide notifications to the public or interested stakeholders regarding the timing of proposal of permits to the EPA, for example by making that information available either online or in the publication in which public notice of the draft permit was given. The EPA continues to encourage this practice. In addition, the agency intends to post when a proposed permit is received and the corresponding 60-day deadline for submitting a petition on the EPA Regional Office websites where practicable. However, the responsibility for ensuring that a petition is timely submitted ultimately rests with the petitioner, so stakeholders should feel free to contact the relevant staff in the appropriate EPA Regional Office if they have questions about the timing of the petition process for draft permits of interest to them.

D. Documents That May Be Considered in Reviewing Petitions

Questions regarding what can be or is considered during the petition review may have left stakeholders uncertain as to what to provide for the EPA's consideration during its review of a petition. At proposal, the EPA tried to address some of those concerns with new regulatory text under 40 CFR 70.13. With some minor revisions intended as clarification, the agency is now finalizing the text, which indicates that information considered generally includes the administrative record for the proposed permit, and the petition, including the petition attachments. The administrative record for a particular proposed permit includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the statement required by § 70.7(a)(5), sometimes referred to as the 'statement of basis'; any comments the permitting authority received during the public participation process on the draft permit; the permitting authority's written responses to comments, including responses to all significant comments raised during the public participation process on the draft permit; and all materials available to the permitting authority that are relevant to the permitting decision and that the permitting authority made available to the public according to § 70.7(h)(2). If a final permit is available during the agency's review of a petition on a proposed permit, that document may also be considered as part of making a determination whether to grant or deny the petition.

The EPA sometimes refers to resources outside the petition and the administrative record for the proposed permit to more fully evaluate whether there is a demonstrated flaw in the permit, permit record, or permit process. For example, the EPA may refer to statements the agency made at the time of the 1992 operating permit program final rule, or to statements made in prior relevant title V response orders. Other examples might include statements made by the agency when finalizing or revising new source performance standards for a particular source category, or requirements in an approved state implementation plan or approved title V program that might apply to the source's permit in question. However, the petition review process generally focuses primarily on the administrative record for the proposed permit and on the petition itself as the new regulatory text in 40 CFR 70.13 explains.

IV. Responses to Significant Comments on the Proposed Rule

The EPA received 30 comments on the proposed rule. In this section, we summarize the major comments and our responses. For details on all comments and our responses, please refer to the RTC document in the docket for this rulemaking.

A. Electronic Submittal System for Petitions

1. Summary of Proposal

The EPA proposed regulatory language that encouraged the use of the agency's electronic submittal system for title V petitions. Alternative methods for submittal were also identified in the proposed rule, including a designated email address and a specific physical address listed in the proposal and on the title V petition website. Relatedly, the EPA also proposed a revision to 40 CFR 70.8(d) to require the petitioner to provide copies of its petition to the permitting authority and the permit applicant in order to make the language consistent with the language in section 505(b)(2) of the Act.

2. Summary of Comments

Ten commenters supported the centralized petition intake via the electronic submittal system. In addition, two commenters suggested identifying at least one physical address within the Code of Federal Regulations for when agency websites might be down, while another commenter cautioned against being too specific in the regulations as systems, names, or addresses may change. As the database was functional at the time of proposal, one commenter submitted a petition and suggested improvements for the database. This commenter recommended modifying the database to provide an electronic receipt that states the date of submission to both those who electronically file a public petition, and to the relevant EPA personnel. The commenter further noted experiencing some difficulty with the email system while submitting a title V petition before the close of the comment period on the proposed rule.

No adverse comments were received regarding the new language proposed for 40 CFR 70.8(d) to require a petitioner to provide copies of its petition to the permitting authority and permit applicant.

3. EPA Response

We appreciate commenter support for the electronic submittal system and the alternate methods for submittal we identified. We agree with the comments noting that these changes reduce confusion, both for petitioners submitting petitions and well as for agency personnel in trying to locate a submitted petition. Further, we agree with those commenters that view this specification of methods as a streamlining measure—it is more efficient to track petitions when they enter the agency through one of the three direct routes, and these changes help ensure that the staff providing an initial review of petitions can access them in a timely manner.

The EPA recognizes the concerns regarding database and email functionality identified by one commenter. Upon reviewing the comment, agency staff tested and adjusted the database to ensure that automatic notification of receipt was functional. The EPA intended the system to generate automatic receipts at submittal, and thanks the commenter for bringing the issue to our attention so that it could be addressed. However, we do not understand either comment as objecting to the proposed changes to the regulatory text to require use of one of the three identified submission methods. Rather, the EPA takes these comments as providing constructive feedback to make the available systems more useful.

Since the public comment period on the proposal closed, all title V petitions entering the agency have been electronically received through the CDX system or *titlevpetitions@epa.gov.* Though the agency noted at proposal that there is no need to submit petitions through more than one method, several petitioners sent a duplicate paper copy to the specified physical address—these were also successfully received. We recognize that these petitioners may

have opted to send petitions through more than one method to ensure timely delivery while this rulemaking was in the proposal stage; now that we are finalizing these changes, the EPA continues to promote the submittal of petitions through the electronic submittal system and reiterates the agency's preference that only one method of submission be used for a petition to reduce the confusion and inefficiencies that can arise from duplicate submissions.

The agency disagrees with commenters that suggest a specific physical address should be listed in the Code of Federal Regulations and agrees with the comment that cautioned against providing too much specificity in the regulations as systems, names, or addresses may change. While we understand that there are instances where electronic systems may be down, they are not likely to be unavailable for the entire 60-day petition period. Further, if such information were printed in the Code of Federal Regulations and an update needed to be made, the EPA would need to prepare notification of that change to be published; in the meantime, potential petitioners may be submitting petitions through the outdated information printed in the Code of Federal Regulations as the change is being processed. This could create confusion, cause delays, and add to agency printing costs.

As noted earlier, since proposal the agency has received all petitions through either the CDX database or *titlevpetitions@epa.gov,* with some duplicate petitions sent to the specified physical address. This further supports our decision not to list a specific physical address in the Code of Federal regulations, as the process appears to now be working smoothly for both petitioners and the agency.

B. Required Petition Content and Format

1. Summary of Proposal

To assist the public with preparing their petitions, as well as to assist the EPA in review of petitions, the agency proposed to establish key mandatory content that must be included in title V petitions. These proposed requirements were based on statutory requirements under CAA section 505(b)(2) and aspects of the demonstration standard as interpreted by the EPA in numerous orders responding to title V petitions. The agency's proposal would require that any information a petitioner wanted considered in support of an issue raised as a petition claim be included in the body of the petition because information incorporated by reference into a petition would not be considered. The EPA also proposed to establish format requirements to further assist the agency in its review process. To illustrate how the material that would be required under the proposed regulatory revisions could be presented succinctly and effectively, the agency included an ''example claim.'' Further, the EPA solicited comment on questions regarding whether it should impose page limits on title V petitions.

2. Summary of Comments

Nine commenters generally supported the proposal for content and formatting requirements as a means to provide more consistency in petition submissions, with some suggested changes. However, two commenters opposed the changes because they believed the proposal was too restrictive and created additional barriers to public engagement in the process. A couple of commenters were also concerned about the potential restrictiveness of the proposal to disregard information incorporated only by reference into petitions, and the proposed requirement that ''all pertinent information in support of each issue raised as a petition claim shall be incorporated within the body of the petition.'' Finally, of the ten commenters that provided responses to the questions posed by the EPA regarding page limits, only two commenters supported such a measure.

3. EPA Response

Commenters generally supported the proposed new content and format requirements and the EPA is largely finalizing those as proposed. The content that will now be required by the agency is consistent with statements and conclusions that the EPA previously made in title V petition orders and summarized in the proposal, and it is the key information the EPA focuses on when reviewing petition claims of potential title V permitting deficiencies. Detailing the specific information necessary for evaluating a petition claim should increase public transparency and understanding of the title V petition and review process; thus, the EPA disagrees with the commenters that found the content and format requirements to be too restrictive and unduly burdensome. Incorporating this information into the regulatory text means that petitioners can consult the regulations to determine what content and format is required for petitions, rather than needing to discern the EPA's practices and preferences on these key points from responses to prior title V petitions. The EPA anticipates that these mandatory petition content requirements and standard formatting will, thus, help petitioners to succinctly focus their claims and present them effectively. Further, the EPA expects these requirements to reduce the instances in which petitioners fail to provide an adequate demonstration because they are not aware of the weight the EPA puts on particular information when reviewing petition claims. With these changes, the EPA anticipates receiving petitions that more clearly articulate the petition claims and the basis for them, focusing on key information, including the alleged deficiency in the permit or permit process; the applicable requirements under the CAA or requirements under 40 CFR part 70 that are in question; where the issue was raised during the public comment period (or a demonstration as to why it was impracticable to do so or that the grounds for the objection arose after the public comment period closed); how the state responded to the comment; and why the state's response allegedly does not adequately address the issue.

Regarding the proposed requirement that ''all pertinent information in support of each issue raised as a petition claim shall be contained within the body of the petition,'' the agency recognizes the concern raised by a commenter that requiring ''all'' such information to be included in the petition itself may occasionally be too rigorous a standard. The EPA's original intent was to receive petitions that clearly state main points in the petition, and if petitioners want to support their claim with additional attachment materials, in the petition they could cite to the information in the attachment with an explanation as to why they are citing to it. To illustrate, the EPA provided an example claim in the proposal, and this still serves as a good indication of a concise and effective presentation of a hypothetical claim that includes all pieces of required content, including citations to two exhibits. *See* 81 FR 57836 (August 24, 2016). To address the commenter concern and provide additional clarity on expected content, the agency is revising the regulatory text to read ''[a]ny arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must be contained within the body of the petition.''

Finalizing these changes to the regulatory text falls within the EPA's inherent discretion to formulate procedures to discharge its obligations under CAA section 505(b)(2). The revisions are aimed in part at helping

petitioners ensure that they are including in their petitions the necessary information to satisfy the demonstration burden. Specifically, to compel an objection by the EPA, CAA section 505(b)(2) requires the petitioner to demonstrate that a permit is not in compliance with requirements of the Act, including requirements of the applicable implementation plan. The Act does not dictate all the information that must be included or the format in which that information should be presented; nor does it address what kind of showing must be made in order to demonstrate that an objection is warranted. Courts have determined that the term ''demonstrates'' in CAA section 505(b)(2) is ambiguous and have accordingly deferred to the EPA's reasonable interpretation of that term. *See, e.g., MacClarence* v. *EPA,* 596 F.3d 1123, 1130–31 (9th Cir. 2010) (finding the EPA's expectation that a petition provide ''references, legal analysis, or evidence'' a reasonable interpretation of the term ''demonstrates'' under CAA section 505(b)(2)). Similar procedural requirements have been established for other EPA programs and processes, including the procedures for appeals filed with the Environmental Appeals Board. See 78 FR 5281 (January 25, 2013) (adopting revisions to ''codify current procedural practices, clarify existing review procedures, and simplify the permit review process''). The importance of the demonstration burden in determining whether to grant an objection in response to a petition was discussed in more detail in the proposal and in several title V orders. *See, e.g., In the Matter of Consolidated Environmental Management, Inc.—Nucor Steel Louisiana,* Order on Petition Numbers VI–2011–06 and VI–2012–07 (June 19, 2013) at 4–7.

Finally, the EPA appreciates commenters that responded to our request for comment on whether page limits should be established for title V petitions as a means of promoting concise petitions and to further facilitate efficient and expeditious review of petitions by the EPA. Commenters generally opposed setting page limits as they could unduly limit a petitioner's ability to explain deficiencies. The agency will not be taking any action regarding page limits at this time.

C. Administrative Record Requirements

1. Summary of Proposal

The EPA proposed to revise 40 CFR 70.7 to require a permitting authority to respond in writing to significant comments received during the public participation process for a draft permit. The agency proposed a regulatory revision to 40 CFR 70.8 that would require a written RTC and the statement of basis document to be included as part of the proposed permit record that is sent to the EPA for its review under CAA section 505(b)(1). Under the proposal, if no significant comments were received during a public comment period, the permitting authority would be expected to prepare and submit to EPA for its 45-day review a statement to that effect. In addition, to stress the importance of the statement of basis document, the EPA proposed to revise 40 CFR 70.4(b), 70.7(h), and 70.8(a) to specifically identify the statement of basis document as a necessary part of the permit record throughout the permitting process. Further, the agency proposed to amend an incorrect reference in 40 CFR 70.4(b)(3)(viii) that cited to section 115(c) of the Act, rather than the correct section 114(c) of the Act. Finally, the EPA proposed to revise 40 CFR 70.7(h)(7) to require that within 30 days of sending the proposed permit to the EPA, that permitting authorities must provide notification to the public that the proposed permit and the response to significant public comments are available. Relatedly, the agency suggested another means to notify the public could be for the EPA to post when a proposed permit is received and the corresponding 60-day deadline for submitting a petition on the EPA Regional Office websites.

2. Brief Summary of Comments

Twelve commenters supported the proposed requirement that permitting authorities prepare a written RTC, while three opposed because they believe the written RTC should be optional. Commenters also expressed concern over the proposed requirement to respond to ''significant'' comments for various reasons. Identifying the statement of basis as a necessary part of the permit record was supported by two commenters; however, clarification was requested by three commenters, as ''statement of basis'' is not a defined term in the regulations. Regarding the proposed requirement to submit the RTC and statement of basis with the proposed permit, two commenters indicated support. Sixteen commenters urged the EPA to clarify that concurrent or parallel review remains permissible, given that the proposed revisions to the regulatory text could be read to preclude it.[8] The agency interprets those comments to potentially support providing necessary information with the proposed permit if it does not prevent the practice of concurrent review. On the other hand, one commenter opposes concurrent review, asserting it is unnecessary and unworkable, in the commenter's view. Twelve commenters opposed the proposed requirement for permitting authorities to notify the public that the proposed permit was sent to the EPA, while only one commenter supported it. Finally, eight commenters supported the agency's suggestion to post relevant dates for submitting petitions.

3. EPA Response

The EPA is finalizing the requirement to prepare a written RTC when significant comments are received on a draft permit. This requirement was based on a recommendation from the Clean Air Act Advisory Committee's (CAAAC's) Title V Task Force.[9] Commenters generally supported this change. While three commenters did not support this new requirement because they believe it should be optional and/or could expose permitting authorities to allegations of failure to respond to comments, under general principles of administrative law, it is incumbent upon an administrative agency to respond to significant comments raised during the public comment period. *See, e.g., Home Box Office* v. *FCC,* 567 F. 2d 9 35 (D.C. Cir. 1977) (''the opportunity to comment is meaningless unless the agency responds to significant points raised by the public.'') The EPA has long held the view that RTCs for the proposed permit can play a critical role in the agency's formulation of a response to a title V petition on that proposed permit. *See, e.g. In the Matter of Consolidated Edison Company*

[8] In concurrent review, also sometimes referred to as parallel review, the EPA's 45-day review and the public comment period (which typically lasts 30 days) occur during overlapping times. For sequential review, the EPA's 45-day review period does not begin until the public comment period ends.

[9] In 2004, the Clean Air Act Advisory Committee (CAAAC) established a Task Force to evaluate the title V program. The 18-member panel, comprised of industry, state, and environmental group representatives, identified what Committee members believed was and was not working well. After hosting public meetings and receiving written feedback, and compiling the information with the personal experience of panel members, the Title V Task Force issued a final report that highlighted concerns and recommendations for improvement. Under Recommendation 1, the majority of Task Force members agreed that if a permitting authority receives comments on a draft permit, it is essential that the permitting authority prepare a written response to comments. *See* Final Report to the Clean Air Act Advisory Committee on the Title V Implementation Experience: Title V Implementation Experience (April 2006). The Title V Task Force Final Report is available at: *https://www.epa.gov/caaac/final-report-clean-air-act-advisory-committee-title-v-implementation-experience.*

Hudson Avenue Generating Station, Order on Petition Number II–2002–10 (September 30, 2003) at 8 (noting that the permitting authority ''has an obligation to respond to significant public comments and adequately explain the basis of its decision''). *See,* also, *In the Matter of Onyx Environmental*

Services, Petition V–2005–1 (February 1, 2006) at 7; *In the Matter of Louisiana Pacific Corporation,* Order on Permit Number V–2006–3 (November 5, 2007) at 4–5; *In the Matter of Wheelabrator Baltimore, L.P.,* Order on Permit Number 24–510–01886 (April 14, 2010) at 7. The agency has denied petition claims where the Petitioner fails to acknowledge or react to a permitting authority's final reasoning in the RTC. *See, In the Matter of Gallatin Fossil Plant,* Order on Permit Number 561209 (January 25, 2018) at 10. *See,* also, *In the Matter of Consolidated Environmental Management, Inc.—Nucor Steel Louisiana,* Order on Petition Nos. VI–2011–06 and VI–2012–07 at 7 (June 19, 2013). Thus, the EPA does not agree with the assertion by some commenters that a written response to significant comments should be optional. Moreover, it is to the benefit of the permitting authority to respond to significant comments, as it is an opportunity to further refine the permit record and/or articulate the permitting authority's rationale for decisions made in the permitting process. As the issues raised in a title V petition must generally be raised with reasonable specificity during the public comment period, responding to public comments gives the permitting authority a chance to address any issues that may become the basis for a petition. However, if the permitting authority does not respond to such comments in writing, it may not be clear to the EPA in reviewing a title V petition whether or how the permitting authority addressed the concerns raised during the public participation process. Without the availability of the written RTC during the petition period, there may be an increased likelihood of granting a particular claim on the basis that the state provided an inadequate rationale or permit record. *See, e.g., In the Matter of Scrubgrass Generating Company, L.P.,* Order on Petition Number III–2016–5 (May 12, 2017) at 12 (granting petition claim because the permitting authority did not respond to significant comments).

Several commenters raised concerns regarding the term ''significant comment,'' with some suggesting that permitting authorities should be required to respond instead to all comments. The agency recognizes that a permitting authority's obligation to respond to public comments is informed by long history of administrative law and practice and thus is not creating a new definition of this term through this rulemaking. However, in the interests of providing some guidance on how the agency understands the term, the EPA notes that its interpretation of this phrase is informed by the D.C. Circuit's framing of the relevant inquiry in its review of regulatory actions by federal agencies. For example, that court has explained that: ''only comments which, if true, raise points relevant to the agency's decision and which, if adopted, would require a change in an agency's proposed rule cast doubt on the reasonableness of a position taken by the agency.'' *Home Box Office,* 567 F.2d at 35 n. 58 (D.C. Cir. 1977). The court has also explained that an agency's response to public comments is critical to enable the reviewing body ''to see what major issues of policy were ventilated . . . and why the agency reacted to them as it did.'' *Pub. Citizen, Inc.* v. *F.A.A.,* 988 F.2d 186, 197 (D.C. Cir. 1993). Thus, the requirement to address significant public comments is relevant to assuring the reviewing body that the agency's decision was based on a ''consideration of the relevant factors.'' *Sherley* v. *Sebelius,* 689 F.3d 776, 784 (D.C. Cir. 2012) (quoting *Covad Commc'ns* v. *FCC,* 450 F.3d 528, 550 (D.C. Cir. 2006)).

The agency further notes that it is the responsibility of the permitting authority to determine in the first instance whether a comment is significant. The agency is not creating a requirement to respond to all comments because it understands that some comments submitted during the public comment process may not be relevant or material to the permitting proceeding. *See Nat'l Ass'n of Regulatory Util. Comm'rs* v. *F.E.R.C.,* 475 F.3d 1277, 1285 (D.C. Cir. 2007) (''The doctrine obliging agencies to address significant comments leaves them free to ignore insignificant ones.'') The agency recognizes that some permitting authorities do respond to all comments; this new requirement does not preclude that practice. To the contrary, the agency encourages that practice because it creates a clear record that the permitting authority understood and responded to each comment. In finalizing this change to require permitting authorities to respond in writing to significant comments, the EPA aims to promote more consistency among permitting authorities in meeting the minimum requirements under part 70 and to have more complete permit records for the benefit of the permitting authority, the source, the public, and the EPA.

While commenters were supportive of the revisions to the regulatory text to further highlight the importance of the statement of basis to permit records, they raised the point that ''statement of basis'' is not a defined term in 40 CFR 70.2. Commenters suggested instead to refer to the ''statement required by § 70.7(a)(5).'' The EPA frequently uses the term ''statement of basis'' to refer to the statement required by § 70.7(a)(5). To that end, the EPA will be adjusting the language to now read ''the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis'),'' for clarity.

We agree with the commenters that stated that these changes provide more access to and better understanding of permitting decisions, and provide better protection for public health. The EPA still believes the RTC (where applicable) and statement of basis are two critical documents in the administrative record for a proposed permit, and it notes that they generally provide beneficial details and explanations for terms and conditions found in the permit. When these documents are unavailable for the EPA's 45-day review period, the EPA usually cannot provide as effective a review under CAA section 505(b)(1) as when a full administrative record, including these documents, is available during that review. Moreover, when these documents are also unavailable for the 60-day petition period, potential petitioners may be missing important information to determine whether to submit a petition or may not be able to provide a full argument in support of any issues they may raise in a petition.

Commenters raised concerns, however, with the proposed regulatory text, stating that it could be read to preclude concurrent review, a practice preferred by some permitting authorities and sources in some situations.[10] As EPA noted in the preamble to the proposal, the EPA recognized that some permitting authorities run the public comment period and the 45-day EPA review period concurrently and the agency proposed regulatory text intended to make clear that this practice may continue, as long as no significant comment was received. If a significant public comment was received, the Administrator would no longer consider

[10] As noted above, in concurrent review, also sometimes referred to as parallel review, the EPA's 45-day review and the public comment period (which typically lasts 30 days) occur during overlapping times. For sequential review, the EPA's 45-day review period does not begin until the public comment period ends.

the submitted permit as a proposed permit. In such instances, the permitting authority would need to make any necessary revisions to the permit or permit record, and per the regulations that we proposed, submit the revised proposed permit to the EPA with the RTC and statement of basis. Moreover, this submission would need to be accompanied by any other required supporting information under 40 CFR 70.8(a)(1), and any revisions that were made to address the public comments, in order to start the EPA's 45-day review period. This reflected, and continues to reflect, the EPA's understanding of how such concurrent permitting programs should—and in most cases, do—operate.

After evaluating the regulatory text and comments, the EPA recognized that alterations to the proposed regulatory text would more clearly effectuate the agency's desired change to require RTC availability (when applicable) without slowing the permit process in situations where concurrent review is used properly. Therefore, to respond to commenters, the EPA is finalizing changes to the regulatory text that more clearly specify how the new administrative record requirement works for each of the two permit review processes:

Sequential review: The permitting authority must submit the necessary documents including the statement of basis and a written RTC (if significant comment was received during the public comment period) with the proposed permit per 40 CFR 70.8(a)(1)(i). The Administrator's 45-day review period for this proposed permit will not begin until such materials (except the final permit) have been received by the EPA.

Concurrent review: The permitting authority must submit the necessary documents including the statement of basis with the proposed permit to begin the EPA's 45-day review per 40 CFR 70.8(a)(1)(ii). However, if a significant public comment is received during the public participation process on the draft permit, the Administrator will no longer consider the submitted permit a proposed permit for purposes of its review under CAA section 505(b)(1) and its implementing regulations. In such instances, the permitting authority would need to make any necessary revisions to the permit and/or other documents in the permit record to address the comments, and submit the revised proposed permit to the EPA with the necessary documents–including the written RTC and statement of basis—in order to start the EPA's 45-day review period.[11]

The final regulatory text addresses concerns from many commenters and will still provide more complete permit records for the EPA's 45-day review period, as well as during the 60-day petition period. For example, the regulatory text clarifies that the documents in 40 CFR 70.8(a)(1), except the final permit, are required for the EPA's 45-day review. Although the final text adopted in 40 CFR 70.8(a)(1)(i) and (ii) differs from the regulatory text in the agency's proposal, it remains wholly consistent with the description of the EPA's intent for the regulation as set forth in the preamble to the proposal. *See* 81 FR at 57839.

Permitting authorities and sources that wish to conduct concurrent review will still be able to do so; in situations where no significant comments are received on a draft title V permit this may serve as a streamlining measure. Where significant comments are received on a draft permit undergoing concurrent review or for a proposed permit being reviewed sequentially, the EPA will now have the benefit of both the RTC and statement of basis along with the other necessary documents it receives under 40 CFR 70.8(a)(1). Many permitting authorities were already sending a written RTC (where applicable) and a statement of basis along with the proposed permit for the EPA's review; this change provides more consistency and clarity for all stakeholders. For the first time, the agency is addressing the appropriate use of concurrent review explicitly in the regulations, increasing the transparency around the practice. Further, this is responsive to a recommendation from the CAAAC's Title V Task Force, which stated that ''it is essential that the permitting authority prepare a written response to comments'' and that it should be ''available to the public prior to the start of the 60-day period for petitioning the EPA Administrator to object to the permit.'' [12] This revision to the part 70 rules, along with the other changes to the administrative record requirements discussed in this preamble, are within the EPA's inherent discretion to formulate procedures to discharge its obligations under CAA sections 505(b)(1) and 505(b)(2).

The EPA is not finalizing its proposal to revise 40 CFR 70.7(h)(7) to require that within 30 days of sending the proposed permit to the EPA, that permitting authorities provide notification that the proposed permit and the RTC are available to the public. Commenters expressed concern about the proposed requirement (at times referred to in comments as ''second notice'') as being burdensome and unnecessary. Further, many commenters stated that the EPA is in the best position to track the relevant dates for all parties, including potential petitioners. The agency agrees with these commenters and therefore, the EPA will, where practicable, post the agency's 45-day review period end date, as well as the end date for the 60-day window in which a petition may be submitted on a proposed permit, on the EPA Regional websites. Where dates are not listed, the EPA expects that websites will list a point of contact (or contacts) that can provide such information when requested.[13] The EPA continues to encourage permitting authorities to provide notifications to the public or interested stakeholders regarding the timing of proposal of permits to the EPA, for example by making that information available either online or in the publication in which the public notice of the draft permit was given.

D. Documents That May Be Considered in Reviewing Petitions

1. Summary of Proposal

The EPA proposed regulatory text (40 CFR 70.13) that described the information considered when petitions are reviewed, which generally includes, but is not limited to, the petition itself, including attachments to the petition, and the administrative record for the proposed permit. The administrative record for a proposed permit includes the draft and proposed permits; any permit applications relating to the draft or proposed permits; the statement of basis for the draft and proposed permits; the permitting authority's written responses to comments; relevant

[11] The EPA expects that the permitting authority would withdraw the initial permit submission if significant comments are received during the public participation process on a draft permit that has been submitted for concurrent review. If EPA later finds that a significant comment was received and the initial permit submission is not withdrawn, the permit submission will no longer be considered a proposed permit.

[12] The majority of Task Force members also recommended that if a permitting authority received public comments (from anyone other than the permittee) during the public comment period, the RTC described in Recommendation 1 should be provided to the EPA for consideration during its 45-day review period. See Title V Task Force Final Report Recommendation 2 at 239.

[13] The agency is working toward a national electronic permitting system that will have the capability to track relevant dates; however, this system will not be in operation before this final action is published. At this time, listing relevant dates or points of contact to obtain relevant dates on the EPA Regional websites is an effective means to convey the information to interested stakeholders.

supporting materials made available to the public per 40 CFR 70.7(h)(2); and all other materials available to the permitting authority that are relevant to the permitting decision and that were made available to the public. If a final permit was available during the petition review period, that may also be considered.

2. Summary of Comments

Five comments were received regarding the proposed 40 CFR 70.13. Four of the commenters opposed the phrase ''generally includes, but is not limited to'' as they found it overly broad; believing that it could be interpreted to allow the EPA to consider unlimited information when reviewing a petition (particularly if it was not presented to the permitting authority first during the public comment period on a draft permit). One commenter suggested new language that would prohibit the consideration of responses or comments submitted by a permitting authority concerning the merits of a public petition when deciding whether to grant or deny that petition.

3. EPA Response

The EPA understands the concerns voiced by commenters that the proposed language might be read to allow for unlimited information to be reviewed by the EPA when determining whether to grant or deny a petition. However, section 505(b)(2) of the CAA requires that a petition be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or the objections arose after such period). Based on these four comments, the EPA has removed ''but not limited to'' from the proposed § 70.13 so that the final text states ''generally includes the administrative record for the proposed permit and the petition, including attachments to the petition.'' As noted in Section III.D of this document, there are instances in which the EPA would appropriately refer to resources outside the petition and the administrative record for the proposed permit to more fully evaluate whether there is a demonstrated flaw in the permit, permit record, or permit process. This final regulatory text still allows for such reference, while hopefully alleviating some commenter concerns.

The EPA also understands the concern raised by the commenter that permitting authority comments on a petition should not be considered. While at this time the agency is not adding new language to § 70.13, the EPA generally focuses on the information identified in the administrative record and has highlighted when permitting authorities have the opportunity to provide information and complete the permit record. As noted in the preamble to the proposed rule, permitting authorities have at least three opportunities to provide material for the permit record and ensure that it comports with the CAA: The draft, proposed, and final permit. The EPA was and is recommending practices for permitting authorities when preparing title V permits that can minimize the likelihood that a petition will be submitted on a title V permit. For example, they may fully address significant comments on draft permits and ensure the permit or permit record includes adequate rationale for the decisions made. *See* 81 FR 57841.

V. Implementation

The implementation section of the proposal for this rulemaking solicited comment as to whether revisions to any approved state or local programs would be necessary if the proposed revisions to the part 70 regulations were finalized. 81 FR 57842 (August 24, 2016). Five comments regarding implementation and potential state or local rule changes were received. Two commenters noted that no implementation timeline was included with the proposed rule. Another commenter stated that the proposal did not specify whether the proposed revisions would apply to permits that are undergoing public comment or EPA review at the time the rule is finalized. Finally, one state commenter indicated the rule as proposed would not require changes to its rules, while two commenters from state or local agencies indicated that state rule changes may be necessary to reflect the proposed requirements. One of the latter commenters pointed only to a ''change relating to the eligibility of minor modifications for petitions'' as an example of something they believed might require a state rule change. Yet the proposal regarding the availability of an opportunity to file a petition on a minor permit modification was not a proposed change in the underlying requirements but rather a proposed change to the regulatory text intended to clarify the operation of the existing regulations. *See, e.g.,* 57 FR 32283 (July 21, 1992) (addressing the availability of EPA's 45-day review period and petition opportunities for minor permit modifications under the part 70 rules). Other than this point, these two commenters did not specify any particular aspects of the proposed revisions that might require changes to state rules.

In light of the small number of comments received indicating any potential need for state or local rule changes, the EPA anticipates that the final rule provisions can generally be implemented without changes to state or local rules. However, the agency intends to handle any necessary state or local program revisions on a case-by-case basis under 40 CFR 70.4(i). The EPA expects any permitting authority that needs to revise its rules in order to implement any of the changes in this final rule to notify its respective Regional Office and initiate the program revision process per 40 CFR 70.4(i).

The effective date of this rule is April 6, 2020, and the requirements in this rule will apply prospectively after that date, including for proposed permits and title V petitions. For example, the agency intends to begin applying the rules regarding petition format and content prospectively to petitions that are submitted to the EPA on or after the effective date for this rule. A significant portion of the revisions finalized in this action generally reflect current practice, and the agency is providing for 60 days between publication of this rule and the effective date in order to allow more time for stakeholders to prepare for the rule changes. Thus, the agency anticipates a transition with minimal disruption.

VI. Determination of Nationwide Scope and Effect

Section 307(b)(1) of the CAA indicates the Federal Courts of Appeal in which petitions for review of final actions by the EPA must be filed. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator under [the CAA]''; or (ii) such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

As described in this section, this final action is nationally applicable for purposes of CAA section 307(b)(1). To the extent a court finds this final action to be locally or regionally applicable, for the reasons explained in this section, the EPA finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1). This action addresses

revisions to the EPA's regulations in part 70 for operating permit programs, and these regulations apply to permitting programs across the country.

For this reason, this final action is nationally applicable or, in the alternative, the EPA finds that this action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1). Thus, pursuant to CAA section 307(b), any petitions for review of this final action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**.

VII. Environmental Justice Considerations

This final action revises the part 70 regulations to improve the title V petition submittal, review and response processes. The revision and guidance provided in the proposed rule should increase the transparency and clarity of the petition process for all stakeholders. First, the establishment of centralized petition submittal intake is expected to reduce or eliminate confusion over where to submit a petition. When using the preferred method of an electronic petition submittal through the agency's electronic submittal system, a petitioner should also have the immediate assurance that the petition and any attachments were received. However, alternative submittal methods are still available options for members of the public, including those that experience technical difficulties when trying to submit a petition or for those that do not have access to electronic submittal mechanisms. Second, the content and format requirements for petitions provide instruction and clarity on what must be included in a title V petition. The EPA expects this change will assist petitioners in providing all the critical information for their petitions in an effective manner, which may also increase the agency's efficiency in responding to petitions. Third, requiring permitting authorities to respond to public comments in a written document that (where applicable) is available during the 60-day opportunity to file a petition provides increased availability of information regarding permits for the public in general and petitioners specifically. This final action does not compel any specific changes to the requirements to provide opportunities for public participation in permitting nor does it finalize any particular permit action that may affect the fair treatment and meaningful involvement of all people. Based on these changes, the EPA disagrees with the commenter that stated the proposed changes would ''further erode rather than advance Environmental Justice principles by making it more difficult for those who live and work near major sources of air pollution to bring deficiencies in Title V permits to EPA's attention and to effectively demand the public health protections guaranteed by the [CAA].''

When preparing for the proposed rule, the agency participated in community calls where the EPA presented a brief overview and announcement of the rulemaking effort. The EPA also held a webinar on September 13, 2016, where the agency described the title V petition process, the content of the proposed rule, and when and how to submit comments.

VIII. Statutory and Executive Order Reviews

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

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

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

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

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0243 for the title V part 70 program. The revisions to part 70 finalized in this action fall under ''Permitting Authority Activities'' already accounted for in the supporting statement for the Information Collection Request (ICR). For example, the activity of ''permit issuance'' includes formalizing permits, placing copies of final permits on public websites, entering information into the EPA's permit website, and providing copies to sources. In addition, ''response to public comments'' includes analyzing public comments and revising the draft permit accordingly when appropriate. The preparation of the RTC, where applicable, and its submittal to the EPA for its 45-day review is an action that many permitting authorities already take and can be accounted for under the existing activities in the approved program ICR.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This final rule will not impose any requirements directly on small entities. Entities potentially affected directly by this proposal include anyone that chooses to submit a title V petition on a proposed title V permit prepared by an EPA-approved state, local or tribal title V permitting authority. Other entities directly affected may include state, local, and tribal governments and none of these governments are small governments. Other types of small entities are not directly subject to the requirements of this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Many permitting authorities were already preparing the RTC document, but through this rulemaking it is now a requirement. Associated costs are hard to quantify, but are anticipated to be minimal, as permitting authorities were already required to collect and consider public comments and it will be a new task for a small number of permitting authorities.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have 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. This final action codifies practices that are already undertaken by many permitting authorities. Preparing a written response to comment document is an activity already conducted by many permitting authorities, and is a practice that was recommended by the CAAAC's Title V Task Force, which was composed of various stakeholders, including states. The availability of an RTC will reduce the likelihood of an EPA determination to grant a petition due to an inadequate rationale relied upon by a permitting authority.

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

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federal recognized tribal governments,

nor preempt tribal law. The Southern Ute Indian Tribe has an EPA-approved operating permit program under 40 CFR part 70 and could be impacted. At the proposal stage, the EPA conducted outreach to the tribes through a call with the National Tribal Air Association. Further, the agency offered to consult with the Southern Ute Indian tribe. The EPA solicited comment from affected tribal communities on the implications of this rulemaking, although none were received.

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

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

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

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

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health and environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This rulemaking is primarily administrative and procedural in nature; it focuses on streamlining and clarifying the title V petition submittal, review, and response processes, as well as on ensuring that EPA timely receives information it needs to effectively review proposed permits and title V petitions. The regulatory revisions in this action, as well as the guidance that was provided in the preamble to the proposed rule, should increase the transparency and clarity of the petition process for all stakeholders. *See* 81 FR 57822 (August 24, 2016). The general public as well as potential petitioners are expected to benefit by having better notification of permits and review deadlines (*e.g.,* the EPA intends, where possible to post on the EPA Regional websites when a proposed permit is received and the corresponding 60-day deadline for submitting a petition) and by better access to permitting decision information (*e.g.,* the permitting authority's written response to comments). Additional information is contained in Section V of this notice.

L. Congressional Review Act (CRA)

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

M. Determination Under CAA Section 307(d)

Section 307(d)(1)(V) of the CAA provides that the provisions of the CAA section 307(d) apply to ''such other actions as the administrator may determine.'' Pursuant to CAA section 307(d)(1)(V), the Administrator determines that this final action is subject to the provisions of CAA section 307(d).

IX. Statutory Authority

The statutory authority for this final action is provided by 42 U.S.C. 7401 *et. seq.*

List of Subjects in 40 CFR Part 70

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

Dated: January 14, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons stated in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 1. The authority citation for the part 70 continues to read as follows:

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

■ 2. Section 70.4 is amended by revising paragraph (b)(3)(viii) to read as follows:

§ 70.4 State program submittals and transition.

* * * * *

(b) * * *

(3) * * *

(viii) Make available to the public any permit application, statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis'), compliance plan, permit, and monitoring and compliance certification report pursuant to section 503(e) of the Act, except for information entitled to confidential treatment pursuant to section 114(c) of the Act. The contents of a part 70 permit itself shall not be entitled to protection under section 114(c) of the Act.

* * * * *

■ 3. Section 70.7 is amended by revising paragraphs (h)(2) and (5) and adding paragraph (h)(6) to read as follows:

§ 70.7 Permit issuance, renewal, reopenings, and revisions.

* * * * *

(h) * * *

(2) The notice shall identify the affected facility; the name and address of the permittee; the name and address of the permitting authority processing the permit; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person (or an email or website address) from whom interested persons may obtain additional information, including copies of the permit draft, the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis') for the draft permit, the application, all relevant supporting materials, including those set forth in § 70.4(b)(3)(viii) of this part, and all other materials available to the permitting authority (except for publicly-available materials and publications) that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

* * * * *

(5) The permitting authority shall keep a record of the commenters and of the issues raised during the public participation process, as well as records of the written comments submitted during that process, so that the Administrator may fulfill his obligation under section 505(b)(2) of the Act to determine whether a citizen petition may be granted, and such records shall be available to the public.

(6) The permitting authority must respond in writing to all significant comments raised during the public participation process, including any such written comments submitted during the public comment period and

any such comments raised during any public hearing on the permit.

■ 4. Section 70.8 is amended by revising paragraphs (a)(1), (c)(1), and (d) to read as follows:

§ 70.8 Permit review by EPA and affected States.

(a) *Transmission of information to the Administrator.* (1) The permit program must require that the permitting authority provide to the Administrator a copy of each permit application (including any application for significant or minor permit modification), the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis'), each proposed permit, each final permit, and, if significant comment is received during the public participation process, the written response to comments (which must include a written response to all significant comments raised during the public participation process on the draft permit and recorded under § 70.7(h)(5) of this part), and an explanation of how those public comments and the permitting authority's responses are available to the public. The applicant may be required by the permitting authority to provide a copy of the permit application (including the compliance plan) directly to the Administrator. Upon agreement with the Administrator, the permitting authority may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

(i) Where the public participation process for a draft permit concludes before the proposed permit is submitted to the Administrator, the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis') and the written response to comments, if significant comment was received during the public participation process, must be submitted with the proposed permit along with other supporting materials required in § 70.8(a)(1) of this part, excepting the final permit. The Administrator's 45-day review period for this proposed permit will not begin until such materials have been received by the EPA.

(ii) In instances where the Administrator has received a proposed permit from a permitting authority before the public participation process on the draft permit has been completed, the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis') must be submitted with the proposed permit along with other supporting materials, required in § 70.8(a)(1) of this part, excepting the final permit and the written response to comments. If the permitting authority receives significant comment on the draft permit during the public participation process, but after the submission of the proposed permit to the Administrator, the Administrator will no longer consider the submitted proposed permit as a permit proposed to be issued under section 505 of the Act. In such instances, the permitting authority must make any revisions to the permit and permit record necessary to address such public comments, including preparation of a written response to comments (which must include a written response to all significant comments raised during the public participation process on the draft permit and recorded under § 70.7(h)(5) of this part), and must submit the proposed permit and the supporting material required under § 70.8(a)(1)(i) of this part, excepting the final permit, to the Administrator after the public comment period has closed. This later submitted permit will then be considered as a permit proposed to be issued under section 505 of the Act, and the Administrator's review period for the proposed permit will not begin until all required materials have been received by the EPA.

* * * * *

(c) * * *

(1) The Administrator will object to the issuance of any proposed permit determined by the Administrator not to be in compliance with applicable requirements or requirements under this part. No permit for which an application must be transmitted to the Administrator under paragraph (a) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information required under § 7 0.8(a)(1), including under § 70.8(a)(1)(i) or (ii) where applicable.

* * * * *

(d) *Public petitions to the Administrator.* The program shall provide that, if the Administrator does not object in writing under paragraph (c) of this section, any person may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. The petitioner shall provide a copy of such petition to the permitting authority and the applicant. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in § 70.7(h) of this part, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the permitting authority shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the permitting authority has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in § 70.7(g)(4) or (g)(5)(i) and (ii) of this part except in unusual circumstances, and the permitting authority may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

* * * * *

■ 5. Add § 70.12 to read as follows:

§ 70.12 Public petition requirements.

(a) *Standard petition requirements.* Each public petition sent to the Administrator under § 70.8(d) of this part must include the following elements in the following order:

(1) *Identification of the proposed permit on which the petition is based.* The petition must provide the permit number, version number, or any other information by which the permit can be readily identified. The petition must specify whether the permit action is an initial permit, a permit renewal, or a permit modification/revision, including minor modifications/revisions.

(2*) Identification of petition claims.* Any issue raised in the petition as grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with applicable requirements or requirements under this part. Any arguments or claims the petitioner wishes the EPA to consider in support of each issue raised must be contained within the body of the petition, or if reference is made to an attached document, the body of the petition must provide a specific citation to the referenced information, along

with a description of how that information supports the claim. In determining whether to object, the Administrator will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. For each claim raised, the petition must identify the following:

(i) The specific grounds for an objection, citing to a specific permit term or condition where applicable.

(ii) The applicable requirement as defined in § 70.2, or requirement under this part, that is not met.

(iii) An explanation of how the term or condition in the permit, or relevant portion of the permit record or permit process, is not adequate to comply with the corresponding applicable requirement or requirement under this part.

(iv) If the petition claims that the permitting authority did not provide for a public participation procedure required under § 70.7(h), the petition must identify specifically the required public participation procedure that was not provided.

(v) Identification of where the issue was raised with reasonable specificity during the public comment period provided for in § 70.7(h), citing to any relevant page numbers in the public comment submitted to the permitting authority and attaching this public comment to the petition. If the grounds for the objection were not raised with reasonable specificity during the public comment period, the petitioner must demonstrate that such grounds arose after that period, or that it was impracticable to raise such objections within that period, as required under § 70.8(d) of this part.

(vi) Unless the grounds for the objection arose after the public comment period or it was impracticable to raise the objection within that period such that the exception under § 70.8(d) applies, the petition must identify where the permitting authority responded to the public comment, including page number(s) in the publicly available written response to comment, and explain how the permitting authority's response to the comment is inadequate to address the issue raised in the public comment. If the response to comment document does not address the public comment at all, the petition must state that.

(b) *Timeliness.* In order for the EPA to be able to determine whether a petition was timely filed, the petition must have or be accompanied by one of the following: A date or time stamp of receipt through EPA's designated electronic submission system as described in § 70.14; a date or time stamp on an electronic submission through EPA's designated email address as described in § 70.14; or a postmark date generated for a paper copy mailed to EPA's designated physical address.

■ 6. Add § 70.13 to read as follows:

§ 70.13 Documents that may be considered in reviewing petitions.

The information that the Administrator considers in making a determination whether to grant or deny a petition submitted under § 70.8(d) of this part on a proposed permit generally includes the petition itself, including attachments to the petition, and the administrative record for the proposed permit. For purposes of this paragraph, the administrative record for a particular proposed permit includes the draft and proposed permits; any permit applications that relate to the draft or proposed permits; the statement required by § 70.7(a)(5) (sometimes referred to as the 'statement of basis'); any comments the permitting authority received during the public participation process on the draft permit; the permitting authority's written responses to comments, including responses to all significant comments raised during the public participation process on the draft permit; and all materials available to the permitting authority that are relevant to the permitting decision and that the permitting authority made available to the public according to § 70.7(h)(2) of this part. If a final permit is available during the agency's review of a petition on a proposed permit, that document may also be considered as part of making a determination whether to grant or deny the petition.

■ 7. Add § 70.14 to read as follows:

§ 70.14 Submission of petitions.

Any petition to the Administrator must be submitted through the Operating Permits Group in the Air Quality Policy Division in the Office of Air Quality Planning and Standards, using one of the three following methods, as described at the EPA Title V Petitions website: An electronic submission through the EPA's designated submission system identified on that website (the agency's preferred method); an electronic submission through the EPA's designated email address listed on that website; or a paper submission to the EPA's designated physical address listed on that website. Any necessary attachments must be submitted together with the petition, using the same method as for the petition. Once a petition has been successfully submitted using one of these three methods, the petitioner should not submit additional copies of the petition using another method. The Administrator is not obligated to consider petitions submitted to the agency using any method other than the three identified in this section.

[FR Doc. 2020–01099 Filed 2–4–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180209147–8509–02; RTID 0648–XX039]

Fisheries of the Northeastern United States; Small-Mesh Multispecies Fishery; Inseason Adjustment to the Southern Red Hake Possession Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS announces that the commercial per-trip possession limit for southern red hake has been reduced for the remainder of the 2019 fishing year. Regulations governing the small-mesh multispecies fishery require this action to prevent the southern red hake total allowable landing limit from being exceeded. This announcement informs the public of the reduced southern red hake possession limit.

DATES: Effective February 3, 2020, through April 30, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION: Regulations governing the red hake fishery are found at 50 CFR part 648. The small-mesh multispecies fishery is managed primarily through a series of exemptions from the Northeast Multispecies Fisheries Management Plan. The regulations describing the process to adjust inseason commercial possession limits of southern red hake are described in §§ 648.86(d)(4) and 648.90(b)(5). These regulations require the NMFS Regional Administrator, Greater Atlantic Region, to reduce the southern red hake per-trip possession limit from 5,000 lb (2,268 kg) to the incidental limit of 400 lb (181 kg) when landings are projected to reach or exceed 90 percent of the total allowable landings (TAL), unless such a reduction is expected to prevent the TAL from

being reached. The final rule implementing the small-mesh multispecies specifications for 2018–2020 (83 FR 27713; June 14, 2018) set the southern red hake inseason adjustment threshold for the 2019 fishing year as 605,169 lb (274,500 kg); 90 percent of the southern red hake TAL for the year.

Based on commercial landings data reported through January 14, 2020, the southern red hake fishery is projected to reach 90 percent of the TAL on or around February 2, 2020. We do not anticipate that this reduced possession limit will prevent the TAL from being achieved. Therefore, effective February 3, 2020, no person may possess on board or land more than 400 lb (181 kg) of southern red hake per trip for the remainder of the fishing year, through April 30, 2020.

Classification

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

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action reduces the per-trip possession limit for southern red hake to the incidental limit of 400 lb (181 kg) until April 30, 2020, under current small-mesh multispecies fishery regulations. The regulations at § 648.86(d) require such action to ensure that commercial small-mesh multispecies vessels do not exceed the TAL set for the southern red hake stock. While we do not project that the southern red hake TAL will be exceeded, a delay in implementation of this reduction to solicit prior public comment could undermine the conservation objectives of the Northeast Multispecies Fishery Management Plan. Therefore, pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator further finds good cause to waive the 30-day delayed effectiveness period for the reason stated above.

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

Dated: January 30, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–02175 Filed 2–3–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 24
Wednesday, February 5, 2020

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

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2018–0068]

RIN No. 2105–AE63

Traveling by Air With Service Animals

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The U.S. Department of Transportation (Department or DOT) is seeking comment in this Notice of Proposed Rulemaking (NPRM) on proposed amendments to the Department's Air Carrier Access Act (ACAA) regulation on the transportation of service animals by air. The proposed amendments are intended to ensure that our air transportation system is safe for the traveling public and accessible to individuals with disabilities.

DATES: Comments should be filed by April 6, 2020. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2018–0068 by any of the following methods:

- *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 W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2018–0068 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone can search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *https://www.transportation.gov/privacy.*

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FOR FURTHER INFORMATION CONTACT: Maegan Johnson, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *maegan.johnson@dot.gov* (email). You may also contact Blane Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *blane.workie@dot.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

The Department proposes to define a service animal, under its ACAA regulations in 14 CFR part 382, as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.[1] Furthermore, this NPRM proposes to allow airlines to recognize emotional support animals as pets rather than service animals. The NPRM also proposes to allow airlines to require all passengers with a disability traveling with a service animal to complete and submit to the airline forms developed by DOT attesting to the animal's training and good behavior, certifying the animal's good health, and attesting that the animal has the ability either not to relieve itself on a long flight or to relieve itself in a sanitary manner. In addition, this NPRM would clarify existing prohibitions on airlines' imposing breed restrictions on service animals and would allow airlines to set policies to limit the number of service animals that one passenger can bring onboard an aircraft. This NPRM would also generally require service to be harnessed, leashed, or otherwise tethered. This NPRM also proposes requirements that would address the safe transport of large service animals in the aircraft cabin and would clarify when the user of a service animal may be charged for damage caused by the service animal. Finally, this NPRM addresses the responsibilities of code-share partners, among other provisions.

1. Statutory Authority

The Air Carrier Access Act (ACAA), 49 U.S.C. 1705, prohibits discrimination in airline service on the basis of disability. When enacted in 1986, the ACAA applied only to U.S. air carriers. On April 5, 2000, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) amended the ACAA to include foreign carriers.

The ACAA, while representing a watershed mandate of nondiscrimination in air transportation for passengers with disabilities, does not specify how U.S. and foreign air carriers must act to avoid such discrimination. The statute similarly does not specify how the Department should regulate with respect to these issues. In addition to the ACAA, the Department's authority to regulate nondiscrimination in airline service on the basis of disability is based in the Department's rulemaking authority under 49 U.S.C. 40113, which states that the Department may take action that it considers necessary to carry out this part, including prescribing regulations.

The Department issued its first ACAA regulation in 1990 following a lengthy rulemaking process that included a regulatory negotiation involving representatives of the airline industry and representatives from disability

[1] The Department's proposed definition of a service animal in this rulemaking is similar to the definition of a service animal in the Department of Justice (DOJ) regulations implementing the Americans with Disabilities Act (ADA), 28 CFR 35.104 and 28 CFR 36.104. However, the Department proposes a number of service animal provisions in this proposed rulemaking that differ from DOJ's ADA service animal requirements.

communities. Since then, the Department's disability regulations have been amended approximately 15 times to enhance access. The ACAA regulations define the rights of qualified individuals with disabilities [2] and the obligations of airlines. The regulations also specify that airlines may refuse to provide transportation to any passenger on the basis of safety or to any passenger whose carriage would violate Federal Aviation Administration (FAA) or Transportation Security Administration requirements or applicable requirements of a foreign government.[3] For example, the FAA, which is charged with promoting safe flight of aircraft,[4] has long prohibited conduct aboard flights that interferes with crewmember duties. FAA regulations state that ''no person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.'' [5] The ACAA regulations are intended to help ensure that individuals with disabilities enjoy equal access to the air transportation system.

The Americans with Disabilities Act (ADA), which was enacted in 1990, does not cover discrimination against a person with a disability in air transportation but prohibits discrimination against individuals with disabilities in most other areas of public life, including employment, State and local government activities, public transportation services, and public accommodations such as restaurants and retail stores. The ADA requires that the Department of Justice (DOJ) issue regulations for implementing Title II, which applies to State and local government entities, and Title III, which applies to public accommodations and commercial facilities. DOJ first issued such regulations in 1991 and published revised regulations in 2010, which took effect in March 2011. In those regulations, DOJ defines a service animal as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or mental disability.[6] DOJ's ADA definition of a service animal differs from DOT's current ACAA definition of a service animal as DOJ does not recognize emotional support animals as service animals because they are not individually trained to do work or perform tasks for the benefit of an individual with a disability [7] and DOJ's ADA regulations limit service animals to dogs.[8]

The current rulemaking presents questions about how the ACAA is reasonably interpreted and applied to require airlines to accommodate the needs of individual passengers whose physical or mental disability necessitates the assistance of a service animal in air transportation. In approaching these questions, the Department recognizes that the ACAA's nondiscrimination mandate is not absolute. The statute requires airlines to provide accommodations that are reasonable in light of the realities and limitations of air service and the onboard environment of commercial airplanes. DOJ, in interpreting the ADA, similarly allows public accommodations to consider the characteristics of miniature horses, including the implications of their presence on the safe operation of a given facility, when determining whether they may be accommodated within a facility.[9] The cabins of most aircraft are highly confined spaces, with many passengers seated in close quarters and very limited opportunities to separate passengers from nearby disturbances. Animals on aircraft may pose a risk to the safety, health, and well-being of passengers and crew and may disturb the safe and efficient operation of the aircraft. Any requirement for the accommodation of passengers traveling with service animals onboard aircraft necessarily must be balanced against the health, safety, and mental and physical well-being of the other passengers and crew and must not interfere with the safe and efficient operation of the aircraft.

2. Need for a Rulemaking

The Department has identified the following compelling factors that justify the issuance of a revision to the Department's regulations on traveling by air with service animals in 14 CFR part 382:

Service Animal Complaints

Service animal-related complaints are increasingly a more significant portion of the disability-related complaints that the Department's Aviation Consumer Protection Division and airlines receive. Given the year-over-year increase in the number of service animal complaints received by the Department against airlines, it is clear that the provision of assistance to passengers traveling with service animals is an area of increasing concern for passengers with disabilities. The Department received 115 service animal complaints against airlines in 2018, 70 complaints in 2017, 110 complaints in 2016, and 100 complaints in 2015, compared with 48 such in 2014 and 45 complaints in 2013.

The increase in the number of service animal complaints is also representative of the complaints airlines received directly from passengers. U.S. and foreign airlines reported receiving 3,065 service animal complaints directly from passengers in 2018, 2,473 complaints in 2017, 2,433 in 2016, and 1,629 in 2015, compared with 1,010 such complaints in 2014 and 719 in 2013.

Inconsistent Federal Definition of Service Animal

At the same time, concerns have been raised by airlines, airports, and disability advocates about inconsistencies between the definition of a service animal under our rules for U.S. and foreign air carrier services versus in the airport context. As explained above, DOJ's ADA regulations, which apply to public and commercial airports and airport facilities operated by businesses like restaurants and stores, define a service animal as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or mental disability.[10] DOJ does not recognize emotional support animals as service animals because they are not individually trained to do work or perform tasks for the benefit of an individual with a disability.[11] While DOJ's ADA regulations limit service animals to dogs, entities covered by the ADA are required to assess whether they must permit individuals with disabilities to be accompanied by miniature horses as a reasonable

[2] DOT defines the term Qualified individual with a disability in 14 CFR 382.3.

[3] 14 CFR 382.19(c).

[4] See 49 U.S.C. 44701.

[5] 14 CFR 91.11, 121.580, and 135.120.

[6] See DOJ's ADA definition of a service animal in 28 CFR 35.104 and 28 CFR 36.104.

[7] DOJ explains that it did not classify emotional support animals as service animals because the provision of emotional support, well-being, comfort and companionship does not constitute work or tasks. *See* Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 75 FR 56236, 56269 (Sept. 15, 2010).

[8] DOJ, while not recognizing miniature horses as service animals, requires entities covered by the ADA to make reasonable modifications in their policies, practices, or procedures to permit an individual with a disability to use a miniature horse that has been individually trained to do work or perform tasks for the benefit of the individual with a disability. See 28 CFR 35.136(i); 28 CFR 36.302(c)(9).

[9] See 28 CFR 36.302(c)(9) and see also 28 CFR 35.136.

[10] See 28 CFR 35.104 and 28 CFR 36.104.

[11] *See* Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 75 FR 56236, 56269 (Sept. 15, 2010).

modification.[12] DOT's current ACAA regulations, which apply to airlines and their facilities and services, require airlines to recognize service animals regardless of species with exceptions for certain unusual species of service animals such as snakes, other reptiles, ferrets, rodents, and spiders. DOT's current ACAA regulations also require airlines to recognize emotional support animals as service animals.[13] Consequently, a restaurant in an airport could, without violating DOJ rules, deny entry to an emotional support animal that an airline, under the ACAA, would have to accept. These inconsistencies between DOT's ACAA and DOJ's ADA definition of a service animal present practical challenges for airlines and airports, and are a source of confusion for individuals with disabilities and the traveling public.

Unusual Species of Animals

Passengers have attempted to fly with many different unusual species of animals, such as a peacock, ducks, turkeys, pigs, iguanas, and various other types of animals as emotional support or service animals, causing confusion for airline employees and additional scrutiny for service animal users. Disability advocates have voiced concerns that the use of these unusual service animals on aircraft erodes the public's trust and confidence in service animals. Airlines, meanwhile, have expressed concern about the heightened attention these animals have received and the resources airlines expend each time an unusual or untrained animal is presented for transport on an aircraft.

Pets on Aircraft

Passengers wishing to travel with their pets may be falsely claiming that their pets are service animals so they can take their pet in the aircraft cabin or avoid paying pet fees charged by most airlines since airlines cannot charge service animal users a fee to transport service animals. Airlines have reported increases in the number of service animals on aircraft and expressed concern that the significant increase in the number of service animals traveling on aircraft may be the result of an increase in emotional support animals and/or passengers falsely claiming that their pets are emotional support animals.[14] Furthermore, according to airlines, passengers are increasingly bringing untrained service animals onboard aircraft and putting the safety of crewmembers, other passengers, and other service animals at risk.

There have also been reports of some online entities that may, for a fee, provide individuals with pets a letter stating that the individual is a person with a mental or emotional disability and that the animal is an emotional support animal or psychiatric service animal, when in fact it is not. While the Department's current service animal regulation permits airlines to require documentation from a licensed mental health professional for the carriage of emotional support animals, the advent of online entities that may be guaranteeing the required documentation for a fee has made it difficult for airlines to determine whether passengers traveling with animals are traveling with their pets or with legitimate emotional support animals.

Misbehavior by Service Animals

The Department's service animal guidance provides that all service animals should be trained to behave properly in public to be treated as a service animal.[15] Despite this guidance, some believe that emotional support animals pose a greater safety risk because they have not been trained to mitigate a disability and, therefore, are less likely to have received adequate behavioral training.[16] Airlines have reported increases in the number of behavior-related service animal incidents on aircraft, including urinating, defecating, and biting. In 2018 and 2019, some airlines issued new service animal policies that require passengers traveling with a service animal to provide behavior/training attestations and animal health information as a condition of transportation.[17] These policies are mostly applicable to emotional support and psychiatric service animals and were created to address perceived or actual increased incidents of animal misbehavior on aircraft. In response, disability rights advocates expressed concern about the increased burdens that these polices have placed on legitimate service animal users. Disability advocates are also concerned about the increased stigma and negative perception of all service animals traveling on aircraft.

Request for Rulemaking

The Department has heard from the transportation industry, as well as individuals with disabilities, that the current ACAA regulation could be improved to ensure nondiscriminatory access for individuals with disabilities, while simultaneously preventing instances of fraud and ensuring consistency with other Federal regulations. The Psychiatric Service Dog Society (PSDS), an advocacy group representing users of psychiatric service dogs, petitioned the Department in 2009 to eliminate a provision in the Department's ACAA regulations permitting airlines to require documentation and 48 hours' advance notice for users of psychiatric service animals. PSDS asserted that the Department's current regulation treats individuals with mental and emotional disabilities unfairly because individuals traveling with psychiatric service

[12] See 28 CFR 35.136(i); 28 CFR 36.302(c)(9). DOJ, while not recognizing miniature horses as service animals, requires entities covered by the ADA to make reasonable modifications in their policies, practices, or procedures to permit an individual with a disability to use a miniature horse that has been individually trained to do work or perform tasks for the benefit of the individual with a disability, based on an assessment of factors, including the type, size, and weight of the miniature horse and whether the facility can accommodate these features; whether the handler has sufficient control of the miniature horse; whether the miniature horse is housebroken; and whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

[13] See 14 CFR 382.117 and Guidance Concerning Service Animals, 73 FR 27614, 27659 (May 13, 2008).

[14] See Comment of Delta Air Lines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4141.* In 2017, Delta Air Lines carried nearly 250,000 service and support animals, or almost 700 per day. The volume of service and support animals transported increased about 50 percent from 2016 to 2017 (along with an additional 240,000 pets), but the growth was not uniform over all categories of animals. ESAs led this growth with an increase of approximately 63 percent, while other service animal transport grew by only approximately 30 percent.

And comment from Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

From 2016 to 2017, the number of service animals (excluding ESAs) that U.S. airlines accommodated in cabin rose by nearly 24%—a rate of increase that far exceeds that of the number of passengers U.S. airlines transported over the same period. This rate of increase is modest, however, when compared to an explosion in the number of passengers seeking to travel with ESAs, which increased by 56% in just one year (from 2016 to 2017). As DOT noted, one U.S. airline experienced a 75% increase from 2016 to 2017. One [Airlines for America] member airline has experienced a more than eightfold increase in the number of ESAs since 2012. In 2017, we estimate that U.S. airlines accommodated more than 750,000 ESAs in cabin, which constituted 73% of all estimated service animals transported.

[15] Guidance Concerning Service Animals, 73 FR 27614, 27659 (May 13, 2008).

[16] See Comment of Assistance Dogs International, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4409;* ''Because ESAs are not required to have any training, any documentation of a passenger's need for an ESA fails to address the issue that causes problems in air travel, the ESA's training and behavior.''

[17] See discussion on airline service animal policies the Department's *Final Statement of Enforcement Priorities Regarding Service Animals,* 84 FR 43480 (August 21, 2019).

animals, animals which are trained to do work or perform a task to assist individuals with disabilities, are subject to more burdensome requirements than passengers traveling with other trained service animals.[18]

The Department also received comments from airlines and airline associations regarding the need to revise the Department's ACAA service animal regulations after the Department published a Notice of Regulatory Review in the **Federal Register** on October 2, 2017, inviting public comment on existing rules and other actions that are good candidates for repeal, replacement, suspension, or modification.[19] Airlines generally asked that DOT harmonize its ACAA definition of a service animal with the service animal definition in DOJ's ADA regulations.[20] Further, in 2018, ten disability advocacy organizations urged the Department to stop the proliferation of a patchwork of service animal access requirements in airlines' service animal policies.[21]

Congressional Mandate

The FAA Extension, Safety, and Security Act of 2016 requires that the Department issue a supplemental notice of proposed rulemaking on various access issues referenced in the Secretary's June 15, 2015, Report on Significant Rulemakings, including traveling by air with service animals.[22] Further, the FAA Reauthorization Act of 2018 (The FAA Act) requires the Department to conduct a rulemaking proceeding on the definition of the term service animal and to develop minimum standards for what is required for service and emotional support animals.[23] Congress also required the Department to consider whether it should align DOT's ACAA definition of a service animal with the service animal definition established by DOJ in its rule implementing the ADA.[24]

In addition, Congress directed the Department to consider the following measures to ensure that pets are not claimed as service animals: (1) Photo identification for service animals, (2) training documentation, (3) medical documentation indicating the tasks the animal performs to assist its user, and (4) whether more than one service animal should be permitted to accompany a passenger.[25] Moreover, the FAA Act requires the Department to consider the following to ensure the health and safety of passengers onboard aircraft: (1) Whether to require health and vaccination records for service animals, (2) whether to require third-party proof of behavior training for service animals. Finally, DOT must consider the impact of additional requirements on passengers with disabilities traveling with service animals and ways to eliminate or mitigate those impacts. The Department is considering each of these measures as part of the present rulemaking. The FAA Act directs the Department to issue a final rule on service animals no later than March 22, 2020.

ACCESS Advisory Committee

In April 2016, the Department established an Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee) to negotiate and develop a proposed rule concerning accommodations for individuals with disabilities traveling by air with service animals.[26] The Committee members and other interested parties discussed the following issues: (1) Distinguishing between emotional support animals and other service animals; (2) limiting the species of service animals that airlines are required to transport; (3) limiting the number of service animals that a single individual should be permitted to transport; and (4) requiring attestation from all service animal users that their animal has been trained to behave in a public setting. However, despite good faith efforts, the ACCESS Advisory Committee was not able to reach consensus on how the service animals regulations should be revised. Nevertheless, the Department gathered useful information during this process from disability rights advocates, the airline industry, an association representing flight attendants, and other interested parties.

3. The ANPRM

On May 23, 2018, the Department published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) titled ''Traveling by Air with Service Animals.''[27] In the ANPRM, the Department sought comment on how to amend the Department's ACAA regulations to address the problems that exist with the rule, while also ensuring nondiscriminatory access for individuals with disabilities in air transportation.

In the ANPRM, the Department sought comment on the following: (1) Whether psychiatric service animals should be treated similarly to other service animals; (2) whether there should be a distinction between emotional support animals and other service animals; (3) whether emotional support animals, if allowed onboard a flight, should be required to travel in pet carriers for the duration of the flight; (4) whether the species of service animals and emotional support animals that carriers are required to transport should be limited (for example, limited to dogs only); (5) whether the number of service animals/emotional support animals should be limited per passenger; (6) whether an attestation should be required from all service animal and emotional support animal users that their animals have been trained to behave in a public setting; (7) whether service animals and emotional support animals should be harnessed, leashed, or otherwise tethered; (8) whether there are safety concerns with transporting large service animals and if so, how to address them; (9) whether airlines should be prohibited from requiring a veterinary health form or immunization record from service animal users without an individualized assessment that the animal would pose a direct threat to the health or safety of others or would cause a significant disruption in the aircraft cabin; and (10) whether U.S. airlines should continue to be held responsible if a passenger traveling under the U.S. carrier's code faces additional restrictions on travel with a service animal on a flight operated by

[18] See *Psychiatric Service Dog Society,* DOT–OST–2009–0093–0001, 1–2, at *https://www.regulations.gov/document?D=DOT-OST-2009-0093-0001* (April 21, 2009).

[19] 82 FR 45750 (Oct. 2, 2017).

[20] See, *e.g.,* Comment from Airlines for America at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2751* (December 4, 2017); Comment from International Air Transport Association at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-269* (December 1, 2017); Comment from Kuwait Airways at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2679* (December 1, 2017); and Comment from National Air Carrier Association at *https://www.regulations.gov/document?D=DOT-OST-2017-0069-2771* (December 4, 2017).

[21] Letter to Secretary Chao from American Association of People with Disabilities, Bazelon Center for Mental Health Law, Christopher and Dana Reeve Foundation, Disability Rights Education and Defense Fund, National Association of the Deaf, National Disability Rights Network, Paralyzed Veterans of America, The Arc of the United States, The National Council on Independent Living, and United Spinal Association (February 6, 2018) at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0315.*

[22] The FAA Extension, Safety, and Security Act of 2016, Public Law 114–190, Sec. 2108 (July 15, 2016).

[23] The FAA Reauthorization Act of 2018, Public Law 115–254, Sec. 437 (October 5, 2018).

[24] *Id.*

[25] *Id.*

[26] 81 FR 20265 (Apr. 7, 2016).

[27] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832 (May 23, 2018).

the U.S. carrier's foreign codeshare partner.[28]

The Department received approximately 4,500 comments over the 45-day comment period from disability advocacy organizations, airlines, human and animal health organizations, consumer groups, and other interested parties; the vast majority of these comments were from individual members of the public.[29] The Department has carefully reviewed and considered the comments received and is proposing a rulemaking that is designed to ensure that airlines provide nondiscriminatory access to passengers with disabilities who require the assistance of service animals while incorporating modifications to these requirements reasonably designed to ensure that airlines remain able to provide for the safety and well-being of all passengers and crewmember and the safe and efficient operation of the aircraft. The Department's responses to the comments are set forth below, immediately following a summary of regulatory provisions and a summary of the regulatory impact analysis.

4. Summary of Proposed Regulatory and Deregulatory Provisions

Subject	Proposal
Definition of Service Animal	A service animal would be defined as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
Emotional Support Animals	Carriers would not be required to recognize emotional support animals as service animals and may treat them as pets.
Treatment of Psychiatric Service Animals.	Psychiatric service animals would be treated the same as other service animals that are individually trained to do work or perform a task for the benefit of a qualified individual with a disability.
Species	Carriers would be permitted to limit service animals to dogs.
Health Form	Carriers would be permitted to require passengers to remit a completed U.S. Department of Transportation Service Animal Air Transportation Health Form as a condition of transportation.
Behavior and Training Attestation	Carriers would be permitted to require passengers to remit a completed U.S. Department of Transportation Service Animal Air Transportation Behavior and Training Attestation Form as a condition of transportation.
Relief Attestation	Carriers would be permitted to require individuals traveling with a service animal on flights eight hours or longer to complete a U.S. Department of Transportation Service Animal Relief Attestation as a condition of transportation.
Number of Service Animals per Passenger.	Carriers would be permitted to limit the number of service animals traveling with a single passenger with a disability to two service animals, and would be permitted to require that both service animals fit on their handler's lap and/or within their handler's foot space on the aircraft.
Large Service Animals	Carriers would be permitted to require a service animal to fit within its handler's foot space on the aircraft.
Control of Service Animals	Carriers would be permitted to require that a service animal be harnessed, leashed, tethered, or otherwise under the control of its handler.
Service Animal Breed or Type	Carriers would be prohibited from refusing to transport a service animal based solely on breed or generalized physical type, as distinct from an individualized assessment of the animal's behavior and health.
Check-In Requirements	Carriers that require a passenger with a disability to check-in at the airport prior to the travel time required for the general public would be required to make an employee available promptly to assist the passenger with the check-in process.

5. Summary of Regulatory Impact Analysis

The Department has prepared a preliminary regulatory evaluation in support of the NPRM to amend the ACAA service animal regulations. DOT proposes to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. DOT's proposed service animal definition also explains that emotional support animals, comfort animals, companionship animals, and service animals in training are not service animals for purposes of this rule. In addition, DOT proposes to treat psychiatric service animals (animals that assist individuals with mental health related disabilities) like other service animals. Under the proposed rule, airlines would be allowed to require passengers traveling with a service animal to complete forms attesting that the passenger's service animal has been individually trained to do work or perform tasks for the benefit of the passenger with a disability, the animal has been trained to behave in public, the animal is in good health, and the animal has the ability either not to relieve itself on a long flight or to relieve itself in a sanitary manner.

Under the proposed rulemaking, carriers would no longer be required to recognize emotional support animals as service animals. Passengers currently have an incentive to claim pets as emotional support animals as existing regulations require carriers to transport all emotional support animals at no cost to the passenger.

The primary economic impact of this proposed rulemaking is that it eliminates a market inefficiency. The current policy amounts to a price restriction, which requires carriers to forgo a potential revenue source. In addition, the current policy, which effectively sets the price at zero, requires carriers to use resources to provide an accommodation for emotional support animals.

There is one quantified cost element: A potential burden on passengers traveling with service animals who may be required to submit up to three DOT forms to carriers. For Paperwork Reduction Act (PRA) purposes, we estimate that the forms could create 144,000 burden hours and $3.0 million in costs per year. In some cases, however, carriers already ask passengers to complete equivalent non-governmental forms. Thus, the PRA numbers likely overestimate the burden that would result from this rulemaking.

[28] *Id.*

[29] See Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, *https://www.regulations.gov/docket?D=DOT-OST-2018-0068.*

TABLE ES–1—SUMMARY OF IMPACTS DUE TO PROPOSED RULEMAKING

[Millions of 2018 dollars]

Impact	Annual value
Paperwork burden for passengers traveling with service animals	−$3.0.
Discomfort to passengers who no longer will travel with ESAs	Not quantified.
Eliminated deadweight loss; transfer of surplus from consumers to producers (increased fees paid by passengers travelling with ESAs).	$75.1 (total).
Reduction in negative externalities caused by ESAs	Not quantified.
Secondary market impacts due to reduced demand for ESA documentation Service	Not quantified.

Public or non-use values or negative externalities in ESA travel could affect the efficiency consequences of this proposed rule. The preliminary regulatory evaluation describes the potential impacts of non-use values and negative externalities in detail but does not quantify them due to a lack of data. The Department requests information and data to quantify and evaluate the extent of these impacts.

1. Service Animal Species

Current Requirements

The Department's current service animal rule does not include a species restriction with the exception of certain unusual species, such as snakes, other reptiles, ferrets, rodents, and spiders.

The ANPRM

In the ANPRM, the Department sought comment on what, if any, species limitations should be placed on service animals.[30] In light of suggestions made by certain disability advocacy organizations, the Department also sought specific comment on whether capuchin monkeys should be recognized as service animals.[31] Finally, the Department requested comment on whether it should recognize miniature horses under its definition of a service animal, as some individuals with disabilities prefer miniature horses instead of dogs as service animals for religious reasons, because of their long life spans, and/or because of allergies.[32]

Comments Received

Individual commenters, disability advocates, airlines, and other commenters all support dogs as service animals. This result is not surprising as the Department has been consistently informed that the clear majority, approximately 90 percent or more, of service animals that travel on aircraft are dogs. Some commenters note that dogs are the preferred species for service animals because they can be more easily trained to mitigate a passenger's disability than other animals. In a joint comment filed by Airlines for America (A4A), the Regional Airline Association (RAA), and International Air Transport Association (IATA), these associations commented that dogs in particular can hold their elimination functions for extended amounts of time, have the correct temperament to serve as service animals, and can be trained to behave appropriately in public and around large groups of people.[33] Assistance Dogs International (ADI) notes specifically that dogs have been assisting individuals with disabilities for over 100 years.[34]

A smaller majority of disability advocate organizations and airports support both dogs and miniature horses as service animals. Disability advocates argue that miniature horses should be recognized subject to aircraft space restraints for those individuals with disabilities who rely on these animals, while airports argue for their inclusion to promote greater predictably for passengers with disabilities and airport operators. Although miniature horses do not fall under DOJ's definition of a service animal, DOJ requires covered entities such as airports to permit individuals with disabilities to use miniature horses, where reasonable, if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.[35]

Some disability organizations, however, argue against miniature horses as service animals, reasoning that horses are not commonly used as service animals and that excluding them from the rule will not impact many individuals with disabilities. Some airline commenters acknowledged that they receive very few requests to accommodate miniature horses each year and further oppose the inclusion of miniature horses as service animals because they are too large and inflexible to be safely accommodated on an aircraft and to fit within a passenger's foot space.

A small number of disability advocacy organizations support capuchin monkeys as service animals because of their ability to assist individuals with limited mobility with in-home services; however, these groups recognize that capuchin monkeys must be contained in a carrier in the airport and on the aircraft because of the potential danger they pose. Other disability advocacy organizations, airlines, and animal health associations strongly oppose recognizing capuchin monkeys as service animals. These groups argue that capuchin monkeys, while trained to do work or perform tasks for individuals with disabilities, are not domesticated animals and can be prone to increased aggression. Other groups oppose capuchin monkeys and other non-human primates as service animals, citing DOJ's position that these animals have the potential for disease transmission and that they exhibit unpredictable aggressive behavior.[25]

While Paralyzed Veterans of America (PVA) supports some limitations on the type of species that may be used as service animals or emotional support animals, the organization argues that access should be provided for all species and sizes of dogs, cats, rabbits, miniature horses, capuchin monkeys and other species that can be trained to behave appropriately and be safely brought on airplanes.[36] Finally, while the Association of Flight Attendants (AFA) commented that service animals and ESAs should be limited by species, it recognized that it was not in a position to make specific recommendations about the type of species airlines should be required to

[30] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23839.

[31] *Id.* at 23840.

[32] *Id.*

[33] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[34] Comment of Assistance Dogs International, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4409.*

[35] See 28 CFR 36.302(c)(9) and 28 CFR 35.136.

[36] Comment of Paralyzed Veterans of America, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4187.*

transport.[37] However, AFA recognized that it is appropriate for the Department under the ACAA to consider the characteristics of the animal that may be carried in the cabin, the size of the animal, and the aircraft's ability to accommodate the animal.

DOT Response

DOT proposes to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. DOT's proposed service animal definition also explains that emotional support animals, comfort animals, companionship animals, and service animals in training are not service animals. Consistent with this definition, the Department proposes to limit the species of service animals to dogs. Under the Department's proposal, airlines could choose to transport other species of animals that assist individuals with disabilities in the cabin for free pursuant to an established airline policy, but would only be required under Federal law to recognize dogs as service animals. The Department considered the fact that dogs are the most common animal species used by individuals to mitigate disabilities both on and off aircraft as noted by many commenters. Dogs also have both the temperament and ability to do work and perform tasks while behaving appropriately in a public setting and while being surrounded by a large group of people.

The Department considered, but decided against, a proposal that would include other species as service animals, including capuchin monkeys and miniature horses. Although trained capuchin monkeys can assist persons with limited mobility with their daily tasks, we are not proposing to recognize capuchin monkeys as service animals because they may present a safety risk to other passengers as they have the potential to transmit diseases and may exhibit ''unpredictable aggressive behavior.'' [38] Further, according to information the Department received from Helping Hands: Monkey Helpers,[39] it is often, if not always, qualified trainers rather than individuals with disabilities, who travel by air with capuchin monkeys, as the trainer delivers the monkeys. However, neither the existing regulation nor the proposed rule would require airlines to transport service animals when they are not accompanied by the service animal user. Because individuals with disabilities may have significantly more difficulty obtaining the assistance of capuchin monkeys if they are not allowed to travel by air with their trainer, the Department seeks comment on whether to require airlines to allow the transport of closed-colony capuchin monkeys [40] in a carrier (capuchin monkeys weigh approximately 6–10 lbs.) and when traveling with a qualified trainer.[41]

In addition, the Department did not propose to include miniature horses in its definition of a service animal given size limitations on aircraft. The Department seeks comment on its proposal to limit service animals to dogs.

2. Breed or Type Restrictions

Current Requirements

While the Department's disability regulations allow airlines to deny transportation to an animal if, among other things, it poses a direct threat to the health or safety of others, the Department has taken the position that restrictions on specific dog breeds or types are inconsistent with its current service animal regulation.[42]

ANPRM

Although the Department did not specifically seek comment on whether airlines should be permitted to refuse transportation to certain breeds or types of service dogs, the Department received a number of comments on airline breed restrictions.

Comments Received

The Department received hundreds of comments from individual commenters on whether airlines should be permitted to restrict service dogs based on breed or type. Delta Air Lines, Inc. (Delta Air Lines) commented that carriers should be permitted to impose such restrictions to ensure the safety of passengers on aircraft if the Department does not establish a clear means to demonstrate that an animal can behave properly.[43] No other airline and no disability rights organization addressed this issue as the ANPRM did not specifically call for comment on this subject.

Most individual commenters did not support allowing airlines to impose breed restrictions on service animals. These commenters stated that pit-bull bans are discriminatory and that their pit-bull-type dogs, like other dogs, can be trained to perform tasks to mitigate a user's disabilities and can be well behaved. These commenters also questioned an airline's ability to determine whether a dog is a ''pit bull'' simply by looking at the animal's features. Conversely, approximately 22 percent of commenters supported a breed or type restriction on dogs such as pit bulls (typically taken to include American pit bull terriers, Staffordshire bull terriers, and American Staffordshire bull terriers), as well as other types of dogs that commenters believe are commonly known to be aggressive.

DOT Response

The Department is proposing that airlines should continue to be prohibited from restricting service animals based solely on the breed or generalized type of dog. The Department's policy has been to require airlines to conduct individualized assessments of particular service animals based on the animal's evident behavior or health, rather than applying generalized assumptions about how a breed or type of dog would be expected to behave. Under this policy, the Department allows airlines to refuse transportation to dogs that exhibit aggressive behavior and that pose a direct threat to the health or safety of others regardless of breed, and we propose to retain that policy in our new service animal rule. We note that DOJ

[37] Comment of the Association of Flight Attendants, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4207.*

[38] Nondiscrimination on the Basis of Disability in State and Local Government Services, 75 FR 56164, 56194 (Sept. 5, 2010).

[39] Helping Hands monkeys are New World monkeys, native to Central and South America. New World monkeys do not carry the zoonotic diseases often associated with Old World monkeys (from Africa) such as Herpes B, Monkey Pox, or Simian Immunodeficiency Virus (SIV). However, according to the CDC, New World monkeys do carry and potentially transmit tuberculosis, measles, enteric diseases (salmonella, shigella, cryptosporidium, and giardia).

[40] According to Helping Hands: Monkey Helpers, its capuchin monkeys were bred from an existing colony first obtained within the United States in 1979 and continue to be housed in a closed colony, which means that the organization knows exactly where the monkeys come from, including their parentage, and have complete medical histories on every monkey in the program. However, according to CDC, most of the zoonotic diseases associated with New World NHPs can be acquired from humans. A ''closed colony'' does not ensure that these animals are or will remain free of zoonotic diseases of concern. TB, in particular, is always acquired from humans. The comment does not mention routine, regular TB testing, which is a necessary component of a ''closed colony.'' More information is available at *https://www.monkeyhelpers.org.*

[41] The Department notes that under 42 CFR 71.53, the importation of any non-human primate into the United States is prohibited unless the importer is registered with the CDC and the purpose of the import is limited to science, education, or exhibition.

[42] See *Final Statement of Enforcement Priorities Regarding Service Animals,* 84 FR 43480 (August 21, 2019).).

[43] Comment of Delta Air Lines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4141.*

also rejects an outright ban on service animals because of their breed in implementing its regulations under the ADA. DOJ has advised municipalities that prohibit specific breeds of dogs that they must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others, a determination that must be made on a case-by-case basis.[44]

However, the Department understands the concerns raised about pit bulls and certain other breeds or types of dogs that have a reputation of attacking people and inflicting severe and sometimes fatal injuries. The Department also understands that there may be concerns that certain dogs may be dangerous because of their muscular bodies, large and powerful jaws and neck muscles, and ferocity when provoked to attack. The Department seeks comment on whether these concerns are valid. In particular, the Department seeks comment on whether, notwithstanding the DOJ rules under the ADA, the unique environment of a crowded airplane cabin in flight justifies permitting airlines to prohibit pit bulls and any other particular breeds or types of dogs from traveling on their flights under the ACAA even when those dogs have been individually trained to perform as service animals to assist a passenger with a disability. The Department will consider this question in light of the full rulemaking record when finalizing this rule. The Department also seeks comment on whether its proposal to allow airlines to conduct an individualized assessment of a service animal's behavior to determine whether the service animal poses a direct threat to the health or safety of others is an adequate measure to ensure that aggressive animals are not transported on aircraft, rather than banning an entire breed or type of service animal.

3. Emotional Support Animals

Current Requirements

For purposes of air transportation, under our existing rules, DOT considers a service animal to be any animal that is individually trained or able to provide assistance to a qualified person with a disability; or any animal shown by documentation to be necessary for the emotional well-being of a passenger.[45] However, while the Department currently requires airlines to recognize emotional support animals as service animals, it allows airlines to require that emotional support animal users provide a letter from a licensed mental health professional of the passenger's need for the animal. Currently, the Department's ACAA rules allow airlines to require emotional support animal users to provide current documentation (no older than one year from the date of the passenger's scheduled initial flight) on the letterhead of a licensed mental health professional stating the following:

(1) The passenger has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition (DSM IV);

(2) The passenger needs the emotional support or psychiatric service animal as an accommodation for air travel and/or for activity at the passenger's destination;

(3) The individual providing the assessment is a licensed mental health professional, and the passenger is under his or her professional care; and

(4) The date and type of the mental health professional's license and the state or other jurisdiction in which it was issued.[46]

Furthermore, to enable airlines sufficient time to assess the passenger's documentation, DOT permits airlines to require 48 hours' advance notice of a passenger's wish to travel with an emotional support animal so that airlines can verify the documentation. Airlines are also permitted to require that passengers traveling with emotional support animals check-in one hour before the check-in time for the general public.[47]

The ANPRM

In the ANPRM, the Department described the concerns raised by airlines, disability advocates, flight attendants, and the traveling public that emotional support animals may pose a safety risk to other service animals, passengers, and airline personnel and could create a disturbance or disruption that would interfere with the safe and efficient operation of the aircraft. The Department sought comment on whether it should continue to include emotional support animals in the definition of a service animal in its ACAA regulation, or adopt a definition of service animal similar to the definition in DOJ's ADA regulation where emotional support animals are not recognized as service animals.[48]

In the event that the Department decided to continue to recognize emotional support animals as service animals, the Department sought comment on whether it should continue to allow airlines to require emotional support animal users to provide documentation.[49] The Department also sought comment on alternative approaches to documentation that can be used to verify an emotional support animal's status.[50] Further, the Department sought comment on whether emotional support animals should be regulated separately and distinctly from service animals, and if airlines are required to transport emotional support animals, whether airlines should be allowed to require that emotional support animals be contained.[51]

Comments Received

Should the Department continue to include emotional support animals in the Department's ACAA definition of a service animal?

Most organization commenters urged the Department to align its definition of a service animal with DOJ's definition of a service animal, which does not recognize emotional support animals and limits service animals to dogs individually trained to do work or perform a task for an individual with a disability. As part of this NPRM, the Department seeks comment on reasons

[44] See Frequently Asked Questions about Service Animals and the ADA, Questions 22–24, available at *https://www.ada.gov/regs2010/service_animal_qa.html* (July 20, 2015): [I]f an individual uses a breed of dog that is perceived to be aggressive because of breed reputation, stereotype, or the history or experience the observer may have with other dogs, but the dog is under the control of the individual with a disability and does not exhibit aggressive behavior, the public accommodation cannot exclude the individual or the animal from the place of public accommodation. The animal can only be removed if it engages in the behaviors mentioned in § 36.302(c) (as revised in the final rule) or if the presence of the animal constitutes a fundamental alteration to the nature of the goods, services, facilities, and activities of the place of public accommodation.

See also 75 FR 56236, 52266–56267 (September 15, 2010): [I]f an individual uses a breed of dog that is perceived to be aggressive because of breed reputation, stereotype, or the history or experience the observer may have with other dogs, but the dog is under the control of the individual with a disability and does not exhibit aggressive behavior, the public accommodation cannot exclude the individual or the animal from the place of public accommodation. The animal can only be removed if it engages in the behaviors mentioned in § 36.302(c) (as revised in the final rule) or if the presence of the animal constitutes a fundamental alteration to the nature of the goods, services, facilities, and activities of the place of public accommodation.

[45] See 14 CFR 382.117; Guidance Concerning Service Animals, 73 FR 27614, 27663 (May 13, 2008).

[46] 14 CFR 382.117(e)(1)–(4).

[47] 14 CFR 382.27(c)(8).

[48] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23838.

[49] *Id.*

[50] *Id*

[51] *Id*

the regulation of service animals on aircraft should or should not differ from DOJ's regulation of service animals under its rules implementing the ADA. Airline organizations commented that the Department should follow DOJ's lead and exclude emotional support animals from the definition of a service animal in the air transportation context because DOJ's definition is ''better suited to the particular challenges associated with accommodating animals in the aircraft cabin environment, which involves allowing animals to travel in a confined, noisy, moving space at high altitude . . . and in close proximity to crew, passenger, and other animals and no opportunity to remove the animal during flight.'' [52] Similarly, disability advocates have commented that the Department's current rule, which classifies emotional support animals as service animals, causes significant confusion in the disability community.

However, while disability advocates, airlines, and the majority of commenters agree that emotional support animals should be removed from the definition of a service animal, they disagree on whether the Department should recognize emotional support animals as an accommodation for individuals with disabilities that would be regulated separately and distinctly from service animals. Most advocacy organizations support a definition of service animal focused on animals trained to do work or perform tasks for the benefit of individuals with disabilities, similar to DOJ's definition. Those advocacy organizations, however, support the Department's continued recognition of emotional support animals, so long as emotional support animals are regulated separately and distinctly from service animals.

The National Federation of the Blind (NFB) [53] commented that emotional support animals, which are untrained to mitigate a disability, should be permitted as an accommodation subject to ''specific and more restrictive conditions'' of carriage. In addition, Psychiatric Service Dog Partners (PSDP) [54] commented that regulating emotional support animals differently from other service animals is warranted given that emotional support animals have not been trained to perform a specific task for a passenger with a disability, and emotional support animal users are likely not aware of DOT's behavior expectations or the required public access training protocols.

Similarly, in a joint comment filed by A4A, RAA, and IATA, these associations commented that should the Department continue to recognize emotional support animals, a decision opposed by the associations, emotional support animals should be regulated separately and distinctly from service animals and subject to more stringent requirements than service animals, such as documentation from a licensed mental health professional who has examined and diagnosed the emotional support animal user in person.[55]

The majority of individual commenters provided general statements of support for the Department's continued recognition of emotional support animals, and did not opine on whether emotional support animals should be regulated separately from service animals. Generally, these individuals, along with those disability advocates in support of the continued recognition of emotional support animals, argue that the Department should continue to recognize the vital role that emotional support animals play in mitigating mental and emotional disabilities during air transportation and at a passenger's destination. Specifically, PVA insists that passengers with disabilities have access to their emotional support animals as the mere presence of these animals accommodates a person's disability and may be crucial to allowing a person with a disability to travel by air.[56] Similarly, the American Council of the Blind (ACB) recognizes that emotional support animals can perform a vital role for individuals who are incapable of moving freely through society.[57]

Autism Speaks commented that the Department should afford individuals with disabilities who rely on emotional support and psychiatric service animals ''with the same legal protections as people who use other service animals.'' [58] Autism Speaks acknowledges that ''people may not see the services psychiatric service animals and emotional support animals provide because sometimes these services may not be obvious; autism itself may be an invisible disability,'' but ''the needs of many people with autism for emotional support, however, are very real.''

Airlines have indicated that fraud and safety are the primary reasons they oppose the Department's continued recognition of emotional support animals. In a joint comment filed by A4A, RAA, and IATA, these associations commented that ''incidents involving animals that allegedly are [emotional support animals] [have] become an unacceptable threat to the health and safety of airline staff and the traveling public, including qualified individuals with a disability who travel with a trained service animal and those trained service animals themselves.'' [59]

With respect to fraud, airlines commented that individuals traveling with purported emotional support animals may not actually be individuals with disabilities, and the surge in the transport of emotional support animals on aircraft is fueled by ''cheap and easy availability of fraudulent credentials.'' American Airlines, Inc. (American Airlines) commented that it experienced a 48-percent increase in the number of emotional support animals carried in 2017 compared to 2016 (105,155 in 2016 and 155,790 in 2017).[60] American Airlines also commented that it experienced a 17-percent decline in the number of requests to transport pets for a fee in 2017 in comparison to 2016. Spirit Airlines, Inc. (Spirit Airlines) commented on the loss of millions of dollars in pet carriage fees from passengers fraudulently claiming their ''house pets are service or support animals'' and on instances of emotional support animal misbehavior as justification for why the Department should not recognize emotional support animals.[61] Delta Air Lines recognizes that some passengers with disabilities ''have a legitimate need'' for emotional support animals; however, the carrier opposes the Department's continued recognition of emotional support animals and urged the Department to adopt the DOJ definition of a trained service animal. Delta believes that passengers who currently have a

[52] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[53] Comment of the National Federation of the Blind, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-3261.*

[54] Comment of Psychiatric Service Dog Partners, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-3117.*

[55] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[56] Comment of Paralyzed Veterans of America, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4187.*

[57] Comment of American Council of the Blind, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4133.*

[58] Comment of Autism Speaks, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4268.*

[59] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[60] Comment of American Airlines, Comment of American Airlines, Inc. *https://www.regulations.gov/document?D=DOT-OST-2018-0068-3507.*

[61] Comment of Spirit Airlines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4226.*

legitimate need for an emotional support animal could still be accommodated on aircraft under the DOJ definition of a service animal, if these passengers trained their animals to become psychiatric service animals, which are recognized as service animals by DOJ.[62] However, Spirit Airlines contends that the Department should eliminate the category of emotional support animals in its regulations because emotional support animals generally receive ''*absolutely no training,* neither obedience nor specific to their owner's disability'' (emphasis in original).[63] Most U.S. carriers believe that most of the fraud and safety issues on which the Department sought comment in the ANPRM would be mitigated if DOT adopted a definition of service animal that excluded emotional support animals.

While U.S. airlines oppose the Department's continued recognition of emotional support animals, foreign carriers are split on this issue. Those foreign carriers in support of emotional support animals urge the Department to define emotional support animals separately from service animals and subject them to a more stringent regulatory standard. Health and safety concerns continue to be the primary justification provided by foreign carriers in support of eliminating emotional support animals or subjecting them to stricter regulation.

Should the Department continue to allow airlines to require emotional support animal users to provide medical documentation and advance notice?

While most disability advocates oppose allowing airlines to require documentation from service animal users, including emotional support animal users, some advocacy organizations are in favor of documentation exclusively for emotional support animals. Some advocacy organizations support documentation for all service animal users in the form of a decision-tree, which is a series of questions designed to educate the public on traveling with service animals and reduce the instances of individuals fraudulently representing their pets as service animals. Some advocates and airlines expressed support for behavior attestations, another form of documentation first suggested during a 2016 negotiated rulemaking as a potential measure to be proposed by the Department in a future rulemaking.[64] Since the negotiated rulemaking, several carriers have created their own behavioral attestations as one of many service animal policy changes that carriers put into place in 2018 and 2019. Finally, some disability advocacy organizations that oppose documentation for service animals, including emotional support animals, commented that the Department should only permit airlines to make the same inquiries that DOJ permits under its regulation implementing the ADA: (1) Is the animal required because of a disability? and (2) What work or task has the animal been trained to perform?[65]

While all commenting U.S. airline opposed the Department's continued recognition of emotional support animals, airlines have commented that if the Department continues to require airlines to transport emotional support animals as an accommodation for individuals with disabilities, airlines should be permitted to require those passengers to provide documentation from a medical professional that confirms the passenger's need for the animal. Airlines also commented that airlines should be able to impose more restrictive requirements—for example, that the passenger's diagnosis be based on an in-person visit and that the documentation state that the passenger has a mental impairment as defined in the Department's ACAA regulations, as opposed to stating only that the passenger has a disorder recognized under the Diagnostic and Statistical Manual of Mental Disorders.

Both U.S. and foreign carriers believe that allowing airlines to require documentation to prove the passenger's need for an emotional support animal is essential if the Department continues to recognize emotional support animals. Airlines commented that there is a significant problem with fraud under the Department's current requirements and that fraud would only become more prevalent should the Department dispense with a documentation requirement for emotional support animal users. The Association of Flight Attendants (AFA) also favors a documentation requirement for emotional support animal users and noted that while some emotional support animal users may be discouraged from flying if required to produce documentation, the correlation between a documentation requirement and fraud reduction justifies the requirement. That association also noted that while a documentation requirement may not eliminate fraud entirely, fraud reduction, to any degree, benefits the traveling public, individuals with disabilities, and airlines.

Should the Department allow airlines to require emotional support animals to be contained in pet carriers?

Disability advocates are largely split on the issue of whether emotional support animals should be contained in pet carriers. Some advocates support requiring the containment of emotional support animals but comment that they should be allowed to be removed from the carrier to mitigate a disability. Other disability advocates only support the containment of emotional support animals when the animal is behaving badly. Some disability advocates oppose a containment requirement altogether fearing that large emotional support animals that do not fit in pet carriers would not be permitted access on airplanes. Finally, some advocates recommend that emotional support animals merely be leashed, harnessed, or tethered, rather than contained.

The majority of airlines commented that if the Department chooses to recognize emotional support animals, emotional support animals should be contained for the duration of the flight. If the animal is too large to fit in a container, one airline suggests that the airline be permitted to treat the animal as a pet and offer the passenger the option for the animal to fly in the cargo compartment. Conversely Delta Air Lines, which generally opposes the Department's recognition of emotional support animals, does not support containing emotional support animals for the duration of the flight.[66] That carrier explained that if the Department were to decide to continue to recognize emotional support animals, emotional support animals would be unable to mitigate a passenger's disability if contained in a carrier. The carrier further stated that a containment requirement for emotional support animals, if allowed, would be

[62] Comment of Delta Air Lines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4141.*

[63] Comment of Spirit Airlines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4226.*

[64] Service Animal—Vote Tally Sheet—3rd Party Documentation, Mandatory Attestation (Oct. 26, 2016), *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0281.*

[65] See 28 CFR 35.136(f); 28 CFR 36.302(c)(6). DOJ's ADA regulations do not generally permit a covered entity to make these two inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, (*e.g.,* the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

[66] Comment of Delta Air Lines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4141.*

inconsistent with the spirit of the ADA and the ACAA. The carrier does, however, support that airlines be granted the authority to restrain emotional support animals by harness, leash, or other restraint mechanisms.

Airport commenters support a requirement that emotional support animals be contained if they continue to be recognized, especially while traversing through the airport. Airports argue that airport operators have the right to require any animal that is not a service animal under the ADA to be contained and a containment requirement promotes consistency between the ADA and ACAA regulations.

What species should be accepted as emotional support animals?

Disability advocacy organizations and the public are generally split on what species of emotional support animals the Department should recognize if it continues to recognize emotional support animals. Some public commenters and disability advocacy organizations favor the Department's current species requirement for emotional support animals, which does not limit species except with respect to unusual species such as snakes, other reptiles, fetters, rodents, and spiders.[67] Conversely, other individual commenters and disability advocates urge the Department to recognize only dogs and miniature horses as emotional support animals.

The majority of disability advocacy organizations and public commenters, however, are split between favoring a requirement that dogs and cats be recognized as emotional support animals and favoring a requirement that dogs, cats, and rabbits be recognized as emotional support animals because, as noted by these organizations, dogs, cats and rabbits are the most commonly used species of emotional support animal. A small contingent of disability advocacy organizations encourage the Department to allow airlines to limit emotional support animals to animals that have been trained to behave properly in public, rather than specifying a species in the rule. Finally, one advocacy organization argues that all trained or domesticated emotional support animals should be permitted to be recognized as a service animal under DOT's ACAA rule.

Most airlines commented that they should only be required to carry dogs as emotional support animals if the Department continues to recognize emotional support animals, although some also support permitting miniature horses, subject to airline pre-approval. One airline suggests that cats be allowed as emotional support animals if the Department continues to recognize emotional support animals.

DOT Response

Definition of a Service Animal

The Department proposes in this NPRM to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability. This definition is similar to DOJ's definition of a service animal under Title II and Title III of the ADA.[68] DOJ's Title II rules for State and local governments govern airports owned by a public entity and DOJ's Title III rules for public accommodations and commercial facilities govern privately owned airports and airport facilities. Under DOT's proposed service animal definition, like DOJ's service animal definition in its ADA rules, emotional support animals would not be recognized as service animals as they are not trained to do work or perform a task for the benefit of an individual with a disability. The Department's proposal is intended to align DOT's ACAA definition of a service animal with the service animal definition established by DOJ in its rules implementing the ADA and thereby decrease confusion for individuals with disabilities, airline personnel, and airports. While the Department proposes to allow airlines to treat emotional support animals as pets rather than service animals, airlines could choose to continue to recognize emotional support animals and transport them for free pursuant to an airline's established policy. The Department seeks comment on its proposed service animal definition, which does not recognize emotional support animals and limits the species that qualify as service animals to dogs.

Although the NPRM proposes not to treat emotional support animals as service animals, the Department seeks further comment on whether the Department should recognize emotional support animals as an accommodation for individuals with disabilities that would be regulated separately and distinctly from service animals. The Department recognizes that we have already received considerable feedback on this topic during the comment period to the ANPRM; individuals and organizations need not re-submit those same comments during the comment period to this NPRM. The NPRM solicits comment on whether, and to what extent, the proposal not to recognize emotional support animals would impact the ability of individuals with disabilities who rely on emotional support animals to travel via aircraft. The Department seeks comment on whether individuals with disabilities who use emotional support animals to mitigate their disabilities would be less likely to travel by air if they are no longer permitted to travel with their emotional support animal. Furthermore, since airlines would be permitted to treat emotional support animals as pets, the Department requests information from airlines on whether individuals would be able to transport emotional support cats or other small animals as pets in the cabin for a fee and whether there are limits on the number of pets an airline would allow per flight which could impact their transport.

Some commenters have noted that emotional support animal users who have a mental health disability may train their dogs to do work or perform a task to assist them with their disability, thereby transforming the animal from an emotional support animal to a psychiatric service animal. The Department requests comment as to whether the Department should recognize this option and, if so, whether the availability of this option would mitigate any negative impact of this proposal on users of emotional support dogs.

Alternatively, if the Department decides not to adopt the definition of service animal as proposed (and instead adopts a final rule that continues to recognize emotional support animals), the Department requests comment on whether emotional support animals are more likely to misbehave in comparison to traditional service animals because they have not been trained to mitigate a disability. While one solution suggested by commenters is to permit airlines to require stricter documentation for emotional support animal users (*e.g.,* forms completed and signed by a medical practitioner such as a doctor or nurse practitioner, verification of in-person treatment by a medical practitioner, and verification that the patient has or will receive ongoing treatment from the medical practitioner), others expressed concern that these stricter measures may impose unnecessary burdens on passengers with disabilities. The Department requests comment on whether stricter documentation for emotional support animal users would be effective in decreasing the likelihood of fraud by businesses seeking to profit by guaranteeing emotional support animal

[67] 14 CFR 382.117(f).

[68] See 28 CFR 35.104 and 28 CFR 36.104.

documentation to individuals traveling with pets.

The Department also seeks comment on how limiting emotional support animals to dogs and cats might impact individuals with disabilities who rely on other species of animals to accommodate their disability. It is the Department's understanding that dogs currently represent the majority (approximately 90 percent) of service animals transported on aircraft (including emotional support animals) and cats are the second largest species used as emotional support animals. As such, the Department seeks comment on how individuals who rely on emotional support cats would be impacted should the Department decide not to recognize emotional support animals or only recognize emotional support dogs.

Finally, if the Department decides not to adopt the definition of service animal as proposed (and instead adopts a final rule that continues to recognize emotional support animals), the Department seeks comment on whether airlines should be allowed to require that emotional support animals be contained in an FAA-approved in-cabin pet carrier in the airport and on the aircraft and whether providing passengers the ability to open the carrier and touch the animal is sufficient disability mitigation, even if the animal is required to remain in its carrier for the duration of a flight. The Department also seeks comment on whether to allow airlines to accept only those emotional support animals that fit in in-cabin pet carriers that are consistent with applicable FAA regulations and, if so, the impact of limiting the size of emotional support animals. Finally, the Department seeks comment on whether limiting emotional support animals to one per passenger would sufficiently mitigate a passenger's disability on a flight or at the passenger's destination.

4. Psychiatric Service Animals

Current Requirements

The Department's current ACAA regulation allows airlines to treat psychiatric service animals and emotional support animals differently from other animals that assist individuals with disabilities.[69] Similar to emotional support animals, airlines are permitted to require psychiatric service animal users to provide medical documentation to prove the passenger's need for the psychiatric service animal, to provide 48—hours advance notice prior to travel, and check-in one hour before the check-in time for the general public.[70]

The ANPRM

In the ANPRM, the Department solicited comment on whether it should amend its service animal regulation to ensure individuals traveling with psychiatric service animals are not subject to more burdensome requirements than passengers traveling with other service animals that do work or perform a task to mitigate a disability. More specifically, the Department sought comment in the ANPRM on whether it should amend its service animal regulations no longer to permit airlines to require medical documentation, 48—hours advance notice of travel, or check-in in one hour before the general public for psychiatric service animal users.[71]

The Department also requested comment on whether there may be a valid basis for allowing airlines to treat individuals traveling with psychiatric service animals differently from individuals traveling with traditional service animals.[72] The Department inquired about the practical implications of no longer permitting airlines to require medical documentation from psychiatric service animal users if the ACAA rule were to treat psychiatric service animals like other service animals.[73] The Department sought comment in the ANPRM on whether airline personnel would be able to distinguish between a psychiatric service animal and an emotional support animal should the Department amend its regulation to treat psychiatric service animals like other service animals that do work or perform tasks.[74] Further, to gauge whether the problem of individuals' falsely claiming to have a mental-health-related condition is greater than the problem of individuals' falsely claiming other hidden disabilities, such as a seizure disorder, to avoid paying airline pet fees, the Department sought comment on what, if any, experience airlines have had with passengers' claiming to have a seizure disorder, diabetes, or non-mental-health-related condition, and fraudulently attempting to travel with their pets as service animals.[75] In addition, the Department sought feedback on alternatives to a medical documentation requirement that would prove the passenger's need for a psychiatric service animal.[76]

Comments Received

Most commenters support an ACAA definition of a service animal that treats psychiatric service animals the same as other service animals that do work or perform a task. The National Disability Rights Network commented that treating psychiatric service animals the same as other tasked-trained service animals is fair because treating them differently perpetuates the myth that psychiatric service animals are inferior to service animals used to mitigate other types of disabilities.[77] Similarly, American Airlines commented that psychiatric service animals should be treated the same as other service animals trained to do work or perform a task because psychiatric service animals are professional working dogs.[78] American Airlines also commented that treating psychiatric service animals the same as other task-trained service animals would provide consistency between the DOT's ACAA regulation and DOJ's ADA regulations.

A4A urged the Department to treat psychiatric service animals the same as other task-trained service animals and no longer to recognize emotional support animals.[79] But A4A encourages the Department to dispense with the medical documentation and advance notice allowance for psychiatric service animal users for only a one-year review period. A4A reasoned that removing the documentation and advance notice allowance for psychiatric service animals may encourage pet owners, who once claimed that their pets were emotional support animals, to pivot to claiming that their pets are psychiatric service animals to avoid airline pet fees and to travel with their pets in the cabin. A4A suggests allowing airlines to collect data during the one-year review period and if enough evidence exists to suggest that some pet owners are falsely representing their pets as psychiatric service animals after the one-year period, airlines should be allowed to request medical documentation, and proof of training and/or vaccination from psychiatric service animal users.

Some U.S. carriers disagree with treating psychiatric service animals the

[69] *See* 14 CFR 382.117(e).

[70] 14 CFR 382.27(c)(8).

[71] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23838).

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *Id.*

[77] Comment of National Disability Rights Network, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4307.*

[78] Comment of American Airlines, Inc. *https://www.regulations.gov/document?D=DOT-OST-2018-0068-3507.*

[79] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

same as traditional service animals and encourage the Department to continue to allow airlines to require documentation and advance notice from psychiatric service animal users. United Airlines states that the Department should ''retain (and consider strengthening) documentation provisions for [psychiatric service animals] in the event that it becomes apparent that individuals without disabilities are attempting to assert that their untrained pets are [psychiatric service animals].'' [80] Spirit Airlines commented that psychiatric service animals do not receive the same level of training as ''true'' service animals, which are subjected to training to attend to their 'handlers' needs, specifically in the area of obedience training.[81] Spirit Airlines also expressed concerns that dispensing with the documentation requirement for psychiatric service animals would result in more animals being transported for free as airlines would only be able to rely on a passenger's verbal assurances that the animal was a service animal and not a pet.

DOT Response

As discussed above, the Department proposes to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability. Because psychiatric service animals are trained to do work or perform tasks for an individual with a disability, the Department proposes to treat psychiatric service animals the same as other service animals trained to do work or perform tasks. The Department proposes this change not only to harmonize DOT's ACAA service animal definition with DOJ's ADA service animal definition, which, as noted above, defines a service animal as one that is individually trained to do work or perform tasks for the benefit of an individual with a disability, but also because the rationale for having a different regulatory requirement for users of psychiatric service animals is weak. The current medical documentation, 48 hours' advance notice, and check-in requirements for psychiatric service animal users were adopted in the Department's 2008 amendment to the ACAA rule to address concerns raised about passengers falsely claiming to have a mental health condition in order to pass off their pets as service animals. While the Department is aware of concerns about passengers who falsely claim to have a mental health condition that may require the use of a service animal, unscrupulous passengers may also falsely claim to have other hidden disabilities such as seizure disorder or diabetes to pass off their pets as service animals and avoid paying airline pet fees. Thus, we believe that the justification for treating service animal users with mental or emotional disabilities different from service animal users with other hidden disabilities is currently lacking.

If the rule is adopted as proposed, the Department would monitor the experience of airlines in accommodating the use of service animals for those passengers with mental-health needs who depend upon such service animals. We would consider revisiting whether it is reasonable and appropriate to allow additional requirements for the use of such animals if there is a demonstrated need—for example, if there is a notable increase in instances of passengers falsely representing pets as mental-health-related service animals.

5. Large Service Animals

Current Requirements

The Department's current regulation allows airlines to determine whether factors preclude a given service animal from being transported in the cabin, including whether the animal is too large or too heavy to be accommodated in the cabin. Under this rule, an animal may be excluded from the cabin if it is too large or too heavy to be accommodated in the specific aircraft at issue.

However, the Department's guidance on the issue of a service animal's encroaching on the foot space of a passenger is not clear. DOT has previously stated that service animals may be ''placed at the feet of a person with a disability at any bulkhead seat or in any other seat as long as when the animal is seated/placed/curled up on the floor, no part of the animal extends into the main aisle(s) of the aircraft, the service animal is not at an emergency exit seat, and the service animal does not extend into the foot space of another passenger seated nearby who does not wish to share foot space with the service animal.'' [82] DOT has also stated that a service animal may need to use a reasonable portion of an adjacent seat's foot space that does not deny another passenger effective use of the space for his or her feet by taking all or most of the passenger's foot space.[83] The Department advised airlines to seek out and seat the individual with a disability next to a passenger willing to share foot space with the animal. The Department also advised airlines to reseat passengers traveling with a service animal in a location on the aircraft where the service animal can be accommodated—*e.g.,* next to an empty seat. Finally, DOT advised airlines that if there are no alternatives available to enable the passenger to travel with the service animal in the cabin on that flight, the carrier should offer the passenger the option of either transporting the service animal in the cargo hold or on a later flight with more room.[84]

The ANPRM

In the ANPRM, the Department sought comment on whether to allow airlines to limit the size of service animals that travel in the cabin, and the implications of such a decision.[85] Airlines had previously indicated to the Department that some passengers have felt coerced when asked by the airline, in front of other passengers on aircraft, to share their space with a service animal and they may have agreed to share space even if they did not wish to so. As such, the Department sought comment on whether passengers find it burdensome to share foot space on the aircraft with service animals.

Comments Received

The comments received by disability advocates uniformly discourage the Department from adopting a rule that would allow airlines to limit the size of service animals on an aircraft. Disability advocates argue that aircraft seat sizes have shrunk, and continue to shrink, and that the Department should adopt a rule that prohibits airlines from decreasing seat size rather than allowing airlines to limit the size of service

[80] Comment of United Airlines, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4283.*

[81] Comment of Spirit Airlines, Inc., *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4226.*

[82] See FAA Order 8900.1, Vol. 3, Ch. 33, Section 6 at ¶ 3–3576 (March 5, 2019), *http://fsims.faa.gov/wdocs/8900.1/v03%20tech%20admin/chapter%2033/s_03_033_006.pdf* and FAA Guidance, What Airline Employees, Airline Contractors, and Air Travelers with Disabilities Need to Know About Access to Air Travel for Persons with Disabilities, A Guide to the Air Carrier Access Act (ACAA) and its implementing regulations, 14 CFR part 382 (part 382), *https://www.transportation.gov/sites/dot.gov/files/docs/TAM-07-15-05_0.pdf.*

[83] See 73 FR 27614, 27634, ''The fact that a service animal may need to use a reasonable portion of an adjacent seat's foot space—that does not deny another passenger effective use of the space for his or her feet—is not, however, an adequate reason for the carrier to refuse to permit the animal to accompany its user at his or her seat.''

[84] See 73 FR 27614, 27661.

[85] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23841.

animals. Furthermore, disability advocates argue that there is little evidence to show that large service animals pose a greater safety risk than small service animals on aircraft and that limiting the size of service animals would be disproportionately unfair to individuals with mobility impairments who use larger animals to mitigate their disability.

Airlines, however, argue that it is unfair to paying passengers to be forced to share their limited space on the aircraft with a large service animal. Airlines also believe that limiting the size of service animals would decrease burdens on flight attendants, as flight attendants must spend time rearranging passengers to accommodate large animals and flight crew frequently suffer the ire of passengers unhappy with having to move or being asked to share their foot space with an animal.

Airlines also argue that the carriage of large animals in the cabin violates FAA safety requirements, which require that aisles and other passageways be free of obstructions to allow all passengers egress in the case of an emergency. A4A, RAA, and IATA commented that allowing large untrained emotional support animals in the cabin threatens the safety and health of other passengers on aircraft.[86] Finally, AFA commented that airlines should be allowed to limit the size of service animals on aircraft, but the limitation should be based on the aircraft type and the available space in the cabin.[87]

DOT Response

The Department proposes to allow airlines to place size limitations on service animals to the extent that the animal must fit within the passenger's foot space on the aircraft or can be placed on the passenger's lap. While the Department is sensitive to the fact that many large service animals, such as German Shepherds, Golden Retrievers, and Labrador Retrievers, tend to accompany individuals with disabilities, particularly individuals with mobility impairments, these animals are often trained to fit into small spaces. The Department seeks comment on its proposal to limit the size of service animals based on whether the animal can fit into the foot space afforded to the passenger on that particular aircraft type, or on whether the service animal is no larger than a lap-held child and can be placed on the passenger's lap.

In instances where an animal is too large to fit in the passenger's foot space or be placed on the passenger's lap, the Department proposes to require airlines to seat the passenger traveling with a service animal next to an empty seat within the same class of service where the animal can be accommodated, if such a seat is available. If there are no empty seats available to allow a passenger to travel with the service animal in the cabin on the passenger's scheduled flight, the Department proposes to require airlines to provide passengers the option to transport the animal in the cargo hold for free, or to transport the passenger on a later flight with more room if available. The Department seeks comment on these proposals.

6. Number of Service Animals per Passenger

Current Requirements

Under the Department's current service animal regulation, it is not clear how many service animals may accompany a single passenger on an aircraft. Section 382.117(a) states that an airline ''must permit *a* service animal to accompany *a* passenger with a disability'' (emphases added). While this language could be read as suggesting that an airline is only required to transport one service animal per passenger, section 382.117(i) references guidance concerning carriage of service animals, which does not have independent mandatory effect, but rather describes how the Department understands the requirements of section 382.117. That guidance states, ''A single passenger legitimately may have two or more service animals.'' See 73 FR 27614, 27661 (May 13, 2008). In its Final Statement of Enforcement Priorities Regarding Service Animals, the Department's Enforcement Office stated that it would focus its enforcement efforts on ensuring that airlines are not restricting a single passenger from traveling with a total of three service animals if needed.[88] While the Department's disability regulation does not specify how many service animals may travel with a passenger with a disability, it does not allow airlines to deny transport to a service animal accompanying a passenger with a disability because of a limit on the total number of service animals that can be on a flight.[89]

The ANPRM

In the ANPRM, the Department sought comment on whether to limit the number of service animals that a single passenger with a disability may carry onboard a flight and how many service animals should be permitted to accompany a single passenger with a disability. DOT also sought comment on whether airlines should allow passengers to justify the need for more than a single animal, and what the parameters of such a justification should be.[90]

Comments Received

Most disability advocates commented that airlines should be required to allow at least two service animals to travel with a single passenger if needed. Advocates reason that some individuals have multiple disabilities and that while some animals have been trained to perform multiple tasks, some individuals with disabilities may need animals that are focused on mitigating a specific disability for the mitigation to be effective. Airlines, however, commented that they should be permitted to limit the number of service animals traveling with a passenger to one service animal. Airlines argue that allowing one service animal per passenger helps support safety and would help to avoid disruptions in the cabin. Airlines also argue that given the space afforded to individual passengers on aircraft, transporting more than one service animal could be problematic.

DOT Response

The Department proposes to limit the number of service animals traveling with a single passenger with a disability to no more than two service animals. The Department acknowledges comments from disability rights advocates that certain individuals with disabilities require more than one service animal, and while a single service animal may be trained to perform more than one mitigating function, more than one service animal may be needed to assist an individual on the aircraft or at the passenger's

[86] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[87] Comment of the Association of Flight Attendants, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4207.*

[88] Final Statement of Enforcement Priorities Regarding Service Animals, 84 FR 43480 (August 21, 2019).

[89] For example, if Ms. Smith needs to travel with a service dog, an airline cannot deny transport to that service dog because the airline believes that there are already too many service dogs on the aircraft. Section 382.117(a) requires airlines to permit a service animal to accompany a passenger with a disability. Section 382.17 prohibits airlines from limiting the number of passengers with a disability on a flight.

[90] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23840.

destination if the passenger uses the animals for lengthy periods of time (*e.g.,* if one animal may need a break from work). Furthermore, disability advocate commenters noted that while a service animal may be trained to assist an individual with multiple disabilities, a passenger's animal may need to focus on mitigating one disability at a time for the mitigation to be effective so multiple animals may be needed at once. For those passengers who seek accommodation for two service animals, the airline would be permitted to require the passenger to complete two separate attestation forms, one for each animal, to verify that each qualifies for appropriate accommodation as a service animal to accompany the passenger on the flight.

In response to the carriers' argument regarding the lack of space in the cabin to accommodate a passenger traveling with two service animals, the Department notes that this NPRM does not propose that an airline be required to provide an individual with two service animals with additional space but would require the airline to allow the individual to use all his or her allotted space without encroaching into the space of another passenger. Airlines may refuse transportation to the animals in the cabin if the animals would not safely fit in the passenger's lap or foot space. The Department seeks comment on its proposal to limit the number of service animals traveling with a single individual with a disability to two animals, specifically including whether there are compelling safety-related reasons to limit each qualifying passenger to no more than one service animal.

7. Service Animal Restraints

Current Requirements

The Department's current rule does not clearly specify whether or how airlines may restrict the movement of service animals in the cabin. However, the Department has issued guidance that service animal users are expected under the Department's current ACAA service animal rule to maintain control of their animals both in the airport and on aircraft. In the Final Statement of Enforcement Priorities Regarding Service Animals, the Department's Enforcement Office also noted that, in general, tethering and similar means of controlling an animal that are permitted in the ADA context would appear to be reasonable in the context of controlling service animals in the aircraft cabin.

The ANPRM

Because of the potential safety risks associated with transporting unrestrained animals, including both the risks to the well-being of other passengers and crew as well as the risks of interfering with the safe and efficient operation of the aircraft, DOT sought comment on whether its service animal rule should explicitly state that service animals must be harnessed, leashed, tethered, or otherwise under the control of its handler or whether it is reasonable for airlines to make this requirement a condition of providing air transportation.[91] DOT also sought comment on whether a leash, tether, harness or other restraint device would increase safety on aircraft.[92] Finally, the Department sought general feedback on the advantages and disadvantages of adopting such a requirement.[93]

Comments Received

Airlines, disability advocates, organizations, and individual commenters were unified in their support that the Department adopt a requirement that requires service animals to be harnessed, leashed, tethered, or otherwise under the control of the service animal user. A4A, RAA, and IATA, commented that if harnessing, leashing, and tethering is appropriate for trained animals under the ADA, a similar requirement is appropriate for service animals on aircraft.[94] A number of commenters also recognized that a control requirement is especially crucial in the airport/aircraft environment given the high-stakes nature of air transportation.

Some airlines recommended muzzling as a form of control, although some advocates discouraged muzzling as an acceptable restraint measure because it may limit a service animal's ability to breathe properly. But even those advocacy groups that opposed muzzling supported a requirement that service animals be under the control of an individual with a disability at all times. Some disability advocates also recommend that DOT, similar to DOJ, should permit service animal handlers to exercise voice command over service animals as a means of control if a service animal needs to be free from a restraint device to mitigate a passenger's disability.

DOT Response

The Department proposes to allow airlines to require service animals to be harnessed, leashed, or tethered unless the device interferes with the service animal's work or the passenger's disability prevents use of these devices. In that case, the carrier must permit the passenger to use voice, signal, or other effective means to maintain control of the service animal. This proposal is similar to the requirement in DOJ's rule implementing the ADA, which requires service animals to be harnessed, leashed or tethered while in public places unless the device interferes with the animal's work.[95]

While the Department always anticipated that a service animal would be under the constant control of its handler during air transportation, the Department was persuaded to propose that the rule include a provision on service animal restraints given the increased concern of animal misbehavior on aircraft. Specifically, the Department is proposing to allow airlines to determine that an animal is not a service animal if it is not under the control of its handler. The Department's proposal to allow airlines to determine that an animal is not a service animal if it is not under the control of its handler differs from DOJ's approach. DOJ's regulations do not allow covered entities to determine that such animal is ''not a service animal.'' DOJ's ADA regulations do, however, allow covered entities to exclude a service animal if the animal is out of control and the animal's handler does not take effective action to control it.[96]

In addition, the DOT Air Transportation Service Animal Behavior and Attestation Form, which airlines may require of passengers with disabilities seeking to travel with a service animal on aircraft, includes a statement that the passenger understands that the animal must be harnessed, leashed, or tethered, unless the passenger is unable because of a disability to use a harness, leash or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In such cases, the animal must otherwise be under the handler's control through voice, signals, or other effective means.

The Department proposes to define a service animal handler as a qualified individual with a disability who receives assistance from a service animal(s) that does work or performs

[91] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23840.

[92] *Id.*

[93] *Id.*

[94] Comment of Airlines for America, Regional Airline Association, and International Air Transport Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4288.*

[95] See 28 CFR 35.136(d); 28 CFR 36.302(c)(4).

[96] See 28 CFR 35.136(b)(1); 28 CFR 36.302(c)(2)(i).

tasks that are directly related to the individual's disability, or a safety assistant, as described in section 382.29(b),[97] who accompanies an individual with a disability traveling with a service animal(s). The service animal handler is responsible for keeping the service animal under control at all times, and caring for and supervising the service animal, which includes toileting and feeding. The DOT proposed definition of a service animal handler differs from DOJ's technical assistance, which states that a service animal handler can be either an individual with a disability or a third party who accompanies the individual with a disability.[98] The Department proposes to limit service animal handlers to individuals with disabilities and their safety assistants, which are required to travel with those individuals with a disability who are unable to assist in their own evacuation from the aircraft, in order to make clear that service animal trainers traveling with trained service animals not serving as a safety assistant for a passenger with a disability, and other passengers traveling with an individual with a disability on aircraft, would not be considered service animal handlers under the ACAA rules. The Department recognizes that there may be occasions where an individual with a disability who does not require a safety assistant must rely on a third party to control their service animal during air travel, *e.g.,* a small child who uses a service animal or a passenger with a disability capable of assisting with their own evacuation, but incapable of controlling or caring for their service animal. The Department seeks comment generally on its decision to define the term ''service animal handler'' and seeks comments on its proposed definition. The Department also seeks comment on what impact, if any, its exclusion of third parties as service animal handlers might have on individuals with disabilities traveling on aircraft with a service animal.

The Department seeks comment on its proposal to allow airlines to require that service animals be under the service animal user's constant control, via restraint devices or, if the restraint device interferes with the animal's work or the handler is unable because of a disability to use the restraint device, by voice command, signals, or other effective means. The Department also seeks comment on whether in-cabin pet carriers that are consistent with applicable FAA regulations should be included in the rule as an optional service-animal restraint device if the final rule recognizes emotional support animals.

8. Service Animal Documentation

Current Requirements

While the Department's current rule sets forth the type of medical documentation that airlines may request from emotional support and psychiatric service animal users to reduce likelihood of abuse by passengers wishing to travel with their pets, the regulation does not explicitly permit or prohibit the use of additional documentation related to a service animal's vaccination, training, or behavior. Moreover, while Part 382 permits airlines to determine, in advance of flight, whether any service animal poses a direct threat, the rule does not clearly indicate how airlines must make that assessment—for example, behavioral assessments or information from a service animal user's veterinarian.

The ANPRM

Airlines have asserted that the risk to passenger safety is increasing. In the ANPRM, the Department sought data on the number of service animal-related incidents of misbehavior on aircraft and what amount of increase in animal misbehavior was sufficient to warrant a requirement for animal health records and behavior forms.[99] The Department also sought comment on whether it should amend its service animal regulation to allow airlines to require that service animal users attest that their animal can behave properly in a public setting, whether airlines should be permitted to require the attestation in advance, the impacts that a behavior attestation requirement would have on individuals with disabilities, and alternatives to a behavioral attestation that would allow airlines to assess an animal's behavior.[100]

The Department was interested in knowing whether a behavior attestation would reduce the safety risk for passengers, crewmember, and other service animals on aircraft. Furthermore, recognizing that DOJ's ADA regulation prohibits covered entities from requiring service animal users to provide documentation, the Department sought comment on whether DOT should have a different standard from the ADA given the unique nature of air transportation.[101]

With respect to animal health records, the Department sought comment on what burdens, if any, would exist should the Department allow airlines to require individuals with disabilities to submit veterinary forms and related animal health documentation.[102] The Department also sought comment on whether an airline should be permitted to require animal health forms as a condition of travel, or whether the airline should be required to conduct an individualized assessment of the animal's behavior based solely on its observations to assess whether the animal poses a direct threat to humans, before requiring these forms.[103] Finally, the Department sought comment on whether airlines should be able to require passengers to obtain signed statements from veterinarians about an animal's behavior.

Comments Received

Behavior/Training Attestations

The majority of public commenters and disability advocacy organizations that commented on this issue oppose the use of behavior/training attestations as a measure of ensuring that a service animal has been trained to, or will, behave appropriately in public and on the aircraft. These groups argue that attestation documents are ineffective and do not provide realistic assurances that an animal will behave appropriately as passengers can easily lie that their animal has been trained to behave properly in public. Others who oppose this form argue that filling out behavior/training attestations is burdensome as each airline has its own unique form, and it is difficult to follow each airline's individual policy. Furthermore, some groups note that some airline websites make it difficult to submit these forms to the airline prior to travel. These groups also oppose behavior/training attestations on the basis that these practices are inconsistent with the ADA and that service animal users do not have to provide attestations to travel by train or other modes of transportation.

Some disability advocates are in favor of behavior/training attestations, but

[97] The term ''safety assistant'' is used in the Department's disability regulation. See 14 CFR 382.29(b).

[98] See Frequently Asked Questions about Service Animals and the ADA, Questions 27, available at *https://www.ada.gov/regs2010/service_animal_qa.html,* (July 20, 2015), ''The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability.'' *https://www.ada.gov/regs2010/service_animal_qa.html.*

[99] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23840.

[100] *Id.*

[101] *Id.*

[102] *Id.* at 23841.

[103] *Id.*

only for emotional support animals arguing that emotional support animals, which are not trained to do work or perform a task, have likely received less, if any, public-access training. Further, a few disability advocates oppose the behavior/training attestations that some airlines currently have in place, but they support a ''decision tree'' approach, which is a sequence of questions that service animal users would be prompted to complete as a condition of travel. As explained in a comment filed by PSDP, the decision-tree approach is designed to confirm that service animals have been trained to behave properly on aircraft and to ensure that users are educated on the requirements for traveling with service animals on aircraft.[104] Finally, Autism Speaks is in favor of behavior/training attestations for all service animal users but urges the Department to develop unified attestation requirements to decrease confusion for service animal users.[105]

Some airlines broadly support behavior and training attestations for service animal users, or support attestations for only emotional support and psychiatric service animal users. These airlines argue that behavior/training attestations eliminate the need for airline personnel to observe and evaluate a service animal's behavior in the airport, a task that airline personnel are often not qualified to perform and that is burdensome given their primary responsibilities. Furthermore, these airlines argue that the Department's service animal guidance currently requires that service animals be trained to behave appropriately in public, and behavior/training attestations are a means of ensuring that service animal users are aware of this requirement and aware that if their animal is not trained, the animal may be removed from the aircraft or treated like a pet. Some airlines, however, only support behavior/training attestations in the event that the Department continues to recognize emotional support animals.

Animal Health Records

The majority of disability advocates who commented oppose a requirement that allows airlines to require service animal users to produce animal health information as a condition of transportation. These groups argue that requiring service animal users to produce animal health information, which must be completed by a third party, is costly and would pose unnecessary burdens on individuals with disabilities, especially on those service animal users who are not currently required to produce any documentation when traveling on aircraft. Furthermore, these groups argue that animal health information is not helpful in determining if an animal poses a direct threat. Finally, these groups argue that requiring animal health information is excessive, as airlines have provided no evidence that passengers on aircraft have contracted rabies or other diseases from service animals or that service animal users have refused to provide animal health information in cases where a service animal has bitten or injured someone on an aircraft.

Some disability rights advocates are also concerned that if service animal users are required to provide airlines with animal health records, users will be unable to check-in for travel online or travel seamlessly through the airport to their gate. While there are a few advocacy organizations that support an animal health form requirement for service animal users, this support is limited to information regarding the animal's rabies vaccinations.

Conversely, many airlines, an animal health organization, a flight attendant association and most individual commenters who commented on this issue support a requirement that would allow airlines to require animal health information from service animal users. Similar to the rationale used by airlines in support of behavior/training attestations, airlines argue that animal health information is a reasonable means to determine if an animal presents a direct threat to the health and safety of individuals on aircraft. Airlines also argue that in the event a service animal bites an individual on an aircraft, proof of up-to-date vaccinations will prevent the need for the injured passenger to undergo unnecessary and painful treatments for certain diseases, *e.g.,* rabies, although according to the Center for Disease Control and Prevention (CDC), any dog that bites an individual should be assessed and monitored by a local or state health department over a 10-day period irrespective of whether there is proof that the animal has been vaccinated. Airlines also argue that providing animal health information is not burdensome as most, if not all, States and localities already require that animals be vaccinated.

In a joint comment filed by Avianca, Avianca Costa Rica, Aviateca, TACA, and TACA Peru, these carriers note that many ''foreign carriers, currently have a general requirement for veterinary certification as a condition of transport.'' These carriers further state that ''[m]any foreign countries require veterinary certification for all animals entering the country, including all service animals'' and that ''DOT should clarify in any rulemaking that carriers may require veterinary certification for all service animals as a condition for entry into all countries that require such certification.''[106]

One animal health organization supports allowing airlines to require proof of rabies vaccinations arguing that these vaccinations are necessary to protect both animal and public health.[107] Furthermore, certain airline organizations support an animal health record allowance if the Department decides to recognize emotional support animals. These organizations reason that emotional support animal users should provide information on their animal's health as a matter of public safety and public health as these untrained animals are in close proximity to passengers, airline crewmember, other staff, and, sometimes, other animals. While the American Association of Airport Executives (AAAE) is in favor of allowing airlines to verify that an animal has been vaccinated, this organization believes that if the Department chose not to recognize emotional support animals, allowing airlines to require proof may not be necessary as the risk to passengers would automatically decrease.[108]

DOT Response

After carefully reviewing the comments received, the Department is proposing to allow airlines to require individuals traveling with a service animal to provide to the airlines standardized documentation of the service animal's behavior, training, and health. Also, if the service animal would be on a flight segment that is longer than 8 hours, the Department is proposing to allow a standard form attesting that the animal will not need to relieve itself or can relieve itself in a way that does not create a health or sanitation risk. The Department proposes that these forms be the only forms of documentation that an airline can require of a passenger traveling with a service animal. In other words, under this proposed rule, an

[104] Comment of Psychiatric Service Dog Partners, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-3117.*

[105] Comment of Autism Speaks, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4268.*

[106] Comment of Avianca Carriers, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4289.*

[107] Comment of American Veterinarian Medical Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4276.*

[108] Comment of the American Association of Airport Executives, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4138.*

airline would not be required to ask a passenger traveling with a service animal for any documentation but, if they choose to do so, the airline must use the forms established by the Department. The Department seeks comment on whether airlines should be allowed to create their own forms or if uniformity would be more helpful. Are there other existing forms that could be utilized such that the establishment of departmental forms would be unnecessarily duplicative?

First, the Department proposes to allow airlines to require passengers seeking to travel with service animals to submit to the airline, as a condition of accepting the animal as a service animal for travel, a DOT Air Transportation Service Animal Behavior and Training Attestation Form, which is a form to be completed by the passenger. This form would provide assurance that the service animal traveling on the aircraft has been individually trained to do work or perform tasks for the benefit of the passenger with a disability and has been trained to behave properly in public, and that the user is aware that the service animal must be under his or her control at all times. The Department agrees with comments from airlines that airline personnel are often unable to observe service animals sufficiently prior to a flight in the fast-paced airport environment to determine whether the service animal would be a direct threat to the health or safety of others. Further, the Department believes that the form would serve as a deterrent for individuals who might otherwise seek to claim falsely that their pets are service animals, as those individuals may be less likely to falsify a Federal form. The Department seeks comment on its proposal to allow airlines to require all service animal users to provide this form to airlines and on whether this form would be effective in ensuring that service animals have been properly trained and in deterring individuals from misrepresenting their pets as service animals on aircraft.

The Department understands that this form would impose a burden on those individuals traveling with traditional service animals who are not currently required to provide documentation. The Department seeks comment from the public on ways to reduce the burden that the Department's behavior and training form would have on passengers with disabilities. Should airlines be allowed to require the form each time a service animal user travels, even for round-trip flights? What medium should airlines use, *e.g.,* hardcopy, electronic, email, to provide and collect this form from passengers with disabilities? Also, are there privacy concerns that airlines should consider? Furthermore, the Department seeks comment on whether the questions in this form would help an airline determine whether an animal has been adequately and properly trained, and whether the form adequately educates passengers on how a service animal is expected to behave, the consequences of a misbehaving service animal, and the seriousness of falsifying the DOT form. The Department seeks comment on whether it should allow airlines to require only emotional support animal users to complete such an attestation form, in the event the Department were to continue to require airlines to transport emotional support animals. Finally, the Department seeks comment on the general content and layout of the form, which is provided below.

BILLING CODE 4910–9X–P

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it deplays a valid OMB control number. The OMB control number for this information collection is _____.

Warning: It is a Federal crime to make materially false, fitictious, or fraudlent statements, entries or representations knowingly and willfully on this form to secure disability accomodations provided under regulations of the United States Department of Transportation (18 U.S.C.§ 1001).

United States Department of Transportation Air Transportation Service Animal Behavior and Training Attestation Form

Service Animal Handler's Name: _____

Address: _____

Phone Number: _____ Email Address: _____

Animal's Name: _____ Has your animal flown before? Circle YES or NO

Check the following boxes to certify:

☐ I certify that my animal has been individually trained to do work or perform tasks to assist me with my disability and has been trained to behave well in a public setting without aggression toward humans or other animals.**

☐ I understand that my animal must be harnessed, leashed, or tethered, unless I am unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In such cases, I understand that my animal must otherwise be under my control at all times through voice, signals or other effective means.

☐ I understand that if my service animal engages in disruptive behavior that shows that it has not been successfully trained to behave properly in a public setting, airlines are permitted to treat my animal as a pet.

☐ I understand that airlines may charge passengers with disabilities traveling with service animals for the cost to repair any damage caused by a passenger's service animal so long as the airline charges passengers without disabilities for the same kind of damage.

☐ I understand that I am committing fraud by knowingly making false statements to secure disability accommodations provided under regulations of the U.S. Department of Transportation.

Signature of the Animal Handler _____ Date _____

** A service animal that is trained to behave in a public setting will remain under the control of its handler. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons on the aircraft, bite, jump on, or cause injury to people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior shows that it has not been successfully trained to behave properly in a public setting, and airlines are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability.

Second, the Department proposes to allow airlines to require passengers to submit to the airline a DOT Service Animal Health Form, which is a form to be completed by the passenger's veterinarian.[109] In completing the form, the veterinarian would describe the animal, indicate whether the service animal's = rabies vaccinations are up to date and whether the animal has any known diseases or infestations, and state whether the veterinarian is aware of any aggressive behavior by the animal. The Department proposes that the form be valid for 1 year from the date of issuance. The Department seeks comment on whether 1 year is too long or too short for the vaccination form to be valid, and the reasons for this belief.

The Department modeled its DOT Service Animal Health Form after a number of State certificate of veterinary inspection (CVI) forms and the United States Department of Agriculture's (USDA) APHIS 7001 form.[110] The Department's decision to use the content of State CVI forms and the USDA APHIS 7001 form was based on a recommendation from the American Veterinary Medical Association (AVMA). The AVMA, some airlines, and other commenters have requested that the Department require all service animals to produce proof of vaccinations because of the potential threat to health and public safety that might result from the transport of unvaccinated animals on aircraft.[111] The Department agrees that requiring proof of rabies vaccinations should be permitted to help ensure that the animal does not pose a direct threat to the health and safety of others.

Airlines have expressed concerns that their inability to verify, pre-incident, that an animal has received the proper vaccinations has caused individuals bitten by service animals to undergo painful and expensive rabies treatment. The Department, along with a number of U.S. airlines, attended a meeting at the AVMA's headquarters on October 29, 2018, to discuss the potential for the airlines to create a standard form document to use to verify service animal vaccinations. The Department used information learned at this meeting, such as what vaccinations should be required to ensure the health and safety of the traveling public, the duration for which the form should be valid, and whether animals should be inspected for pests, as guidance for the content of this form. The Department seeks comment from the public on its proposal to allow airlines to require that passengers provide this vaccination form as evidence that a service animal has received the rabies vaccine and that the animal has not exhibited aggressive behavior, known to the veterinarian. The Department seeks comment on its proposal to permit airlines, as a condition of travel, to require this form and whether airlines should be able to refuse transportation to a service animal based on the information contained in the form (*e.g.,* the veterinarian discloses on the form that the animal has a history of aggressive behavior or has caused serious injury to a person or animal). The Department also seeks comment on whether the form would be effective in ensuring that the traveling public would not contract rabies from service animals should they be bitten.[112] Furthermore, the Department seeks comment on the burden on individuals traveling with service animals of allowing airlines to require the Department's service animal health form as it is the Department's understanding that USDA's APHIS 7001 form already includes the type of information contained on the proposed DOT form. Could passengers traveling with a service animals have their veterinarians complete the Department's Service Animal Air Transportation Health Form at the animal's annual physical? Should the requirement for an animal health form be limited to emotional support animal users, in the event the Department were to continue to require airlines to transport emotional support animals?

The Department's air transportation animal health form requires veterinarians to provide a physical description of the service animal. Should the Department consider allowing airlines to require passengers traveling with a service animals to provide photo identification of the service animal as an additional measure to verify a service animal's identity? Finally, the Department seeks comment on the general content and layout of the form, which is provided below, and whether airlines that require the form should accept the form in both a paper and electronic format.

[109] We note that the CDC requires that all dogs imported into the United States, including service dogs, be vaccinated for rabies if coming from a high-risk rabies country. A current list of high risk rabies countries may be found at: *https://www.cdc.gov/importation/bringing-an-animal-into-the-united-states/rabies-vaccine.html.* See 42 CFR 71.51(e).

[110] *https://www.aphis.usda.gov/library/forms/pdf/APHIS7001.pdf.*

[111] Comment of American Veterinarian Medical Association, *https://www.regulations.gov/document?D=DOT-OST-2018-0068-4276.*

[112] See the Rabies Compendium available at: *www.nsphv.org/documents/NASPHVrabiescompendium.*

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it deplays a valid OMB control number. The OMB control number for this information collection is

United States Department of Transportation
Air Transportation Service Animal Health Form

1. HANDLER'S NAME, ADDRESS, TELEPHONE NUMBER & EMAIL

2. ANIMAL IDENTIFICATION INFORMATION

It is a Federal crime to make materially false, fitictious, or fraudlent statements, entries or representations knowingly and willfully on this form to secure disability accomodations provided under regulations of the United States Department of Transportation (18 U.S.C.§ 1001).

NAME AND/OR NUMBER OR OTHER IDENTIFICATION	BREED-COMMON OR SCIENTIFIC NAME	AGE OF DOG	SEX (M, F, MN, FS)	COLOR, DISTINCTIVE MARKS OR MICROCHIP	RABIES VACCINATION TYPE (e.g. live or inactive), BRAND NAME, SERIAL NUMBER, AND MANUFACUTURER, DATE OF EXPIRATION	VACCINATION DATE	VACCINATION EXPIRATION DATE (date the vaccine expires in the dog)
(1)							
(2)							

3. REMARKS OR ADDITIONAL CERTIFICATION COMMENTS

4. VETERINARY CERTIFICATION:

☐ **To my knowledge this animal described above has not exhibited aggressive behavior or caused serious injury to other persons or animals (if you are unable to check this box, please provide an explanation in section 3 of this document).**

☐ **I certify that I have inspected the animal (s) described above on this date and the animal appears to be free of any pests, e.g. fleas and ticks, and is/are not showing signs of infectious, contagious and/or communicable diseases, which would endanger people or other animals or would endanger public health.**

☐ **To my knowledge, the animal (s) described above has/have not been exposed to rabies.**

NAME, ADDRESS, AND TELEPHONE NUMBER OF ISSUING VETERINARIAN

LICENSE NUMBER AND STATE

SIGNATURE OF ANIMAL HANDLER	DATE	SIGNATURE OF VETERINARIAN	DATE

DOT FORM _____ (2018)

THIS CERTIFICATE IS VALID ONE YEAR AFTER SIGNATURE

Third, while airlines are currently permitted to require individuals traveling with service animals on a flight segment that is longer than 8 hours to provide documentation that the animal will not need to relieve itself or can relieve itself in a way that does not create a health or sanitation risk, the Department proposes to amend this rule to allow airlines to require only a DOT Service Animal Relief Attestation Form be completed by the service animal user to attest that the animal will not create a health or sanitation risk on long flights.

The Department seeks comment on whether the DOT Service Animal Relief Attestation Form serves as adequate proof to verify that a passenger's animal will not need to relieve itself on flight segments of eight or more hours, or can relieve itself in a way that does not create a health or sanitation issue. The Department also seeks comment on the content and layout of the form, which is provided below.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it deplays a valid OMB control number. The OMB control number for this information collection is _____.

It is a Federal crime to make materially false, fitictious, or fraudlent statements, entries or representations knowingly and willfully on this form to secure disability accomodations provided under regulations of the United States Department of Transportation (18 U.S.C.§ 1001).

United States Department of Transportation
Service Animal Relief Attestation Form
Flight Segments Eight Hours or Longer

Service Animal Handler's Name: _____

Address: _____

Phone Number: _____

Email Address: _____

Flight Departure Location: _____

Flight Destination Location: _____

Check the following boxes to certify:

☐ I certify that my animal will not need to relieve itself on the flight, or

☐ I certify that my animal can relieve itself in a way that does not create a health or sanitation issue on the flight.

Describe how the animal will refrain from relieving itself, or will relieve itself without posing a health or sanitation problem (e.g., the use of a dog diaper)

_____

_____

_____

☐ I understand that airlines may charge passengers with disabilities traveling with a service animals for the cost to repair any damage caused by a passenger's service animal so long as the airline charges passengers without disabilities for similar kinds of damage.

Signature of the Animal Handler _____ Date _____

BILLING CODE 4910–9X–C

The Department also asks for comment on its proposal to prohibit airlines from requiring passengers to provide the proposed DOT health, behavior and training, and relief forms prior to the passenger's date of travel, although an airline would not be prohibited from requesting the forms so long as it was clear that passengers were

not obligated to remit the forms to the airline in advance of their travel date.

At the beginning of 2018, several airlines started requiring individuals traveling with service animals to provide service animal health forms and attestations that a passenger's service animal had been trained to behave appropriately in public. In a Final Statement of Enforcement Priorities, the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) indicated that it did not intend to take action against an airline for asking users of any type of service animal to present documentation related to the service animal's vaccination, training, or behavior, so long as it is reasonable to believe that the documentation would assist the airline in making a determination as to whether an animal poses a direct threat to the health or safety of others. The Enforcement Office explained that the existing rule permits airlines to determine, in advance of flight, whether any service animal poses a direct threat, but the rule does not clearly indicate how airlines must make that assessment. While the Department recognized that airlines may have a valid basis for requesting certain health and behavior information from individuals traveling with service animals, commenters stated that it has become burdensome and confusing for individuals with disabilities to comply with these documentation requirements because many of the airlines require different information from passengers traveling with service animals and have adopted their own unique forms and data collection methods.

The Department is proposing to require standard departmental forms to establish a uniform process for collecting data about a service dog's health as well as behavior and training from passengers traveling with a service dog. The Department is also proposing to allow airlines to require passengers with a disability to complete a DOT Service Animal Relief Attestation Form Service Animal Relief Attestation Form for flight segments of 8 hours or longer. The Department seeks comment on whether using standardized U.S. Department of Transportation forms is the best way for airlines to collect data from passengers traveling with a service dog.

The Department recognizes that these forms go beyond what DOJ allows in its ADA service animal regulations, but the Department believes that air transportation, which involves transporting a large number of people in a very confined space thousands of feet above the ground, is unique in comparison to airports, libraries, and other locations covered by Title II or Title III of the ADA. For this reason, the Department believes that a proposal allowing airlines to require all service dog users to provide these forms to assist airlines in determining whether a service dog poses a direct threat to the health or safety of others is appropriate.

Under this NPRM, the Department would prohibit airlines from requiring individuals traveling with a service animals to provide the DOT-issued forms even a day in advance of the passenger's flight because advance notice may present significant challenges to passengers with disabilities wishing to make last minute travel plans that may be necessary for work or family emergencies. However, the Department is proposing to allow airlines to require users of a service animals to check-in at the airport one hour before the check-in time at the airport for the general public to process service animal documentation so long as the airline similarly requires advance check-in for passengers traveling with their pets in the cabin. This rulemaking would also permit airlines to require that the check-in take place at any designated airport location including the terminal lobby. One concern is that service animal users would not be able to check-in electronically before arriving at the airport like other passengers and would be unable to avoid the inconvenience of long waits when checking in. To address this concern, the Department is proposing to require airlines to make an employee trained to handle disability-related matters available in-person at the airline's designated airport location to process service animal documentation promptly. The Department solicits comment on whether one hour before the general public check-in is sufficient time for airline personnel to process service animal documentation. The Department also seeks comment on its proposal to require airlines to try to accommodate passengers who fail to meet the one-hour check-in requirement so long as the airline can do so by making reasonable efforts without delaying the flight. Finally, the Department would like commenters to identify potential benefits that service animal users may forgo by not being permitted to check-in electronically, and steps that can be taken to ensure that these benefits are provided to them.

9. Codeshare Flights

Current Requirements

Under the Department's current ACAA rule, U.S. carriers that participate in a code-sharing arrangement with a foreign carrier are responsible for ensuring that the foreign carrier complies with the service animal provisions of the rule with respect to passengers traveling under the U.S. carrier's code on the foreign carrier's aircraft on flights between two foreign points.[113] While the Department's current rule requires foreign carriers to transport only dogs, the Department could, based on the language in the current rule, hold a foreign carrier's U.S. codeshare partner responsible for that foreign carrier's refusal to transport other service animal species when the passenger is traveling under a U.S. carrier's code.[114]

The ANPRM

The Department sought comment in the ANPRM on whether DOT's service animal rule should explicitly state that a U.S. carrier would not be held responsible for its foreign codeshare partner's refusal to transport service animals other than dogs.[115]

Comments Received

Few individual commenters and disability advocates commented on whether the Department should explicitly state in its service animal regulation that U.S. airlines should not be held responsible if a foreign airline only transports dogs as service animals, but one advocacy organization states that making this clarification in the rule would clear up ambiguity caused by the provision in DOT's rules implementing the ACAA, 14 CFR part 382.

Airlines also agree that the Department's rule should explicitly state that U.S. carriers would not be held responsible if a foreign carrier only transports dogs as service animals. These carriers believe that the Enforcement Office's decision not to pursue action against U.S. carriers is reasonable and appropriate as it would be fundamentally unfair to hold a U.S. carrier accountable for the flight operations and procedures of its foreign codeshare partners, over which it has no control. Furthermore, these carriers argue that an express statement of the Department's enforcement position in the rule would alleviate any confusion that may arise from otherwise ambiguous provisions in Part 382. One foreign airline also commented that while the Department has chosen not to take legal action against U.S. carriers as

[113] 14 CFR 382.7(c).

[114] The Department's Aviation Enforcement Office does not enforce section 382.7(c) in this way.

[115] Traveling by Air with Service Animals, Advance Notice of Proposed Rulemaking, 83 FR 23832, 23842.

a matter of enforcement discretion, it would be better for the Department specifically to state its position in a regulation so that carriers have concrete legal certainty of the Department's position.

DOT Response

The Department's proposed service animal regulation would recognize only dogs as service animals. If the rule were finalized as proposed, the species requirements for both U.S. carriers and foreign carriers would be the same, thereby eliminating situations whereby a U.S. carrier could be held responsible for a foreign carrier's failure to transport service animals other than dogs but a foreign carrier could not. However, if the DOT final rule differs from the proposal and recognizes other species of service animals and/or emotional support animals, the Department would consider including language in the rule to make it clear that U.S. airlines are not responsible for their foreign carrier codeshare partners' failure to transport animals other than dogs. The Department seeks comment on this proposed action.

Regulatory Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

This proposed rulemaking has been determined to be significant under Executive Order 12866 (Regulatory Planning and Review) and the Department of Transportation's Regulatory Policies and Procedures because of its considerable interest to the disability community and the aviation industry. It does not, however, meet the criteria under Executive Order 12866 for an economically significant rule. It has been reviewed by the Office of Management and Budget under that Order.

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' DOT proposes to define a service animal as a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability. In addition, DOT proposes to treat psychiatric service animals like other service animals and to allow airlines to require passengers traveling with a service animal to attest to the animal's good behavior and good health. DOT also proposes that airlines no longer be required to recognize emotional support animals as service animals.

The primary economic impact of this proposed rulemaking is that it eliminates a market inefficiency. The current policy amounts to a price restriction which requires that airlines forgo a potential revenue source, as airlines are currently prohibited from charging a pet fee for transporting emotional support animals. A4A estimates that airline carriers transported 751,000 emotional support animals in 2017, a 56.1 percent increase from 2016. This number nearly equals the 784,000 pets transported in 2017. Airlines charge as much as $175 to transport pets on a one-way trip, giving passengers an incentive to claim their pets as emotional support animals. The proposed rulemaking will eliminate a pricing restriction currently imposed by government on airlines by allowing them to set a price on the transport of emotional support animals other than zero.

Removing the current requirement that carriers must transport emotional support animals free of charge would allow market forces (*i.e.,* carriers as producers and passengers as consumers) to set the price for air transportation of emotional support animals. This provision would allow carriers to charge passengers traveling with emotional support animals (dogs and other accepted species on board of an aircraft) with pet transportation fees. This represents a transfer of surplus from passengers to airlines, and does not have implications for the net benefits calculation.

The proposed rulemaking would also allow airlines to require passengers traveling with service animals to produce three forms of documentation developed by DOT. This cost element places a potential burden on passengers traveling with service animals who would need to submit three DOT forms to airlines. We estimate that, by Paperwork Reduction Act (PRA) accounting standards, the forms create 144,000 burden hours and $3.0 million in costs per year. In some cases, however, carriers already ask passengers to complete equivalent nongovernmental forms. Thus, the PRA accounting overestimates the net burden created by this rulemaking.

Furthermore, Executive Orders 12866 and 13563 require agencies to provide a meaningful opportunity for public participation. Accordingly, we have asked commenters to provide feedback on the proposed change to the regulation.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft (*i.e.,* aircraft with up to 60 seats/18,000-pound payload capacity).[116] Relative to typical airlines' operating costs and revenues, the impact is expected to be nonsignificant. Accordingly, the Department does not believe that the NPRM would have a significant impact on a substantial number of small entities. However, we invite comment on the potential impact of this rulemaking on small entities.

C. Executive Order 13132 (Federalism)

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This NPRM does not include any provision that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13084

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this rulemaking does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

E. Paperwork Reduction Act

This NPRM proposes three new collections of information that would require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995

[116] See 14 CFR 399.73.

(Pub. L. 104–13, 49 U.S.C. 3501 *et seq.*). Under the Paperwork Reduction Act, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing notice of the proposed information collection and a 60-day comment period, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information.

The proposed rulemaking would allow airlines to require passengers traveling with service animals to provide carriers with the following three forms of documentation developed by the Department:

1. *DOT Air Transportation Service Animal Health Form (''Health Form''):* This form would be completed by a veterinarian who would certify that the service dog has obtained the required vaccinations, is not showing signs of infectious or communicable diseases, and, to the veterinarian's knowledge, has not exhibited aggressive behavior or caused injury to another.

2. *DOT Air Transportation Service Animal Behavior and Training Attestation Form (''Behavior Attestation Form''):* This form would be completed by the passenger with a service animal. This passenger would certify his/her service animal has been trained to behave properly in public, is aware of the handler's responsibility to maintain the animal under control at all times, and understands the consequences of service animal misbehavior.

3. *DOT Service Animal Relief Attestation Form (''Relief Attestation Form''):* This form would be completed by passengers traveling with a service animal on flight segments scheduled to take 8 hours or more. It would require the passenger to affirm that the service animal will not need to relieve itself on the flight or that the service animal can relieve itself in a way that does not create a health or sanitation issue.

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 Prepare and Submit to Airlines the DOT Air Transportation Service Animal Health Form

Respondents: Passengers with disabilities traveling on aircraft with service animals.

Number of Respondents: Using A4A's estimate of 281,000 [117] service animals transported in 2017, and assuming one passenger with a disability travels with a service animal, 281,000 respondents would have to provide a health form signed by a veterinarian and the passenger.

Estimated Annual Burden on Respondents: We estimate that completing the form would require 15 minutes (.25 hours) per response, per year, including the time it takes to retrieve an electronic or paper version of the form from the carrier's or DOT's website, reviewing the instructions, and completing the questions. Passengers and veterinary assistants would spend a total of 70,250 hours (0.25 hours × 281,000 passengers) to retrieve an accessible version of the form and provide it to the veterinarian for completion. To calculate the hourly value of time spent on the forms, we used median wage data from the Bureau of Labor Statistics.[118] For the health form, which veterinary assistants perform on the job, we assume a fully loaded median wage rate of $26.48/hour ($13.24/hour × 2). A ''fully loaded'' wage includes benefits and indirect costs.

2. Requirement To Prepare and Submit to Airlines the DOT Air Transportation Service Animal Behavior and Attestation Form

Respondents: Passengers with disabilities traveling on aircraft with service animals.

Number of Respondents: Using A4A's estimate of 281,000 service animals transported in 2017, and assuming one passenger with a disability travels with a service animal, 281,000 respondents would have to provide a behavior form signed by the passenger.

Estimated Annual Burden on Respondents: We estimate that completing the form will require 15 minutes (.25 hours) per response, per year, including the time it takes to retrieve an electronic or paper version of the form from the carrier's or DOT's website, reviewing the instructions, and completing the questions. Passengers would spend a total of 70,250 hours (0.25 hours × 281,000 passengers) to retrieve an accessible version of the form and complete the form. To calculate the hourly value of time spent on the forms, we use median wage data from the Bureau of Labor Statistics.[119] For the behavior attestation, which passengers fill out on their own time without pay, we use a post-tax wage estimate of $15.42 ($18.58 median for all occupations minus a 17% percent estimated tax rate).

3. Requirement To Prepare and Submit to Airlines the DOT Service Animal Relief Attestation Form

Respondents: Passengers with disabilities traveling on aircraft with service animals on flight segments scheduled to take 8 hours or more.

Number of Respondents: To estimate the paperwork costs associated with the new forms, we used A4A's estimate of 281,000 service animals transported in 2017.[120] We estimate that 5 percent of those passengers (14,050) would be on flight segments scheduled to take 8 hours or more and would also have to complete the Relief Attestation Form.

Estimated Annual Burden on Respondents: We estimate that completing the form will require 15 minutes (.25 hours) per response, per year, including the time it takes to retrieve an electronic or paper version of the form from the carrier's or DOT's website, reviewing the instructions, and completing the questions. Passengers would spend a total of 3,512.5 hours (0.25 hours × 14,050 passengers) to retrieve an accessible version of the form and complete the form. To calculate the hourly value of time spent on the forms, we use median wage data from the Bureau of Labor Statistics.[121] For the relief form, which passengers fill out on their own time without pay, we use a post-tax wage estimate of $15.42 ($18.58 median for all occupations minus a 17% percent estimated tax rate).

[117] A4A used data from five U.S. airlines to extrapolate the number of all service animals transported on U.S. airlines.

[118] Bureau of Labor Statistics (2019). ''May 2018 National Occupational Employment and Wage Estimates: United States.'' *https://www.bls.gov/oes/current/oes_nat.htm.*

[119] Bureau of Labor Statistics (2019). ''May 2018 National Occupational Employment and Wage Estimates: United States.'' *https://www.bls.gov/oes/current/oes_nat.htm.*

[120] A4A used data from five U.S. airlines to extrapolate the number of all service animals transported on U.S. airlines.

[121] Bureau of Labor Statistics (2019). ''May 2018 National Occupational Employment and Wage Estimates: United States.'' *https://www.bls.gov/oes/current/oes_nat.htm.*

TABLE 1—PAPERWORK COST ESTIMATES FOR DOT SERVICE ANIMAL FORMS

Form	Passengers	Hours	Total hours	Hourly time value	Subtotal
Health	281,000	0.25	70,250	$26.48	$1,860,220
Behavior attestation	281,000	0.25	70,250	15.42	1,083,255
Relief	14,050	0.25	3,512.5	15.42	54,163
Total			144,012.5		2,997,638

The estimated burden and costs of these three new DOT forms are primarily for Paperwork Reduction Act (PRA) accounting purposes. In some cases, carriers already require passengers traveling with service animals to complete equivalent forms. Allegiant Air and Delta Air Lines ask passengers to carry health forms, for example, while American Airlines and Hawaiian Airlines ask passengers to fill out relief attestation forms. Thus, the cost estimates above are likely to overestimate any new burden created by this rulemaking.

The Department invites interested persons to submit comments on any aspect of each of these three information collections, including the following: (1) The necessity and utility of the information collection, (2) the accuracy of the estimate of the burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of collection without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized or included, or both, in the request for OMB approval of these information collections.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

G. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).[122] In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.6.i of DOT Order 5610.1C categorically excludes ''[a]ctions relating to consumer protection, including regulations.'' Because this rulemaking relates to ensuring both the nondiscriminatory access to air transportation for consumers with disabilities, as well as the safe transport of the traveling public, this rulemaking is a consumer protection rulemaking. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

List of Subjects in 14 CFR Part 382

Air Carriers, Civil rights, Consumer protection, Individuals with Disabilities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Transportation proposes to amend 14 CFR part 382 to read as follows:

PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

■ 1. The authority citation for part 382 continues to read as follows:

Authority: 49 U.S.C. 41702, 41705, 41712, and 41310.

■ 2. Amend § 382.3 by adding in alphabetical order the definitions of service animal and service animal handler to read as follows:

§ 382.3 What do the terms in this rule mean?

* * * * *

Service animal means a dog that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Emotional support animals, comfort animals, companionship animals, and service animals in training are not service animals for the purposes of this Part.

A *Service animal handler* is a qualified individual with a disability who receives assistance from a service animal(s) that does work or performs tasks that are directly related to the individual's disability, or a safety assistant, as described in section 382.29(b), who accompanies an individual with a disability traveling with a service animal(s). The service animal handler is responsible for keeping the animal under control at all times, and caring for and supervising the service animal, which includes toileting and feeding.

* * * * *

■ 3. Add § 382.28 to read as follows:

§ 382.28 What assistance must carriers provide to passengers with a disability required to check-in before the check-in time for the general public?

If you require a passenger with a disability to check-in in advance of the check-in time for the general public, you must make personnel or other employees trained to proficiency on the requirements of this Part available promptly to assist the passenger at a designated location in the airport.

§ 382.72 [Amended]

■ 4. Amend § 382.27 by removing paragraphs (c)(8) and (c)(9).

■ 5. Add Subpart EE, consisting of §§ 382.72 through 382.80, to read as follows:

Subpart EE—Service Animals

Sec.

382.72 Must carriers allow a service animal to accompany a passenger with a disability?
382.73 How many service animals must a carrier transport in the cabin of aircraft?
382.74 How do carriers determine if an animal is a service animal?
382.75 May a carrier require documentation from passengers with disabilities seeking to travel with a service animal?
382.76 May a carrier require a service animal user to check-in at the airport one hour before the check-in time at the airport for the general public as a condition of travel to allow time to

[122] *See* 40 CFR 1508.4.

process the service animal documentation?
382.77 May carriers restrict the location and placement of service animals on aircraft?
382.78 May carriers charge individuals with disabilities for the damage their service animal causes?
382.79 Under what other circumstances may carriers refuse to provide transportation to a service animal traveling with a passenger with a disability?
382.80 May carriers impose additional restrictions on the transport of service animals?

§ 382.72 Must carriers allow a service animal to accompany a passenger with a disability?

You must allow a service animal to accompany a passenger with a disability. You must not deny transportation to a service animal on the basis that its carriage may offend or annoy carrier personnel or persons traveling on the aircraft.

§ 382.73 How many service animals must a carrier transport in the cabin of aircraft?

You are not required to accept more than two service animals for a single passenger with a disability.

§ 382.74 How do carriers determine if an animal is a service animal?

(a)You may make two inquiries to determine whether an animal qualifies as a service animal. You may ask if the animal is required to accompany the passenger because of a disability and what work or task the animal has been trained to perform. You must not ask about the nature or extent of a person's disability or ask that the service animal demonstrate its work or task.

(b) You may observe the behavior of an animal. A trained service animal will remain under the control of its handler. It does not run freely around an aircraft or an airport gate area, bark or growl repeatedly at other persons or other animals on the aircraft or in the airport gate area, bite, jump on, or cause injury to people, or urinate or defecate in the cabin or gate area. An animal that engages in such disruptive behavior demonstrates that it has not been successfully trained to behave properly in a public setting and carriers are not required to treat it as a service animal, even if the animal performs an assistive function for a passenger with a disability.

(c) You may look for physical indicators on the animal to determine if the animal is a service animal. A service animal must be under the control of its owner. A service animal must have a harness, leash, or other tether unless the owner is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (*e.g.,* voice control, signals, or other effective means).

§ 382.75 May a carrier require documentation from passengers with disabilities seeking to travel with a service animal?

(a) If a passenger seeks to travel with a service animal, you may require the passenger with a disability to provide you, as a condition of permitting the service animal to travel in the cabin:

(1) A current (*i.e.,* no older than one year from the date of the passenger's scheduled initial flight) completed copy of the U.S. Department of Transportation Air Transportation Service Animal Health Form; and

(2) A completed copy of the U.S. Department of Transportation Air Transportation Service Animal Behavior and Training Attestation Form.

(b) On a flight segment scheduled to take 8 hours or more, you may, as a condition of permitting a service animal to travel in the cabin, require the passenger with a disability traveling with the service animal to confirm that the animal will not need to relieve itself on the flight or that the animal can relieve itself in a way that does not create a health or sanitation issue on the flight by providing a DOT Service Animal Relief Attestation Form.

(c) You are not permitted to require documentation of passengers with disabilities traveling with service animals beyond completion of the forms identified in paragraphs (a) and (b) of this section.

(d) You must keep copies of the forms identified in paragraphs (a) and (b) at each airport you serve. As a foreign carrier, you must keep copies of the forms at each airport serving a flight you operate that begins or ends at a U.S. airport.

(e) If you have a website, you must make the blank forms identified in paragraphs (a) and (b) available to passengers on your website in an accessible format.

(f) You must mail copies of the blank forms identified in paragraphs (a) and (b) to passengers upon request.

§ 382.76 May a carrier require a service animal user to check-in at the airport one hour before the check-in time at the airport for the general public as a condition of travel to allow time to process the service animal documentation?

(a) You may require a passenger with a disability to check-in at the airport one hour before the check-in time at the airport for the general public as a condition of travel with a service animal to allow time to process the service animal documentation and observe the animal so long as:

(1) You designate a specific location at the airport where the passenger could be promptly checked-in, the passenger's service animal would be observed, and the passenger's service animal documentation would be promptly reviewed by personnel trained to proficiency on the service animal requirements of this Part; and

(2) You have a similar or more stringent check-in requirement for passengers traveling with their pets in the cabin.

(b) If a passenger does not meet the check-in requirements you establish consistent with this section, you must still provide the accommodation if you can do so by making reasonable efforts, without delaying the flight.

§ 382.77 May carriers restrict the location and placement of service animals on aircraft?

(a) You must permit a service animal to accompany a passenger with a disability on the passenger's lap or in the foot space immediately in front of the passenger's seat, unless this location and placement would be:

(1) Inconsistent with safety requirements set by the FAA or the foreign carrier's government; or

(2) Encroaches into another passenger's space.

(b) If a service animal cannot be accommodated on the passenger's lap or in the foot space immediately in front of the passenger's seat without encroaching into another passenger's space, you must offer the passenger the opportunity to move with the animal to another seat location within the same class of service, if available on the aircraft, where the animal can be accommodated. You are not required to reseat other passengers to accommodate a service animal except as required by Subpart F.

(c) If there are no alternatives available to enable the passenger to travel with the service animal in the cabin of the scheduled flight, you must offer the passenger the opportunity to transport the service animal in the cargo hold free of charge or travel on a later flight to the extent there is space available on a later flight and the transport is consistent with the safety requirements set by the FAA or a foreign carrier's government.

§ 382.78 May carriers charge individuals with disabilities for the damage their service animal causes?

While you cannot charge an individual with a disability for transporting service animals, or for providing other services that this rule requires, you may charge a passenger with a disability for damage caused by his or her service animal so long as you normally charge individuals without disabilities for similar kinds of damage.

§ 382.79 Under what other circumstances may carriers refuse to provide transportation to a service animal traveling with a passenger with a disability?

(a) You may deny transport to a service animal under the following circumstances:

(1) The animal poses a direct threat to the health or safety of others (see definition in § 382.3);

(2) The animal causes a significant disruption in the cabin or at an airport gate area, or its behavior on the aircraft or at an airport gate area indicates that it has not been trained to behave properly in public (*e.g.,* running freely, barking or growling repeatedly at other persons on the aircraft, biting or jumping on people, or urinating or defecating in the cabin or gate area); or

(3) The animal's carriage would violate FAA safety requirements or applicable safety requirements of a U.S. territory or foreign government (*e.g.,* the animal is too large or heavy to be accommodated in the cabin).

(b) In determining whether to deny transport to a service animal on the basis that the animal poses a direct threat under paragraph (a)(1) of this section, you must make an individualized assessment based on reasonable judgment that relies on the best available objective evidence to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedure will mitigate the risk.

(c) In determining whether to deny transport to a service animal on the basis that the animal has misbehaved and/or has caused a significant disruption in the cabin under paragraph (a)(2), you must make an individualized assessment based on reasonable judgment that relies on the best available objective evidence to ascertain the probability that the misbehavior and/or disruption will continue to occur; and whether reasonable modifications of policies, practices, or procedure will mitigate the misbehavior and/or the disruption.

(d) In conducting the analysis required under paragraph (a)(1) and (a)(2), you must not deny transportation to the service animal if there are means available short of refusal that would mitigate the problem (*e.g.,* muzzling a barking service dog or taking other steps to comply with animal health regulations needed to permit entry of the service animal into a domestic territory or a foreign country).

(e) If you refuse to provide transportation to a service animal based on any provision in this Part, you must provide the individual with a disability accompanied by the service animal a written statement of the reason for the refusal. This statement must include the specific basis for the carrier's opinion that the refusal meets the standards of paragraphs (a) through (c) of this section or is otherwise specifically permitted by this Part. You must provide this written statement to the individual with a disability accompanied by the service animal either at the airport, or within 10 calendar days of the refusal of transportation.

§ 382.80 May carriers impose additional restrictions on the transport of service animals?

Carriers are not permitted to establish additional restrictions on the transport of service animals outside of those specifically permitted by the provisions in this Part, unless required by applicable FAA, TSA, or other Federal requirements or a foreign carrier's government.

§ 382.117 [Removed]

■ 6. Remove § 382.117.

Issued this 21st day of January, 2020, in Washington, DC.

Elaine L. Chao,

Secretary.

[FR Doc. 2020–01546 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO–P–2019–0009]

RIN 0651–AD33

Small Entity Government Use License Exception

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is proposing to amend the rules of practice in patent cases to clarify and expand exceptions to the rule pertaining to government use licenses and their effect on small entity status for purposes of paying reduced patent fees so as to support independent inventors, small business concerns and nonprofit organizations in filing patent applications. The proposed rule change is designed to encourage persons, small businesses, and nonprofit organizations to collaborate with the Federal Government by providing an opportunity to qualify for the small entity patent fees discount for inventions made during the course of federally-funded or federally-supported research.

DATES: Comments must be received by March 23, 2020 to ensure consideration.

ADDRESSES: The USPTO prefers that comments be submitted via electronic mail message to *AD33.comments@uspto.gov.* Written comments also may be submitted by mail to Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of James Engel, Senior Legal Advisor, Office of Patent Legal Administration. Comments may also be sent by electronic mail message via the Federal eRulemaking Portal at *https://www.regulations.gov.* See the Federal eRulemaking Portal website for additional instructions on providing comments via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking Portal should include the docket number (PTO–P–2019–0009).

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the internet because the Office may easily share such comments with the public. Electronic comments are preferred to be submitted in plain text, but also may be submitted in portable document format or DOC file format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into portable document format.

The comments will be available for public inspection on the USPTO's website at *https://www.uspto.gov,* on the Federal eRulemaking Portal, and at the Office of the Commissioner for Patents, Office of Patent Legal Administration, 600 Dulany Street, Alexandria, VA 22314. Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included.

FOR FURTHER INFORMATION CONTACT: James Engel, Senior Legal Advisor, Office of Patent Legal Administration, by phone: (571) 272–7725, or email: *James.Engel@uspto.gov* and Marina Lamm, Patent Attorney, Office of Policy and International Affairs, by phone: (571) 272–5905, or email: *Marina.Lamm@uspto.gov.*

SUPPLEMENTARY INFORMATION: The USPTO proposes to amend the rules of practice in patent cases at 37 CFR 1.27 to clarify and expand exceptions to the rule pertaining to government use licenses and their effect on small entity status for purposes of paying reduced patent fees so as to support independent inventors, small business concerns and nonprofit organizations in filing patent applications. The regulations at 37 CFR 1.27 currently have two basic exceptions—at paragraphs (a)(4)(i) and (ii)—to the general rule that every party holding rights to an invention must qualify as a small entity under 37 CFR 1.27 in order for small entity status to be claimed in a patent application.

The first exception—in section 1.27(a)(4)(i)—is for a government use license that a Federal employee inventor is obligated to grant if he/she is allowed to retain title to the workplace invention pursuant to a rights determination under Executive Order 10096. The Office is proposing to amend the regulations to specify that this exception applies to the government use license under 15 U.S.C. 3710d(a) a Federal employee, including an employee of a Federal laboratory, is obligated to grant if he/she is allowed to retain title to the workplace invention. It also proposes to expand the exception to cover a government use license to a Federal agency arising from an inventor's retention of rights under 35 U.S.C. 202(d), where the inventor is the employee of a small business or nonprofit organization contractor performing research under a funding agreement with the Federal agency, and the government use license is equivalent to that specified in 35 U.S.C. 202(c)(4). Retention of rights by the inventor under 35 U.S.C. 202(d) becomes possible when the contractor performing research under a federal funding agreement does not elect to retain title to the invention and the Federal agency is not interested in pursuing the patents rights either. Provided the Federal agency receives no more than the government use license and there is no other interest in the invention held by a party not qualifying as a small entity, the inventor who is otherwise qualified for small entity status, is not prohibited from claiming small entity status as a result of retaining rights under 35 U.S.C. 202(d) to his or her invention.

The second exception—in section 1.27(a)(4)(ii)—provides that a small business concern or nonprofit organization, which is otherwise qualified as a small entity for purposes of paying reduced patent fees under 37 CFR 1.27, is not disqualified as a small entity because of a license to a Federal agency pursuant to 35 U.S.C. 202(c)(4). Section 202(c)(4) reserves to the Federal agency, a government use license in any invention made by a ''contractor'' (*e.g.,* small business concern or nonprofit organization) pursuant to activities under a ''funding agreement,'' as those terms are defined in 35 U.S.C. 201(b) and (c), when the contractor elects to retain title to a subject invention. It has been brought to the USPTO's attention that much uncertainty exists as to whether the paragraph (a)(4)(ii) exception applies in cases where there is a Federal employee co-inventor. In response, this rule proposes to amend 37 CFR 1.27(a)(4)(ii) to refer to 35 U.S.C. 202(e)(1), which permits the Federal agency, in the case of a Federal employee co-inventor to ''license or assign whatever rights it may acquire in the subject invention to the nonprofit organization, small business firm, or non-Federal inventor. . .'' Section 1.27(a)(4)(ii) would be clarified to explicitly state that when the Federal agency takes action under 35 U.S.C. 202(e)(1) to place all ownership rights with the contractor, leaving to the Federal agency only the government use license under 35 U.S.C. 202(c)(4), the exception under section 1.27(a)(4)(ii) would still apply. This is considered appropriate given that a small entity contractor joint owner of a patent has the right to ''make, use, offer to sell, or sell the patented invention within the United States, or import the patented invention into the United States, without the consent of and without accounting to the other owners'' pursuant to 35 U.S.C. 262. Furthermore, Federal agency action to assign rights under 35 U.S.C. 202(e)(1) leaves to the Federal agency only the government use license, which is what the Federal agency would have acquired had there been no Federal employee co-inventor.

Cooperative research and development agreements (CRADAs) are another important tool to promote collaboration between Federal agencies and non-Federal parties, including those qualified as small entities. In support of research consistent with the mission of the Federal ''laboratory'' as that term is defined in 15 U.S.C. 3710a(d)(2), under CRADAs, the Government, through its laboratories, provide personnel, facilities, equipment, intellectual property or other resources, except for funds to non-Federal parties, and the non-Federal parties provide their own resources, which may include funds, for the collaborative activities. A CRADA may stipulate that the collaborating party assumes responsibility for the filing and prosecution of a patent application directed to a joint invention made under the CRADA and retains title to such invention, with the goal of achieving the practical application of technology advancements through commercialization. The Federal law providing for CRADAs (15 U.S.C. 3710a) reserves an obligatory government use license in exchange for ownership rights retained by the collaborating party much the same way as discussed above with respect to Federal funding agreements and government employee inventions. It was reported that some small businesses and nonprofit organizations are hesitant to enter into CRADAs with the Federal Government because, under the current rules, they would automatically lose their small entity status and would have to pay undiscounted patent fees as a result of granting the government use license or the government's interest in a joint invention. In response to these concerns and in order to encourage small business and nonprofit organization collaborating parties to take the initiative for filing and prosecuting patent applications for their inventions at no expense to the government, this rule proposes to expand the exceptions in 37 CFR 1.27(a)(4) to add a new section 1.27(a)(4)(iii) that would cover government use licenses that arise in certain situations when an otherwise qualifying small entity retains ownership rights to its invention made under a CRADA. This expansion of the government use license exception as it pertains to federally supported research is consistent with the President's ''Return on Investment Initiative'' as it applies to transferring technology to the private sector that originated from federally funded research or non-funded research performed at a Federal agency laboratory. *See* NIST Special Publication 1234 titled ''Return on Investment Initiative for Unleashing American Innovation'' (April 2019).

Background: The Patent and Trademark Law Amendments Act, Public Law 96–517, 94 Stat. 3015 (Dec. 12, 1980)—commonly referred to as the Bayh-Dole Act—added chapter 18 (sections 200 *et seq.*) to title 35 of the United States Code to ''encourage maximum participation . . . in federally supported research and development

efforts'' (35 U.S.C. 200) by giving small businesses and nonprofit organizations the ability to elect to retain title to their inventions made under federal funding agreements. For more than thirty-five years the USPTO has provided the exception—now at 37 CFR 1.27(a)(4)(ii)—for Bayh-Dole Act government use licenses under 35 U.S.C. 202(c)(4). Similar to the Bayh-Dole Act, the Stevenson-Wydler Technology Innovation Act of 1980, Public Law 96–480, 94 Stat. 2311 (Oct. 21, 1980), as amended by the Federal Technology Transfer Act of 1986, Public Law 99–502, 100 Stat. 1785 (Oct. 20, 1986) (''FTTA''), seeks to promote development and utilization of technologies made with federal support. Unlike the Bayh-Dole Act whereby support is in the form of federal funding, the FTTA, among other things, authorized CRADAs as the basis for research collaboration between Federal agencies and private sector businesses and organizations, including small business concerns and nonprofit organizations. Unlike 35 U.S.C. 202(c)(4) government use licenses, the patent rules have never provided an exception for government use licenses reserved to the government under CRADAs in exchange for the small business concern or nonprofit organization's retention of ownership rights to its invention made during research at the partnering Federal laboratory. In response to feedback from Federal agencies concerning the importance of the small entity discount to promote collaboration with small businesses and nonprofit organizations and technology transfer efforts of Federal agencies and laboratories, the USPTO is proposing to revise the patent rules to add a government use license exception that applies to small entities which make an invention under a CRADA with a Federal laboratory.

The statutory provisions for CRADAs, similar to those for federal funding agreements under the Bayh-Dole Act, reserve to the Federal Government use licenses for inventions made under a CRADA. 35 U.S.C. 202(c)(4) which provides the Bayh-Dole Act version of the government use license, and the CRADA government use license found in 15 U.S.C. 3710a(b)(2) and 3710a(b)(3)(D), are practically identical in scope. As set forth in 35 U.S.C. 202(c)(4):

> With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world.

Under the Bayh-Dole Act provisions, the awardee of federal funding is called a ''contractor.'' Under the CRADA provisions of the FTTA, the term used for a participating non-Federal party is ''collaborating party.'' In addition, the CRADA government use license refers to ''the laboratory'' or ''the Government'' as the recipient, rather than ''the Federal agency.''

Currently, the patent rules provide a government use license exception only for such licenses arising under 35 U.S.C. 202(c)(4). The proposed change to 37 CFR 1.27(a)(4) would add exceptions for government use licenses that may arise under a CRADA pursuant to 15 U.S.C. 3710a(b)(2) or 3710a(b)(3)(D). Section 3710a(b)(2) concerns the use license reserved to the government for an invention made solely by employees of the collaborating party, and section 3710a(b)(3)(D) concerns the use license reserved to the government when the laboratory waives rights to a subject invention made by the collaborating party or employee of the collaborating party. The proposed change would add to 37 CFR 1.27 a new paragraph (a)(4)(iii) providing an additional exception for government use licenses under 15 U.S.C. 3710a(b)(2) and 3710a(b)(3)(D) for inventions made by small entities under a CRADA with a Federal laboratory.

Further, with respect to the current exception for the government use license under 35 U.S.C. 202(c)(4), it has been reported to the USPTO that small business firms and nonprofit organizations have become increasingly concerned that contributions of Federal employees in joint inventions could eliminate their entitlement to small entity status. In response, the current section 1.27(a)(4)(ii) exception—the so-called ''federal licensing safe harbor provision''—is proposed to be amended to clarify in a new paragraph (B) that the exception applies when there is a Federal employee co-inventor, and action is taken under 35 U.S.C. 202(e)(1) by the Federal agency. Under section 202(e)(1), the funding Federal agency may license or assign whatever rights the Federal agency acquired in the subject invention, made by the contractor with a Federal employee co-inventor, to the contractor, in accordance with the provisions of chapter 18 of title 35, which include a government use license. As proposed to be amended, the section 1.27(a)(4)(ii) exception would explicitly apply, under new paragraph (B), to such situations.

When an employee of the small entity contractor and an employee of the Federal agency are co-inventors, the small entity contractor, by virtue of an assignment from the contractor employee or the employee's current obligation to assign, would still have an undivided ownership interest in the joint invention. The undivided interest to the joint owner is provided at 35 U.S.C. 262. The requirement for an assignment or a currently existing obligation to assign is set forth in *Board of Trustees of Leland Stanford Junior University* v. *Roche Molecular Systems, Inc.,* 563 U.S. 776 (2011), where the Court held: ''[o]nly when an invention belongs to the contractor does the Bayh-Dole Act come into play.'' *Id.* at 790. In addition, ''. . . unless there is an agreement to the contrary, an employer does not have rights in an invention 'which is the original conception of the employee alone.' '' *Id* at 786. Accordingly, when action is taken by the Federal agency under 35 U.S.C. 202(e)(1), the contractor could elect to retain full ownership rights. These ownership rights would be the same as those retained by a contractor under proposed new paragraph (A) of section 1.27(a)(4)(ii) which would apply when the subject invention was made solely by the small entity contractor employee(s). 35 U.S.C. 202(e) refers to this as ''consolidating rights''.

Regarding the proposed new section 1.27(a)(4)(iii), which would apply to government use licenses arising under a CRADA where the small entity retains all ownership rights, paragraph (B) would be included to cover situations where the government took action under 15 U.S.C. 3710a(b)(3)(D) to waive in whole any right of ownership the government may have to the subject invention made by the small business concern or nonprofit organization. Paragraph (A) of section 1.27(a)(4)(iii) would apply to government use licenses arising in situations where the invention to which title is retained, was made solely by the employee of the small business concern or nonprofit organization. Thus consolidation of rights to a small entity collaborating party under the CRADA provision of 15 U.S.C. 3710a(b)(3)(D) would be treated similar to how consolidation of rights to a contractor under the Bayh-Dole Act provision of 35 U.S.C. 202(e)(1) are treated under 37 CFR 1.27(a)(4) as proposed to be amended. All the exceptions under 37 CFR 1.27(a)(4)(i) through (iii) would require that the government or the Federal agency receive no more than the applicable government use license and that there is no other interest in the invention held by a party not qualifying as a small entity.

New section 1.27(a)(4)(iv) is proposed to be added to specify that regardless of

whether a government use license exception applies, no refund under 37 CFR 1.28(a) is available for any patent fee paid by the government. In addition, a new introductory clause is proposed to be added to 37 CFR 1.27(a)(4) which limits eligibility for any of the government use license exceptions to patent applications filed and prosecuted at no expense to the government (with the exception of any delivery expenses). To overcome any reluctance of research partners to take responsibility for seeking patent protection of the federally-supported inventions, the proposed new section 1.27(a)(4) introductory clause combined with proposed new paragraph (a)(4)(iv) should encourage small business concern and nonprofit organization contractors and collaborators to take the lead in seeking patent protection.

Although the USPTO can provide for government use license exceptions for small entity status qualification, these exceptions cannot apply to micro entities. The reason for this is that the statute authorizing micro entity patent fee discounts—35 U.S.C. 123(a)(4)—disqualifies an entity from micro entity status if they have assigned, granted, or conveyed a license or other ownership interest in the invention to an entity that exceeded the gross income limit (currently $189,537) in its previous calendar year's gross income. Because a ''gross national income'' is attributed to the United States each year, any government use license would run afoul of the 35 U.S.C. 123(a)(4) qualification requirement. Accordingly, a government use license may not disqualify an applicant from a small entity status, but would disqualify the applicant from micro entity status. For consistency, this would apply to micro entity status on the ''institution of higher education basis'' under section 1.29(d) as well as micro entity status on the ''gross income basis'' under section 1.29(a). A clarifying amendment to 37 CFR 1.29 is proposed in order to explicitly reflect this.

Discussion of Regulatory Changes: These rule changes would amend 37 CFR 1.27(a)(4) to clarify and expand the exceptions to the general rule that every party holding rights to an invention must qualify as a small entity under 37 CFR 1.27 in order for small entity status to be properly claimed.

The regulations currently at 37 CFR 1.27(a)(4)(i) provide an exception for a government use license resulting from a rights determination under Executive Order 10096, wherein title to the invention is retained by a Federal employee-inventor (''a person'' as defined in 37 CFR 1.27(a)(1)). That exception is proposed to be amended to acknowledge the regulations contained in 37 CFR part 501, which implement E.O. 10096. This would be accomplished by making reference in the rule to 37 CFR 501.6, which substantially incorporates the E.O. 10096 criteria for the determination of rights in and to any invention made by a Government employee. This exception, as proposed to be amended, would remain in section 1.27(a)(4)(i) under a new paragraph (A). It is also proposed to add a new paragraph (B) to section 1.27(a)(4)(i) referring to 15 U.S.C. 3710d(a) which provides for disposal of title to an invention from the Federal agency to the Federal employee-inventor, as well as the conditions under which the employee obtains or retains title to the invention subject to a government use license. Accordingly, proposed paragraphs 1.27(a)(4)(i)(A) and (B) would both relate to the government use license exception in the context of Federal employee inventors who retain title to their work inventions, subject to a government use license. It is also proposed to add to section 1.27(a)(4)(i) a new paragraph (C) for government use licenses to a Federal agency resulting from retention of rights by the inventor under 35 U.S.C. 202(d). This exception would be contingent upon the inventor meeting the criteria under 37 CFR 401.9 of an employee/inventor of a small business firm or nonprofit organization contractor. (37 CFR part 401 implements the provisions of the Bayh-Dole Act codified in 35 U.S.C. 200–212.) Thus, section 1.27(a)(4)(i), which applies to small entity ''persons'' as defined in 37 CFR 1.27(a)(1), is proposed to set forth three types of government use licenses which would not disqualify a patent applicant from claiming small entity status for purposes of paying reduced patent fees.

The regulations currently at 37 CFR 1.27(a)(4)(ii) provide an exception for certain government use licenses granted by ''small business concerns'' and ''nonprofit organizations'' as defined in 37 CFR 1.27(a)(2) and (a)(3). With respect to small business concerns and nonprofit organizations, there are generally two types of agreements they enter into with the Federal Government that are pertinent to section 1.27(a)(4)(ii) as proposed to be amended: (1) Federal funding agreements under the Bayh-Dole Act (as defined in 35 U.S.C. 201(b)), and (2) cooperative research and development agreements (CRADAs) as provided for in 15 U.S.C. 3710a. Both of these agreements require a government use license to be granted to the Federal Government by the entity or person retaining title to an invention made under such agreement. Currently, section 1.27(a)(4)(ii) only provides an exception for Bayh-Dole Act government use licenses under 35 U.S.C. 202(c)(4). To clarify the current exception, new paragraphs (A) and (B) are proposed to be added to section 1.27(a)(4)(ii). Paragraph 1.27(a)(4)(ii)(A) would apply to the situation where the invention under federal funding agreement was made solely by employees of the small business concern or nonprofit organization. Paragraph 1.27(a)(4)(ii)(B) would address situations where there is a Federal employee co-inventor. The proposed rule change would provide an additional exception, reflected in a new section 1.27(a)(4)(iii), for government use licenses for inventions made by small entities under a CRADA in situations under 15 U.S.C. 3710a(b)(2) and 3710a(b)(3)(D) wherein the small entity retains title to the invention.

A new introductory clause is proposed to be added to 37 CFR 1.27(a)(4) to limit eligibility for any of the current and newly proposed government use license exceptions to patent applications filed and prosecuted at no expense to the government, with the exception of any expense taken to deliver the application and fees to the USPTO on behalf of the applicant.

A new paragraph (a)(4)(iv) is proposed to be added to 37 CFR 1.27 to specify that regardless of whether a government use license exception applies, no refund under 37 CFR 1.28(a) is available for any patent fee paid by the government.

Section 1.29 is proposed to be amended to clarify that the government use license exceptions under 37 CFR 1.27(a)(4) do not apply for purposes of micro entity status qualification. The baseline small entity requirement under sections 1.29(a)(1) and (d)(1) cannot be met if qualification as a small entity under 37 CFR 1.27 depends on one of the government use license exceptions specified in 37 CFR 1.27(a)(4). The amendment would reflect that the statutory condition for a micro entity, specified at 35 U.S.C. 123(a)(4) cannot be met if an applicant, inventor or a joint inventor has made (or is obligated to make) a government use license for the invention for which patent protection is sought in the relevant patent application.

Request for Public Comments: The USPTO invites interested persons and entities to participate in this rulemaking by submitting written comments, data, or views on the proposed regulations addressing exceptions to the rule pertaining to government use licenses

and their effect on small entity status for purposes of paying reduced patent fees, as discussed in the preamble. The USPTO has estimated the number of small entities that would be impacted by this proposed rule to be in the range of 750 to 1000, based on the number of active CRADAs reported for FY2015 and its projected growth. However, it is difficult to predict how many more entities would claim small entity status under the proposed regulations. Thus, the USPTO is interested in receiving comments from the public, particularly small businesses and non-profit organizations, about the number of additional entities that might claim small entity status because of this rule, as well as possible impacts on small entities who already qualify for small entity status for the purpose of paying reduced patent fees. The USPTO is especially interested in information related to estimates of the number of small entities that would qualify for small entity status once the rule is revised as proposed, as well as comments on any reasons why an entity would or would not claim small entity status under this rule.

Rulemaking Requirements

A. Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (Interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers.'' (citation and internal quotation marks omitted)); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (DC Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). However, the Office has chosen to seek public comment before implementing the rule to benefit from the public's input.

B. Regulatory Flexibility Act: Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking (NPRM), the agency must prepare and make available for public comment an Initial Regulatory Flexibility Analysis, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605. For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The United States Patent and Trademark Office (USPTO) is proposing to amend the rules of practice in patent cases to clarify and expand exceptions to the rule pertaining to government use licenses and their effect on small entity status for purposes of paying reduced patent fees so as to support independent inventors, small business concerns and nonprofit organizations in filing patent applications. Currently, to be entitled to pay small entity patent fees, all parties holding rights in the invention must qualify for small entity status. There are two exceptions to this rule. Both exceptions relate to ''government use licenses'' granted under the law by independent inventors, small business concerns, or nonprofit organizations otherwise qualifying as a small entity, where such entities retain title to their inventions. The first current exception applies when an inventor employed by the Federal Government has an obligation to grant the government use license in the workplace invention in which the inventor obtains title pursuant to a rights determination under Executive Order 10096. This exception would continue to apply and is proposed to be clarified to apply to employees of Federal laboratories under 15 U.S.C. 3710d(a). The second current exception applies when the government use license in the government-funded invention is an obligation (pursuant to 35 U.S.C. 202(c)(4)) under a funding agreement with a Federal agency. This exception is proposed to be expanded to cover the situations where a small business concern or nonprofit organization qualifying as a small entity does not elect to retain title to an invention made by its employee under a federal funding agreement, and the Federal agency allows the inventor to retain title to the federally-funded invention. In that case, a government use license (equivalent to that specified in 35 U.S.C. 202(c)(4)) is an obligation arising from the employee's retention of rights under 35 U.S.C. 202(d). The proposed change to the rule would also expand the second exception to address situations where there is a Federal employee co-inventor. It is further proposed to add a third exception to cover a government use license arising from an obligation under a cooperative research and development agreement (CRADA) with a Federal agency pursuant to 15 U.S.C. 3710a(b). Regardless of whether any of the aforementioned exceptions apply, no refund is available for any patent fee paid by the government. In addition, patent applications filed and prosecuted at government expense, will not be entitled to the small entity discount. Finally, the qualifications for the micro entity patent fee discount are proposed to be clarified. The proposed rule changes are designed to encourage persons, small businesses, and nonprofit organizations to collaborate with the Federal Government by providing an opportunity to qualify for the small entity patent fees discount for inventions made during the course of federally-funded or federally-supported research. Thus, this rule would allow more entities to qualify for the small entity fee discount, wherein these entities may qualify for a 50% reduction in fees, resulting in a substantial cost savings to the entities. Although the cost savings may be substantial, this rule is not expected to impact a large number of small entities. We estimate the number of small entities impacted by this proposed rule to be in the range of 750 to 1000, based on the number of active CRADAs reported for FY2015 and its projected growth.

These changes are procedural and are not expected to have a direct economic impact on small entities. For the reasons described above, this rule is not expected to have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This proposed rule has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the proposed rule; (2) tailored the proposed rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs): This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866 (Jan. 30, 2017).

F. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

G. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

H. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this proposed rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

J. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

K. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

L. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this proposed rule are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this proposed rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

M. Unfunded Mandates Reform Act of 1995: The proposed changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

N. National Environmental Policy Act: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

O. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

P. Paperwork Reduction Act: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule does not involve an information collection requirement that is subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Notwithstanding any other provision of law, no person is required to respond to nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects for 37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Office proposes to amend part 1 of title 37 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Amend § 1.27 to revise paragraph (a)(4) as follows:

§ 1.27 Definition of small entities and establishing status as a small entity to permit payment of small entity fees; when a determination of entitlement to small entity status and notification of loss of entitlement to small entity status are required; fraud on the Office.

(a) * * *

(4) *Government Use License Exceptions.* In a patent application filed, prosecuted and, if patented, maintained at no expense to the Government, with the exception of any expense taken to deliver the application and fees to the Office on behalf of the applicant:

(i) For persons under paragraph (a)(1) of this section, claiming small entity status is not prohibited by:

(A) A use license to the Government resulting from a rights determination under Executive Order 10096 made in accordance with § 501.6 of this title;

(B) a use license to the Government resulting from Federal agency action

pursuant to 15 U.S.C. 3710d(a) allowing the inventor to retain title to the invention; or

(C) a use license to a Federal agency resulting from retention of rights by the inventor under 35 U.S.C. 202(d), provided the conditions under § 401.9 of this title for retention of rights by an inventor employed by a small business concern or nonprofit organization contractor are met, and the license is equivalent to the license the Federal agency would have received had the contractor elected to retain title.

(ii) For small business concerns and nonprofit organizations under paragraphs (a)(2) and (3) of this section, a use license to a Federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not preclude claiming small entity status, provided that:

(A) The subject invention was made solely by employees of the small business concern or nonprofit organization, or

(B) In the case of a Federal employee co-inventor, the Federal agency employing such co-inventor took action pursuant to 35 U.S.C. 202(e)(1) to exclusively license or assign whatever rights currently held or that it may acquire in the subject invention to the small business concern or nonprofit organization, subject to the license under 35 U.S.C. 202(c)(4).

(iii) For small business concerns and nonprofit organizations under paragraphs (a)(2) and (3) of this section that have collaborated with a Federal agency laboratory pursuant to a cooperative research and development agreement (CRADA) under 15 U.S.C. 3710a(a)(1), claiming small entity status is not prohibited by a use license to the Government pursuant to:

(A) 15 U.S.C. 3710a(b)(2) that results from retaining title to an invention made solely by the employee of the small business concern or nonprofit organization; or

(B) 15 U.S.C. 3710a(b)(3)(D) provided the laboratory has waived in whole any right of ownership the Government may have to the subject invention made by the small business concern or nonprofit organization, or has exclusively licensed whatever rights the Government may acquire in the subject invention to the small business concern or nonprofit organization.

(iv) Regardless of whether an exception under this paragraph (a)(4) applies, no refund under § 1.28(a) is available for any patent fee paid by the Government.

* * * * *

■ 3. Amend § 1.29 to revise paragraphs (a)(1) and (d)(1) as follows:

§ 1.29 Micro entity status.

(a) * * *

(1) The applicant qualifies as a small entity as defined in § 1.27 without relying on a government use license exception under § 1.27(a)(4);

* * * * *

(d) * * *

(1) The applicant qualifies as a small entity as defined in § 1.27 without relying on a government use license exception under § 1.27(a)(4); and

* * * * *

Dated: January 24, 2020.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–01687 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0839; FRL–10004–92–Region 5]

Air Plan Approval; Minnesota; Revision to the Minnesota State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Minnesota State Implementation Plan (SIP) which updates Minnesota's air program rules. The Minnesota Pollution Control Agency (MPCA) submitted the request to EPA on November 14, 2018. The revision to Minnesota's air quality rules will reflect changes that have occurred to the state air program rules since August 10, 2011, and updates on actions deferred from previous SIP submittals. EPA is proposing to approve the majority of MPCA's submittal, which will result in consistent requirements of rules at both the state and Federal level.

DATES: Comments must be received on or before March 6, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0839 at *http://www.regulations.gov,* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8512, *crispell.emily@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Review of State Submittal
III. What action is EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background

A. Overview of Revisions Made by Minnesota

On November 14, 2018 MPCA submitted a SIP revision with numerous rule updates. MPCA's submittal includes amendments to rules governing air emission permits, the removal of regulations unnecessary for Minnesota to attain and maintain the National Ambient Air Quality Standards (NAAQS), and the addition of new and previously deferred air program rules.

The following chapters of Minnesota's air program rules have undergone changes: Minnesota Rules Chapter 7000 Procedural Rules; Chapter 7002 Permit Fees; Chapter 7005 Definitions and Abbreviations; Chapter 7007 Permits and Offsets; Chapter 7008 Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities; Chapter 7009 Ambient Air Quality Standards; Chapter 7011 Standards for

Stationary Sources; Chapter 7017 Monitoring and Testing Requirements; and Chapter 7019 Emission Inventory Requirements. All rule changes were made under the MPCA's rulemaking authority and underwent appropriate public participation procedures as required by state law. EPA proposes to approve the majority of revisions to the Minnesota SIP and not take action on several revisions.

B. Summary of Relevant Statutes

Section 110 of the Clean Air Act (CAA), 42 U.S.C. 7410, as amended, requires state and local air pollution control agencies to develop and submit for EPA approval, SIPs that provide for the attainment, maintenance, and enforcement of the NAAQS in each air quality control region (or portion thereof) within each state. Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress toward attainment of a NAAQS or any other applicable requirement of the CAA.

Section 110(a)(2)(C) of the CAA requires that each SIP include a program to provide for the regulation of construction and modification of stationary sources as necessary to assure that the NAAQS are achieved. Specific elements for an approvable construction permitting plan are found in the implementing regulations at 40 CFR 51 subpart I—Review of New Sources and Modifications. Requirements relevant to minor construction programs are 40 CFR 51.160—51.163. EPA regulations have several specific criteria for state minor new source review (NSR) programs. Generally, state programs must set forth legally enforceable procedures that allow the state to determine if a planned construction activity would result in a violation of the state's SIP or a national standard and prevent any activity that would. In accordance with 40 CFR 51.162, the state plan must identify the responsible agency for making permitting decisions. 40 CFR 51.160 requires that the plan identify the types and sizes of facilities and installations that are subject to review under the plan, provide that sources undertaking an activity submit adequate information regarding the location, design and emission related information to enable the state to make a determination, and discuss the air quality data and dispersion or other air quality modeling used. 40 CFR 51.161 provides specific criteria for public availability of information and opportunity for public comment. Finally, 40 CFR 51.164 requires that the plan identify the administrative procedures that will be followed in making permitting decisions.

The revisions to the Minnesota SIP are intended to recodify, refine and update the Minnesota SIP, at 40 CFR 52.1220. This SIP revision addresses the requirements of section 110(a) of the CAA.

II. Review of State Submittal

A. Administrative Changes

As part of the submittal, several Minnesota rules (Minn. R.) included administrative changes. These changes consist of updated or corrected citations to the referenced rules, updated control equipment codes, removal of duplicative or outdated references, spelling or grammar corrections, and minor language changes, all which have no impact on the substance of the rule. EPA proposes to approve the administrative changes and corrections into the Minnesota SIP.

B. Chapter 7000: Procedural Rules and Minnesota Statute 116.11

Chapter 7000 contains procedural rules regarding Minnesota's air program. Changes to Chapter 7000 include the addition of Minn. R. 7000.5000 which outlines MPCA's declaration of emergency authority. In the submittal, Minnesota requested the addition of both Minn. R. 7000.5000 and Minnesota Statute (Minn. Stat.) 116.11, which pertain to the declaration of emergency and emergency powers. Minn. Stat. 116.11 provides emergency powers to MPCA, which are further discussed in Minn. R. 7000.5000. Specifically, these regulations allow the Agency to ''direct the immediate discontinuance or abatement of the pollution without notice and without a hearing or at the request of the agency, the attorney general may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent the pollution.'' MPCA added Minn. Stat. 116.11 and Minn. R. 7000.5000 and retained Minn. R.7009.1000 through 7009.1110, as these rules provide specific actions and contingency measures during air pollution alerts that are required by CAA section 110(a)(2)(G). EPA proposes to approve the addition of Minn. R. 7000.5000 and Minn. Stat. 116.11 into the Minnesota SIP.

C. Chapter 7002: Permit Fees

Chapter 7002 contains rules related to permit fees. MPCA amended Minn. R. 7002.0005, which describes the general scope of permit fees, and Minn. R. 7002.0015, which contains definitions for terms used throughout Chapter 7002, to remove references to state rules that have been repealed, and to clarify terms related to permit fees. EPA proposes to approve these administrative revisions to Minn. R. 7002.0005 and 7002.0015 into the Minnesota SIP.

D. Chapter 7005: Definitions and Abbreviations

Chapter 7005 contains numerous definitions and abbreviations relevant to rules throughout the Minnesota SIP. In Chapter 7005, MPCA amended several definitions in Minn. R. 7005.0100, to define new terms, clarify definitions, and re-number definitions. EPA finds these revisions approvable because they provide clarity to terms used in various rules throughout the SIP and do not change the requirements of the rules themselves. EPA proposes to approve the revisions to Minn. R. 7005.0100 into the Minnesota SIP

E. Chapter 7007: Permits and Offsets

Chapter 7007 contains rules concerning permits and offsets and has undergone various changes. Note that because Chapter 7007 combines the state's preconstruction and operating permit programs into a single permitting program, MPCA uses the broad term Part 70 permit to reference several types of permits, including some permits that authorize construction. However, this rulemaking is limited solely to approval of revisions to the state's preconstruction permitting program and federally enforceable state operating permit program. This is not a rulemaking under 40 CFR part 70.

1. Air Emission Permits

MPCA revised language in Chapter 7007, to clarify air emission permit requirements. MPCA amended Minn. R. 7007.0050 to clarify the scope of the air emission permit rules and the requirements to which the owners and operators of stationary sources are subject. EPA finds these revisions approvable as they do not change the applicability of the rule and strengthen the requirements. EPA proposes to approve the revisions to Minn. R. 7007.0050 in the Minnesota SIP.

Minn. R. 7007.0100 has been revised to contain definitions and references to other Federal requirements. EPA proposes to approve the revisions to Minn. R. 7007.0100, with the exception of subparts 9b through 9f, 12c, 24a, and 24b (See Section M. Items EPA is Not Taking Acting On) into the Minnesota SIP. EPA finds these added and revised definitions approvable as they clarify terms used throughout the rules

concerning air emission permits, and do not change the requirements of the rules.

Minn. R. 7007.0250 has been revised to include administrative changes and the addition of a capped permit option for sources required to obtain a state permit opting to limit their emissions to under the threshold of the part 70 permit. Minn. R. 7007.0300 has been revised to identify sources that are not required to obtain a permit, with administrative changes and to limit the scope of sources not required to obtain a permit. EPA finds these revisions approvable as they add requirements to align the rules with Federal permitting requirements, and do not relax any previously approved SIP provisions. EPA proposes to approve the revisions to Minn. R. 7007.0250, and 7007.0300 into the Minnesota SIP.

Minn. R. 7007.0350 has been revised to contain updated definitions and the removal of references to repealed rules. EPA finds these revisions approvable as they provide clarity and do not change the stringency of the rule. EPA proposes to approve the revisions to Minn. R. 7007.0350 into the Minnesota SIP.

Minn. R. 7007.0400 has been revised to include the addition of a new subpart 5 which establishes the timeframe for the owner or operator to submit an application if a new regulation would make a stationary source subject to part 70 or a state permit. EPA finds these revisions approvable as they strengthen current requirements in the SIP. EPA proposes to approve the revisions to Minn. R. 7007.0400 into the Minnesota SIP.

Minn. R. 7007.0650 has been revised to include changes to the electronic permit application process and removes references to outdated submittal methods. Minor language changes were also made to Minn. R. 7007.0600 and 7007.0700. EPA finds these revisions approvable as they do not change the substance of the rules. EPA proposes to approve the revisions to Minn. R. 7007.0600, 7007.0650, and 7007.0700 into the Minnesota SIP.

Minn. R. 7007.0750 has been revised to include a clarification that part 70 permits are applicable for operation, not construction, and corrects language surrounding MPCA's two-step air permit issuance process to be consistent with Federal rules. EPA proposes to approve the revisions to Minn. R. 7007.0750 Subparts 1 through 7 into the Minnesota SIP.

Minn. R. 7007.0800 has been revised to confirm the required permit content for Part 70 permits, including requirements for emission limitations and standards and permit deviation reporting. MPCA reorganized this section and provided clarifying language to subparts 2, 4, 5, 6, 7, 10, 11, 12, and 14. EPA finds these revisions approvable as they make the rule consistent with the requirements at 40 CFR 70.6(a)(1). EPA proposes to approve the revisions to Minn. R. 7007.0800 into the Minnesota SIP.

Minn. R. 7007.0850 subpart 3 has been revised to include a process to petition for meetings and hearings, and a changing of the word ''request'' to the phrase ''petition for.'' EPA finds these revisions approvable as they are minor wording changes that do not change the applicability of the rule. EPA proposes to approve the revisions to Minn. R. 7007.0850 into the Minnesota SIP.

Minn. R. 7007.0950 has been revised to include administrative changes, such as renumbering. EPA proposes to approve the updates to Minn. R. 7007.0950 into the Minnesota SIP.

Minn. R. 7007.1000 subpart 1 is reworded to provide clarity for permit issuance and denial. MPCA did not make any substantive changes to the rule. EPA proposes to approve the revisions to Minn. R. 7007.1000 into the Minnesota SIP.

Minn. R. 7007.1050 has been revised to provide the duration of air emission permits. EPA proposes to approve the revisions to Minn. R. 7007.1050 into the Minnesota SIP.

Minn. R. 7007.1100 has been revised to provide a path forward for sources that, due to changes to operations or in regulations, invalidate the current permit. Minn. R. 7007.1100 now contains four new subparts. Subpart 8 provides the process when undergoing a name change or a change in ownership. Subpart 9 clarifies the requirements to obtain a new permit prior to commencing the modification that will invalidate the current permit. Subpart 10 provides the process for a source that becomes subject to a new regulation, invalidating the current permit. The amendment provides timeframes for the source to contact the commissioner regarding the new regulation and the new permit application, which the source must submit within 180 days of the new regulation's effective date. Further, if a source does not submit a new permit application within the timeframes specified in Minn. R. 7007.1100, the source will not hold a valid permit and will be in violation of Minn. R. 7007.0150, subpart 1. Subpart 11 cites Minn. R. 7007.1150 to 7007.1250, and Minn. R. 7007.1350 to 7007.1500, as rules that do not apply to certain general permits which cover an entire stationary source. EPA finds these revisions approvable as they strengthen MPCA's permitting rules to ensure continued compliance. EPA proposes to approve the revisions to Minn. R. 7007.1100 into the Minnesota SIP.

MPCA made various changes to its registration permit rules. Registration permits allow sources with low levels of actual emissions greater flexibility to make changes, provided they can demonstrate continued eligibility for a registration permit. In addition to requiring eligible sources to comply with all applicable state or Federal regulations, the rule includes specific compliance requirements for each registration permit option.

Minn. R. 7007.1110 has been revised to provide general requirements for registration permits. MPCA added to the categories of new source performance standards for which sources remain eligible for registration permits. These include 40 CFR, part 60, subpart I, hot mix asphalt facilities; subpart GG, stationary gas turbines; subpart IIII, stationary compression ignition internal combustion engines with displacement less than 30 liters per cylinder; and, subpart JJJJ, stationary spark ignition combustion engines. Minn. R. 7007.1110 has been revised to specify the calculation methodology to demonstrate compliance with registration permit option C or D, when there is less than 12 months of emissions data available and provides procedures and allotted timeframes when a stationary source is no longer eligible for a registration permit. Minn. R. 7007.1110 has been revised to address requirements for sources holding a registration permit when a change in ownership or control occurs, or when the source relocates. EPA finds these revisions approvable as they add additional requirements a source must comply with in order to receive a registration permit. EPA proposes to approve the revisions to Minn. R. 7007.1110 into the Minnesota SIP.

MPCA updated registration permit options A and B. Minn. R. 7007.1115 registration permit option A has been revised to include minor clarifications and corrections. Minn. R. 7007.1120 registration permit option B has been revised to include the addition of subpart 4, which describes the calculation method for volatile organic compounds (VOCs). EPA finds these revisions approvable as they clarify the rule language and do not change the substance of the rule. EPA proposes to approve the revisions to Minn. R. 7007.1115 and 7007.1120 into the Minnesota SIP.

Minn. R. 7007.1125 was added to describe the requirements for sources to obtain a new registration permit option

C. Option C is intended for sources consisting only of boilers, reciprocating internal combustion engines, and/or emissions from VOC-containing materials, and which meet additional limiting criteria. The rule also excludes from eligibility any source that uses or generates nitrous oxide (NO_X) other than from combustion units and insignificant activities, and any source that uses or generates hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride other than from insignificant activities.

The SIP revision includes methods for calculating emissions from boilers, internal combustion engines and the use of VOC-containing materials. The rule also includes emission factors and calculations to be used to determine eligibility and compliance under option C. Further, it adds instructions for sources that may no longer qualify for a registration permit due to regulatory changes.

Minn. R. 7007.1130 has been revised to add compliance requirements for registration permit option D sources. A source is eligible for a registration permit option D if it has the potential to emit pollutants at levels exceeding a state or Federal threshold but reduces emissions by using pollution control equipment, or some other measure, so that the annual actual emissions for each pollutant are less than half the Federal permit threshold. Sources can demonstrate that actual emissions are below the thresholds with actual emissions calculations based on emission factors, performance tests, continuous emission monitoring and material balance methodology. Additionally, MPCA updated the registration permit option D by adding another eligible category of sources—low-emitting option D sources. MPCA did not change existing emissions thresholds under option D.

EPA proposes to find that the addition of Minn. R. 7007.1125 and revisions to Minn. R. 7007.1130 are consistent with CAA section 110(l) as these changes do not relax any previously approved SIP provision. Limitations are created in Minn. R. 7007.1125 and 7007.1130 that are equivalent to the types of limits that would have been established in an individual permit. Due to the low levels of actual emissions from these sources, EPA believes that the SIP revision will not interfere with attainment and maintenance of the NAAQS. EPA proposes to approve the addition of Minn. R. 7007.1125 and revisions to Minn. R. 7007.1130 into the Minnesota SIP.

MPCA added the following rules which pertain to capped permit option requirements: Minn. R. 7007.1140, 7007.1141, 7007.1142, 7007.1143, 7007.1144, 7007.1145, 7007.1146, 7007.1147, and 7007.1148. Minnesota's capped emission permit option is a rule-based permit in which all requirements are contained in a rule rather than a site-specific permit document. The capped permit restricts a facility's emissions below Federal permitting thresholds and requires the facility to comply with all applicable requirements. The capped permit allows the facility to make changes as long as emissions remain below the facility-wide thresholds and the facility is able to demonstrate continued compliance with all requirements. The capped permit was created to help reduce the permit backlog for small and medium-size sources that do not qualify for Minnesota's registration permits, to create incentives to reduce emissions to qualify for the capped permit, and to reduce administrative costs related to permitting for facilities and Minnesota.

There are two options available to facilities that choose a capped permit. Option 1 is for sources that will include actual emissions from all emissions units and insignificant activities, for which emissions factors or other calculation methods do not exist. Option 2 is for sources that will include actual emissions from all emissions units, insignificant activities and conditionally insignificant activities, as described in chapter 7008. Option 1 has higher allowable facility-wide emission limits than option 2.

Certain types of sources, however, are not eligible for a capped permit, even if their actual emissions fall below the capped permit thresholds. The sources that are not eligible for a capped permit are listed in Minn. R. 7007.1140, sub-paragraph 2. The rule also outlines procedures for sources that no longer meet the eligibility requirements of the capped permit option.

The capped permit option includes a public participation process. MPCA must electronically post notice of receipt of an application for a capped permit. The notice must identify the name and location of the facility to be permitted, the facility's SIC code, information on whether the facility is new or existing, a brief description of the comment period procedures, and contact information for additional information. The public comment period must be at least 30 days. In addition, during the public comment period, a contested case hearing on the application may be requested. The public participation requirements do not apply to applications in which a source is transferring from one capped permit option to another or if there is a change in name, mailing address, ownership, or control of the stationary source.

EPA proposes to find that the addition of Minn. R. 7007.1140–7007.1148 to the SIP is consistent with CAA section 110(l). These revisions do not relax any previously approved SIP provision. Limitations are created throughout Minn. R. 7007.1140–7007.1148 that are equivalent to the types of limits that would have been established in an individual permit. Because of the low levels of actual emissions from these sources, the SIP revisions are not expected to interfere with attainment and maintenance of the NAAQS. EPA proposes to approve the addition of Minn. R. 7007.1140–7007.1148 into the Minnesota SIP.

Minn. R. 7007.1150 has been revised to provide the criteria for a source to qualify for a replacement of existing control equipment. The replacement control equipment must be listed by MPCA as control equipment with sufficient control efficiency. EPA finds these revisions approvable as they do not relax the stringency of the rule. EPA proposes to approve the revisions to Minn. R. 7007.1150 into the Minnesota SIP.

Minn. R. 7007.1200 has been revised to include subpart 4 which describes recordkeeping requirements for calculations required by this Minn. R. 7007.1200. EPA finds these revisions approvable as they add recordkeeping requirements and do not change the applicability of the rule. EPA proposes to approve the revisions to Minn. R. 7007.1200 into the Minnesota SIP.

Minn. R. 7007.1250 subpart 1 has been revised to include only emission units and activities listed as insignificant activities in Minn. R. 7007.1300 subparts 2 and 3, and to require the permittee to initiate an administrative amendment within 30 days if a modification triggers new monitoring, recordkeeping, or reporting requirements. EPA finds these revisions approvable as they align the rule with Federal permitting requirements. EPA proposes to approve the revisions to Minn. R. 7007.1250 into the Minnesota SIP.

EPA proposes to approve the removal of Minn. R. 7007.1251 from the Minnesota SIP as it solely contains a table listing hazardous air pollutants (HAPs). MPCA added the HAPs table to Minn. R. 7007.1300 subpart 5. Minn. R. 7007.1300 subpart 2 has been revised to add an additional requirement for emissions calculations related to insignificant activities to ensure that adequate information is provided to

determine the applicability of the rules for various emissions sources. Minn. R. 7007.1300 subpart 3 has been revised to specify and correct insignificant activities. Minn. R. 7007.1300 subpart 4 has been revised to clarify language for insignificant activities as they relate to the initial issuance of part 70 permits. Subpart 4 does not apply to permit amendments or reissuance. EPA finds these revisions approvable as they add requirements and do not relax the stringency of the rule. EPA proposes to approve the revisions to Minn. R. 7007.1300 into the Minnesota SIP.

Minn. R. 7007.1400 subpart 1 (D) has been revised to clarify situations where certain monitoring, recordkeeping, or reporting requirements are no longer applicable. Minn. R. 7007.1400 subpart 1 (H) has been revised to allow an administrative amendment to extend a testing deadline in a permit if the extension is needed to allow the permittee to test at worst case conditions. Minn. R. 7007.1400 subpart 1 has been revised to add include subparts I, J, and H which amend permit administrative requirements. EPA finds these revisions approvable as they make the rule consistent with 40 CFR 70.7(d) and 40 CFR part 63 and part C requirements. EPA proposes to approve the revisions to Minn. R. 7007.1400 into the Minnesota SIP.

Both Minn. R. 7007.1450 and 7007.1500 have been revised to clarify the differences between requirements of minor and major permit amendments. Minn. R. 7007.1500 has been revised to clarify what changes may be made by major permit amendment to make the rule compliant with Federal permitting requirements. EPA proposes to approve the revisions to Minn. R. 7007.1450 and 7007.1500 into the Minnesota SIP.

Minn. R. 7007.1600 has been revised to require that a permittee submit a permit application when additional Federal requirements become applicable to a stationary source with a remaining permit term of three or more years or with a non expiring permit. EPA finds these revisions approvable as they make the rule consistent with Federal part 70 rule requirements. EPA proposes to approve the revisions to Minn. R. 7007.1600 into the Minnesota SIP.

2. Miscellaneous

Several miscellaneous changes were made to Minn. R. 7007.4010–7007.5000. Minn. R. 7007.4010 has been revised to remove obsolete definitions of terms no longer used in Minn. R. 7007.4000 to 7007.4030. The conditions for permit at Minn. R. 7007.4020 was updated to add a reference to appendix S, part (II), section (A). Minn. R. 7007.5000 has been revised to incorporate by reference the Federal guidelines for Best Available Retrofit Technology (BART) and describes the requirements for BART determination and implementation. EPA proposes to approve the revisions to Minn. R. 7007.4010–7007.4020 and the addition of Minn. R. 7007.5000 into the Minnesota SIP.

F. Chapter 7008: Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities

MPCA promulgated Chapter 7008 rules to streamline and simplify Minnesota's air quality permitting program. The addition of Chapter 7008 establishes conditions under which sources are exempt from the requirement to apply for and obtain an air emission permit. Chapter 7008 also establishes the conditions under which certain activities will qualify as insignificant activities. The sources that may qualify as conditionally exempt include gasoline service stations and concrete manufacturing plants that have throughput and production limited to below thresholds outlined in the rule. In addition, material usage in coating and cleaning operations could be exempted from permitting requirements if usage remains below thresholds for VOC and particulate matter (PM). The rule cannot apply to any material activity with lead as a component. PM and particulate matter 10 micrometers and smaller (PM_{10}) emitting operations that vent inside a building may also qualify as conditionally insignificant activities. Activities such as buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding or turning equipment must be filtered through an air cleaning system and vented inside the building at all times in order to be considered insignificant activities. Chapter 7008 requires sources who claim their operations are conditionally exempt or conditionally insignificant to maintain records that demonstrate eligibility with the rule.

The minor NSR provisions at 40 CFR 51.160 require state programs to determine if activities would violate an applicable SIP or national standard and to prevent construction of an activity that would violate an applicable SIP provision or national standard. Minnesota Rule 7008 exempts certain eligible stationary sources from air permitting requirements. When determining adequacy of state rules, EPA is concerned with the possibility that an exemption might allow an activity that should be subject to major source permitting requirements to escape appropriate review and permitting, that sources are required to maintain information adequate for the state to ensure that exemptions have been applied appropriately, and that the exemptions would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

Minnesota Chapter 7008 provides limitations on the use of the specific exemptions in Minn. R. 7008.0050–7008.4100 and requires sources using the exemptions to maintain certain records to demonstrate that the exemptions have been applied appropriately. Specific conditionally exempt sources and conditionally insignificant sources may be required to implement additional monitoring and recordkeeping as required to ensure that the equipment is operating as required under the exemption.

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of a NAAQS or any other applicable requirement of the CAA. These conditionally exempt sources or conditionally insignificant activities are expected to yield very low levels of actual emissions of regulated pollutants and are not expected to interfere with attainment and maintenance of the NAAQS. EPA proposes to approve the addition of Minn. R. 7008.0050, 7008.0100, 7008.0200, 7008.0300, 7008.2000, 7008.2100, 7008.2200, 7008.2250, 7008.4000, 7008.4100, and 7008.4110 into the Minnesota SIP.

G. Chapter 7009: Ambient Air Quality Standards

Chapter 7009 contains rules concerning ambient air quality standards, air pollution episodes, and adoption of Federal regulations. Changes to Chapter 7009 include amendments to Minn. R. 7009.0010, 7009.0020, and 7009.1060, the addition of Minn. R. 7009.0090, and the removal of Minn. R. 7009.0060–7009.0080. EPA proposes to approve the revisions to Chapter 7009 into the Minnesota SIP.

1. Ambient Air Quality Standards

MPCA amended two rules, Minn. R. 7009.0010 and 7009.0020, which pertain to ambient air quality standards. Minn. R. 7009.0010 has been revised to define terms related to ambient air quality standards used throughout Chapter 7009. Minn. R. 7009.0010 has been revised to add three definitions for the terms ''averaging time'', ''form of the standard'', and ''total suspended

particulate''. EPA finds the addition of these definitions approvable as they are in line with Federal definitions of these terms and do not lessen the stringency of the rules to which they apply. Minn. R. 7009.0020 has been revised to apply specifically to the Minnesota Ambient Air Quality Standards (MAAQS) and to align the rule with the Federal definition of ambient air. EPA proposes to approve the revisions to Minn. R. 7009.0010 and 7009.0020 into the Minnesota SIP.

MPCA removed several rules under Chapter 7009 as they were either not NAAQS related or no longer relevant. Minn. R. 7009.0060 solely described a measurement methodology for hydrogen sulfide, which is not considered to be a criteria pollutant. Therefore, the removal of Minn. R. 7009.0060 from Minnesota's SIP will not impact Minnesota's ability to attain or maintain the NAAQS. Minn. R. 7009.0070 referred to the time of compliance for attaining the ozone and sulfur dioxide (SO_2) standards by 1984. MPCA removed this rule because it is outdated and unnecessary. Compliance dates for NAAQS pollutants are set during the NAAQS revision process. Minnesota is also currently attaining and maintaining the NAAQS for ozone and SO_2. Minnesota requested that Minn. R. 7009.0080, Minnesota Ambient Air Quality Standards, be removed and replaced with Minn. R. 7009.0090. Minn. R. 7009.0080 contains a table of the MAAQS which are tracked at the state level. Minn. R. 7009.0090 incorporates by reference the NAAQS for SO_2, PM_{10}, $PM_{2.5}$, carbon monoxide (CO), ozone, nitrogen dioxide, and lead as amended. Adding Minn. R. 7009.0090 will improve enforceability of the NAAQS and ensure that data for those pollutants is collected. EPA proposes to approve the removal of Minn. R. 7009.0060–7009.0080 and the addition of Minn. R. 7009.0090.

2. Air Pollution Episodes

Minn. R. 7009.1060 has been revised to include the episode levels for PM_{10} 24-hour average, to add significant harm levels for 1-hour and 4-hour CO averaging times, and to remove the episode levels for ''SO_2 x Part'', all in the table containing alert levels related to declaration of emergency. These revisions of Minn. R. 7009.1060 meet the requirements of CAA section 110(l) because the revised episode levels are stricter than the original episode levels. The removal of the ''SO_2 x Part'' episode levels is approvable because Minnesota is retaining separate episode levels for SO_2 and PM_{10}. EPA proposes to approve the revisions to Minn. R. 7009.1060 into Minnesota's SIP.

H. Chapter 7011: Standards for Stationary Sources

Chapter 7011 contains rules concerning standards for stationary sources. MPCA updated various rules throughout chapter 7011. Further, MPCA requested the removal of Minn. R. 7011.0725 and 7011.1415.

In the following rules, MPCA updated control equipment codes due to irrelevance or unnecessary state duplication of EPA control equipment codes: Minn. R. 7011.0070 and 7011.0080. EPA proposes to approve the revisions to Minn. R. 7011.0070 and 7011.0080 into the Minnesota SIP.

The following rules underwent minor language changes such as changing the word ''shall'' to ''must'' or ''which'' to ''that'': Minn. R. 7011.0065, 7011.0080, 7011.0510, 7011.0515, 7011.0530, 7011.0535, 7011.0610, 7011.0615, 7011.0620, 7011.0710, 7011.1105, 7011.1115, 7011.1135, 7011.1305, 7011.1310, 7011.1320, 7011.1405, 7011.1425, 7017.1080, 7017.1110, and 7017.1170. EPA finds these revisions approvable as they are minor language changes that do not affect the requirements of the rule. EPA proposes to approve the revised aforementioned rules into the Minnesota SIP.

Minn. R. 7011.0070 and 7017.2060 have been revised for spelling or grammar corrections, such as changing the spelling of ''condensible'' to ''condensable.'' EPA finds these revisions approvable as they are minor language changes that do not affect the requirements of the rule. EPA proposes to approve the revisions to Minn. R. 7011.0070 and 7017.2060 into the Minnesota SIP.

Minn. R. 7011.0065 has been revised to define the applicability of the rules concerning control equipment for stationary sources, and to clarify which state rules apply if a change regarding facility control equipment triggers a notification requirement under part Minn. R. 7007.1150, item C, subitem (3). The revision to Minn. R. 7011.0065 will assist permittees in determining compliance with notifications sent to MPCA and does not affect the applicability of the rule. EPA proposes to approve the revisions to Minn. R. 7011.0065 into the Minnesota SIP.

Minn. R. 7011.0070 has been revised to specify that condensable PM refers to both organic and inorganic compounds. EPA finds this revision approvable as it is merely a clarification and does not affect the applicability of the rule. EPA proposes to approve the revisions to Minn. R. 7011.0070 into the Minnesota SIP.

Several rules underwent minor language changes such as clarifying the form of PM being measured. In Minn. R. 7011.0510, 7011.0515, 7011.0530, 7011.0610, 7011.0615, 7011.0710, 7011.0715, 7011.0720, 7011.0905, 7011.1105, 7011.1115, 7011.1130, 7011.1305, 7011.1310, 7011.1320, 7017.2060, 7011.1425, 7011.1405, 7011.1410, and 7011.1425 the terms ''filterable'' and/or ''condensable'' were added to clarify the form of PM referenced in these rules. Filterable PM is the fraction of particles that are solid and captured on a filter in the stack sampling procedure, which for indirect heating equipment sources is the PM measured with reference Method 5 and, thus, is the fraction of particles regulated by this standard. EPA proposes to approve the revised aforementioned rules into the Minnesota SIP.

Minn. R. 7011.0530, 7011.0615, 7011.0720, 7011.1320 and 7011.1425 have been revised to add the term ''to demonstrate compliance'' to clarify the distinction in the forms of PM being measured and the subset of data to be used to determine compliance. EPA proposes to approve the revisions to Minn. R. 7011.0530, 7011.0615, 7011.0720, 7011.1320 and 7011.1425 into the Minnesota SIP.

Minn. R. 7011.0535 has been revised to delete duplicative references to Federal reference methods as it is unnecessary to state in the state rule test procedures included in the reference methods. EPA proposes to approve the revisions to Minn. R. 7011.0535 into the Minnesota SIP.

Minn. R. 7011.0551 and 7011.0625 have been revised to amend references to regulatory provisions. EPA finds these revisions approvable as they do not change the meaning of the rules or lessen their stringency. EPA proposes to approve the revisions to Minn. R. 7011.0551 and 7011.0625 into the Minnesota SIP.

Older versions of Minn. R. 7011.0725 set forth an outdated protocol developed by MPCA in 1969 for recovering organic condensable material samples and determining particulate emissions. Minn. R. 7011.0725 has been revised to remove the outdated protocol and replace references to the rule with specific instruction to use EPA Method 202 (40 CFR part 51, appendix M) for performance tests. EPA's Method 202—Dry Impinger Method for Determining Condensable Particulate Emissions from Stationary Sources provides a test method for measuring condensable particulate matter. Replacing references of 7011.0725 with EPA Method 202 will

improve consistency and update precision for most emission sources. Several rules were amended to incorporate Method 202 for measurement of the organic portion of condensable PM, which replaced the procedures in Minn. R. 7011.0725. The following rules have been revised to incorporate EPA Method 202 for measurement of the organic portion of condensable PM: Minn. R. 7011.0615, 7011.0620, 7011.0720, and 7017.2060. These changes align the rule with Federal methods. EPA proposes to approve the removal of Minn. R. 7011.0725 and revisions to Minn. R. 7011.0615, 7011.0620, 7011.0720, and 7017.2060 into the Minnesota SIP.

Minn. R. 7011.0620 has been revised to clarify that owners and operators may request approval of smaller sampling times or volumes when necessitated by process variables or site-specific limitations. EPA proposes to approve the revisions to Minn. R. 7011.0620 into the Minnesota SIP.

Minn. R. 7011.1135 subpart 2 has been revised to restrict the conditions under which a facility may modify a PM test, by requiring a description of site-specific conditions necessitating the test modification. These changes align the rule with Federal methods. EPA proposes to approve the revisions to Minn. R. 7011.1135 into the Minnesota SIP.

Minn. R. 7011.1201 has been revised to update definitions for waste combustors. Updates include rule citation corrections, renumbering subparts, removal of obsolete definitions, addition of definitions for terms used throughout sections of the SIP such as resinated wood and retrofit, and other clarifying language. EPA finds these revisions approvable as they do not change the meaning or lessen the stringency of the rule. EPA proposes to approve the revisions to Minn. R. 7011.1201 into the Minnesota SIP.

Minn. R. 7011.1205 has been revised to update the rule citations to also include 7011.1290–7011.1294, since the documents incorporated by reference in 7011.1205 are also relevant to these rules. EPA proposes to approve the revisions to Minn. R. 7011.1205 into the Minnesota SIP.

Minn. R. 7011.1405 and 7011.1410 have been revised to clarify which contain the standards of performance for existing and new affected facilities at petroleum refineries. In subpart 2 of Minn. R. 7011.1405 and 7011.1410, MPCA clarified that flares that are subject to the conditions of 40 CFR part 60, subpart Ja, are not subject to the limits of this subpart. In subpart 3 of Minn. R. 7011.1405 and 7011.1410, a statement was added to clarify that the standards of performance for indirect heating equipment in Minn. R. 7011.0500 to 7011.0530, do not apply to indirect heating equipment at petroleum refineries, and that the standards of performance for indirect heating equipment at petroleum refineries is listed in Minn. R. 7011.1405 and 7011.1410 subpart 3. EPA proposes to approve the revisions to Minn. R. 7011.1405 and 7011.1410 into the Minnesota SIP.

MPCA updated the definitions for liquid petroleum and volatile organic liquid storage vessels in Minn. R. 7011.1500 to include the definition of ''commenced.'' MPCA updated the definitions for sulfuric acid plants in Minn. R. 7011.1600 to include a definition for ''existing sulfuric acid production unit.'' EPA proposes to approve the revisions to Minn. R. 7011.1500 and 7011.1600 into the Minnesota SIP.

I. Chapter 7017: Monitoring and Testing Requirements

Chapter 7017 contains rules regarding monitoring and testing requirements. Several updates were made to the rules in Chapter 7017, and both Minn. R. 7017.1210 and 7017.2018 were removed and replaced by Minn. R. 7017.1215 and 7017.2017 respectively. EPA proposes to approve these revisions into the Minnesota SIP.

1. Continuous Monitoring Systems

Minn. R. 7017.1002 has been revised to include definitions relevant to continuous monitoring systems, specifically, for the terms ''grace period,'' ''quality assurance operating quarter,'' ''stack operating hour,'' and ''unit operating hour.'' EPA finds these revisions approvable as they clarify terms used in the SIP and do not change the applicability or stringency of the rules. EPA proposes to approve the revisions to Minn. R. 7017.1002 into the Minnesota SIP.

Both Minn. R. 7007.1350 and 7017.1080 have been revised to clarify that certification test reports must be submitted in the format specified by the commissioner. Minn. R. 7017.1080 has been revised to remove subpart 3, the microfiche submittal deadline, as it is outdated and has since been repealed by the state. MPCA revised subparts 1–4 of Minn. R. 7017.1120. Subpart 1 has been revised to delete the address previously listed and require submittal ''in a physical or electronic format as specified by the commissioner and to the address identified on the required form or as provided by the agency.'' Subpart 2, which had specified alternate formats for making submissions, *e.g.,* facsimile or CD ROM, has been repealed by the state because MPCA now includes electronic format as a standard submission method in other subparts. Subpart 3 has been revised to indicate that submittal dates may be specified not only in a compliance document but also in a regulation. Subpart 4 has been revised to more generally require certification statements to be submitted ''in a format specified by the commissioner,'' and to delete outdated submission procedures. Minn. R. 7017.2035 has been revised to remove an outdated submittal option that allowed for performance test reports to be submitted as a microfiche. EPA proposes to approve the revisions to Minn. R. 7007.1350, 7017.1080, 7017.1120, and 7017.2035 into the Minnesota SIP.

Minn. R. 7017.1110 has been revised to add two requirements regarding the contents of excess emissions reports. These new requirements include a summary of the cylinder gas audit and relative accuracy test audit (RATA) required by Minn. R. 7017.1180 and 7017.1220 if the audits were completed in the previous quarter and if applicable, notifications of exceptions of applicability from audit frequencies as allowed in Minn. R. 7017.1170, subparts 4a and 5a, and Minn. R. 7017.1215. EPA finds these revisions approvable as they do not change the stringency of the rule. EPA proposes to approve the revisions to Minn. R. 7017.1110 into the Minnesota SIP.

Minn. R. 7017.1170 describes quality assurance and control requirements for continuous emissions monitoring systems (CEMS). Minn. R. 7017.1170 has been revised to remove subpart 1 and include 1a, which states that the quality assurance and control requirements apply to each CEMS unless otherwise specified by another applicable standard. Minn. R. 7017.1170 subpart 2 has been revised by adding the requirement that the quality assurance plan contain the information required by 40 CFR part 75, appendix B. Minn. R. 7017.1170 subpart 3 has been revised by adding a requirement for facilities to conduct daily calibration drift assessments and adjustments in accordance with the procedures in 40 CFR part 75, appendix B, section 2.1. Minn. R. 7017.1170 subpart 4 has been revised to remove the semiannual cylinder gas audit requirements and replaced them with the cylinder gas audit provisions of subpart 4a. Subpart 4 incorrectly cited procedures in 40 CFR part 60 appendix G, section 5.1.2 rather than 4 CFR part 60 appendix F, section 5.1.2 and contained an obsolete

compliance date. Subpart 4a requires cylinder gas audits according to 40 CFR part 60, appendix F, section 5.12, or 40 CFR part 75, appendix A, section 6.2, for sources not subject to 40 CFR part 60. It also provides a 168-hour grace period if the unit being monitored by the CEMS is not in operation when the cylinder gas audit is due. Minn. R. 7017.1170 has been revised to remove subpart 5 and add subpart 5a which contains the RATA requirements. Subpart 5a requires RATAs according to 40 CFR part 60, appendix B, or 40 CFR part 75, appendix A, sections 6.5 to 6.5.2.2, and appendix B, sections 2.3.1.3 and 2.3.1.4, as amended. Minn. R. 7017.1170 subpart 6 has been revised to add a citation to 40 CFR part 75, appendix A, section 3.3, as amended. Minn. R. 7017.1170 has been revised to add subpart 8 which states that data collected during out of control periods is not valid and may not be used for compliance demonstrations. EPA finds the addition of subpart 8 approvable as it meets the requirements of 40 CFR part 60, appendix F, sections 4.3.2 and 5.2.2. EPA proposes to approve the revisions to Minn. R. 7017.1170.

Minn. R. 7017.1210 includes outdated Continuous Opacity Monitoring Systems (COMS) procedures used to demonstrate compliance with New Source Performance Standards. Minn. R. 7017.1210 has been revised to remove monitoring and testing requirements and replaced it with Minn. R. 7017.1215, which incorporates by reference ''Procedure 3—Quality Assurance Requirements for Continuous Opacity Monitoring Systems at Stationary Sources, Code of Federal Regulations, title 40, part 60, Appendix F'', as amended. Replacing Minn. R. 7017.1210 with Minn. R. 7017.1215 will ensure that MPCA's COMS procedures are up to date and in compliance with EPA regulations. EPA proposes to approve the removal of Minn. R. 7017.1210 and the addition of Minn. R. 7017.1215 into the Minnesota SIP.

2. Performance Tests

Minn. R. 7017.2001 has been revised to define the applicability for performance tests, by removing subpart 2 because it referenced an outdated transition period deadline for performance test procedures. The deadline passed in 1993 and the transition has been implemented so removal of this subpart does not affect Minnesota's air quality management program. EPA proposes to approve the revisions to Minn. R. 7017.2001 into the Minnesota SIP.

Minn. R. 7017.2018 has been removed and replaced with Minn. R. 7017.2017 as it provides the current procedure for submittals required under Minn. R. 7017.2015 to 7017.2060. Minn. R. 7017.2015 subpart 4 has been revised to reflect the repeal of part Minn. R. 7017.2018 and its replacement by part Minn. R. 7017.2017. EPA proposes to approve the removal of Minn. R. 7017.2018 and the addition of Minn. R. 7017.2017 into the Minnesota SIP.

Minn. R. 7017.2025 has been revised to clarify rule language and provide rule citations concerning operational requirements and limitations. In subpart 3a part C, MPCA revised the language to state that for new operating limits and pollution control equipment limits not specified in item A or B, the averaging time and any extension of the range of values must be defined in the test plan approved under Minn. R. 7017.2030, subpart 2. EPA finds this revision approvable as it does not change the requirements of the rule and clarifies the test plan requirements by citing Minn. R. 7017.2030, subpart 2. EPA proposes to approve the revisions to Minn. R. 7017.2025 into the Minnesota SIP.

Minn. R. 7017.2050 subpart 1 has been revised to clarify that if test methods incorporated by reference contain exemptions and exclusions that do not meet the requirements of Minn. R. 7017.2001 to 7017.2060, the exemptions and exclusions do not apply. EPA proposes to approve the revisions to Minn. R. 7017.2050 into the Minnesota SIP.

MPCA made several updates to performance test procedures in Minn. R. 7017.2060. MPCA removed language referring to emissions test procedures for Federal methods, such as Method 5 Method 202 for determining PM emissions, which has been revised to instruct owners and operators to use the Federal methods as amended to avoid future conflict with state rules if Federal methods are revised. Minn. R. 7017.2060 subpart 3.B. has been revised to provide clarity on how a facility determines PM emissions, which is based on the sum of filterable and organic condensable PM unless otherwise required in chapter 7011. Minn. R. 7017.2060 subpart 3.C. has been revised to clarify that a facility's compliance status is determined by the sum of filterable and organic condensable PM. Minn. R. 7017.2060 has been revised to add Subpart 3.D. which allows an owner or operator to apply to the commissioner to exclude condensable PM from a performance test for PM provided that previous performance test results show that the emissions unit is not a source of organic condensable PM emissions or an exception in Method 202, section 1.4(h), as amended, applies. Further, Minn. R. 7017.2060 subpart 3.D. removes the ability of a facility owner or operator to use a mass balance calculation as a rationale for waiving measurement of condensable PM. Minn. R. 7017.2060 subpart 4 has been revised to clarify testing requirements for PM_{10} by identifing the test methods used, and how to demonstrate compliance with applicable PM_{10} emission limits. Minn. R. 7017.2060 subpart 4 has been revised to allow an owner or operator to apply to the commissioner to exclude organic and inorganic condensable PM from a performance test for PM_{10} provided that previous performance test results show that the emissions unit is not a source of organic or inorganic condensable PM emissions or that an exception in Method 202, section 1.4(h), as amended, applies. Minn. R. 7017.2060 has been revised to add subpart 4a to establish testing requirements for $PM_{2.5}$, to describe how to demonstrate compliance with $PM_{2.5}$ emission limits. Minn. R. 7017.2060 subpart 4q will reference Federal rules for Methods 201A and 202, establish how to report $PM_{2.5}$ emissions, and define and establish an emission facility's compliance status. Subpart 4a includes a provision to allow an owner or operator to apply to the commissioner to exclude organic and inorganic condensable PM from a performance test for $PM_{2.5}$ provided that previous performance test results show that the emissions unit is not a source of organic or inorganic condensable PM emissions or that an exception in Method 202, section 1.4(h), as amended, applies. EPA proposes to approve the revisions to Minn. R. 7017.2060 into the Minnesota SIP.

J. Chapter 7019: Emission Inventory Requirements

Minn. R. 7019.3020 has been revised to add different types of registration permits, including requirements for calendar year actual emission reporting for option A registration permits. EPA finds these revisions approvable as they add requirements and do not reduce any previously SIP approved requirements. EPA proposes to approve the revisions to Minn. R. 7019.3020.

Minn. R. 7019.3030 has been revised to add a mercury material balance reference. Minn. R. 7019.3050 has been revised to add the performance test requirements for mercury emission sources in Minn. R. 7019.3050. EPA proposes to approve the revisions to Minn. R. 7019.3030 and Minn. R. 7019.3050 into the Minnesota SIP.

K. Chapter 7023: Mobile and Indirect Sources

No changes were made to Chapter 7023. EPA proposes to reapprove Chapter 7023 into the Minnesota SIP.

L. EPA Corrections

On August 10, 2011 (76 FR 49303), EPA approved the removal of all of Chapter 7001 from Minnesota's SIP, however, 40 CFR 52.1220(c) was not revised accordingly. EPA proposes to approve and take an administrative action to correct the table at 40 CFR 52.1220(c) by removing all entries for Chapter 7001.

In addition to the correction mentioned above, the submittal also included corrections to administrative errors contained in the Minnesota PM_{10} designation table at 40 CFR 81.324 to help clarify which areas in the state are listed as unclassifiable/attainment. EPA proposes to approve and take an administrative action to correct the table at 40 CFR 81.324.

M. Items EPA Is Not Taking Action On

EPA proposes to take no action on the definitions at Minn. R. 7007.0100, subpart 9b through 9f, 12c and 24b. These definitions are related to the environmental management system (EMS). Minnesota has not submitted the EMS provisions as part of this SIP submittal. Since the definitions do not reference provisions in the SIP and MPCA plans to remove the EMS conditions from its rules at a later date, EPA proposes to take no action on Minn. R. 7007.0100, subpart 9b through 9f, 12c and 24b.

The following rules reference an outdated greenhouse threshold for carbon dioxide equivalent which is less stringent than the current Federal requirement: Minn. R. 7007.0100 subpart 24a, 7007.0150, 7007.0200, and 7007.0500. EPA proposes to take no action on the revisions to Minn. R. 7007.0100 subpart 24a, 7007.0150, 7007.0200, 7007.0500.

EPA proposes to take no action on the exemptions MPCA requested to remove at Minn. R. 7011.1415 since they refer to exemptions for excess emissions resulting from gas flaring at petroleum refineries during periods of startup, shutdown, and malfunction. EPA is currently deliberating on how to move forward on startup, shut down, and malfunction related issues and will take no action on Minn. R. 7011.1415 in this SIP action. Subsequently, EPA proposes to take no action on the revised definitions at Minn. R. 7011.1400 as the revised definitions relate to the requested removal of Minn. R. 7011.1415.

III. What action is EPA taking?

EPA is proposing to approve MPCA's November 14, 2018, submittal as a revision to its existing SIP with exception to the definitions at Minn. R. 7007.0100, paragraph 9b through 9f, 12c and 24b, Minn. R. 7011.1400, and Minn. R. 7011.1415, where EPA is taking no action.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to Minnesota Rules Chapter 7000 Procedural Rules; Chapter 7002 Permit Fees; Chapter 7005 Definitions and Abbreviations; Chapter 7007 Permits and Offsets; Chapter 7008 Conditionally Exempt Stationary Sources and Conditionally Insignificant Activities; Chapter 7009 Ambient Air Quality Standards; Chapter 7011 Standards for Stationary Sources; Chapter 7017 Monitoring and Testing Requirements; and Chapter 7019 Emission Inventory Requirements, as discussed in section II. ''Review of State Submittal'' above. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: January 17, 2020.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2020–02143 Filed 2–4–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2019–0518; FRL–10004–91–Region 5]

2008 Ozone National Ambient Air Quality Standards; Wisconsin; Determination of Attainment by the Attainment Date for Inland Sheboygan; Reclassification of Shoreline Sheboygan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing two actions related to the attainment date for two areas classified as ''Moderate'' for the 2008 ozone National Ambient Air Quality Standards (NAAQS). First, EPA is proposing to determine that the Inland Sheboygan, Wisconsin (WI) nonattainment area attained the standard by the July 20, 2019, extended attainment date. Second, EPA is proposing to determine that the Shoreline Sheboygan, WI nonattainment area failed to attain the standard by the extended attainment date. The effect of failing to attain by the attainment date is that the area will be reclassified by operation of law to ''Serious'' upon the effective date of the final reclassification action. Consequently, the Wisconsin Department of Natural Resources (WDNR) must submit State Implementation Plan (SIP) revisions required to satisfy the statutory and regulatory requirements for Serious areas for the 2008 ozone NAAQS. EPA is proposing deadlines for submittal of those SIP revisions and implementation of the related control requirements.

DATES: Comments must be received on or before March 6, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0518 at *http://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. Background
II. Determination of Attainment by the Attainment Date for the Inland Sheboygan Area
III. Reclassification of the Shoreline Sheboygan Area
IV. Summary of Proposed Actions
V. Statutory and Executive Order Reviews

I. Background

Under section 181(b)(2) of the Clean Air Act (CAA), EPA is required to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain.

On May 21, 2012, EPA designated the entirety of Sheboygan County in Wisconsin as nonattainment for the 2008 ozone NAAQS (77 FR 30088). At the time of its designation, the Sheboygan County, WI nonattainment area for the 2008 ozone NAAQS was classified as Marginal with an attainment date of July 20, 2015. On May 4, 2016, EPA determined that the Sheboygan nonattainment area qualified for a one-year attainment date extension to July 20, 2016 (81 FR 26697). On December 19, 2016, EPA determined that the area had failed to attain the standard by its extended attainment date, and EPA reclassified the Sheboygan nonattainment area as Moderate with an attainment date of July 20, 2018 (81 FR 91841).

On July 15, 2019, EPA revised the designation for the Sheboygan nonattainment area for the 2008 ozone NAAQS, by splitting the original area into two distinct nonattainment areas that together cover the identical geographic area of the original nonattainment area (84 FR 33699). One of the separate areas, called the Shoreline Sheboygan County, WI nonattainment area, consists of the eastern portion of the original area, including the Sheboygan Kohler Andrae monitor. The other separate area, called the Inland Sheboygan County, WI nonattainment area, consists of the western portion of the original area, including the Sheboygan Haven monitor. On August 23, 2019, EPA determined that the Inland Sheboygan area and Shoreline Sheboygan area qualified for one-year attainment date extensions to July 20, 2019 (84 FR 44238).

For a concentration-based standard, such as the 2008 ozone NAAQS, a determination of attainment [1] is based on a nonattainment area's design value. The design value for the 2008 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The 2008 ozone NAAQS is met at an ambient monitoring site when the design value does not exceed 0.075 parts per million (ppm). The attainment date design value is based on the three most recent, complete calendar years of data preceding the attainment date. In this case, EPA's proposed determinations for each area are based on the complete, quality-assured and certified ozone monitoring data from calendar years 2016, 2017, and 2018. As such, EPA's proposed determinations for each Sheboygan area are based upon the complete, quality-assured and certified ozone monitoring data from calendar years 2016, 2017, and 2018.

All monitors in an area must be considered when determining if the area attains the NAAQS. To make the determination that an area attains the NAAQS, each monitor must have a valid [2] design value meeting the standard. If one or more monitors in an area have a design value that exceeds the standard, the area does not attain the NAAQS. For the Inland Sheboygan area, EPA must consider the design value from the Sheboygan Haven monitor with site ID 55–117–0009, and for the Shoreline Sheboygan area, EPA must consider the design value from the Sheboygan Kohler Andrae monitor with

[1] The criteria for determining if an area is attaining the 2008 ozone NAAQS are set out in 40 CFR 50.15 and 40 CFR part 50, appendix P.

[2] Design values attaining the 2008 ozone NAAQS must also meet minimum data completeness requirements specified in 40 CFR part 50, appendix P to be considered valid.

site ID 55–117–0006. Data from these monitors are presented in Table 1.

TABLE 1—ANNUAL AND THREE-YEAR AVERAGE OF THE 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE INLAND SHEBOYGAN AREA AND SHORELINE SHEBOYGAN AREA

Area	Monitor	2016 4th high (ppm)	2017 4th high (ppm)	2018 4th high (ppm)	2016–2018 average (ppm)
Inland Sheboygan County, WI	Sheboygan Haven (55–117–0009)	0.074	0.070	0.070	0.071
Shoreline Sheboygan County, WI	Sheboygan Kohler Andrae (55–117–0006).	0.085	0.075	0.083	0.081

Additional background and rationale for EPA's actions making determinations of attainment, reclassifications, and establishing SIP submission and implementation deadlines for reclassified areas for many of the other 2008 Moderate ozone nonattainment areas is provided in our August 23, 2019 final rulemaking (84 FR 44238), as well as in our November 14, 2018 proposal of that rulemaking (83 FR 56781).

II. Determination of Attainment by the Attainment Date for the Inland Sheboygan Area

The Inland Sheboygan area had a design value that did not exceed 0.075 ppm based on the 2016–2018 data. Thus, EPA proposes to determine, in accordance with CAA section 181(b)(2)(A), that the area attained the standard by the applicable attainment date of July 20, 2019.[3]

This proposed determination of attainment by the attainment date does not constitute a formal redesignation to attainment as provided for under CAA section 107(d)(3). Redesignations to attainment require states to meet the statutory criteria set out at CAA section 107(d)(3)(E), which include requirements that the state has met the applicable requirements under CAA section 110 and part D, and EPA has approved a maintenance plan to ensure continued attainment of the standard for 10 years following redesignation, as provided under CAA section 175A.

III. Reclassification of the Shoreline Sheboygan Area

EPA is proposing to determine that the Shoreline Sheboygan area failed to attain the 2008 ozone NAAQS by the extended attainment date of July 20, 2019. This area is not eligible for a second 1-year attainment date extension because the area does not meet the extension criteria under CAA section 181(a)(5) as interpreted by EPA in 40 CFR 51.1107. Under these criteria, for an area to qualify for a second 1-year extension, the area's 4th highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year must be 0.075 ppm or less.

Section 181(b)(2)(B) of the CAA requires EPA to publish a determination of failure to attain and accompanying reclassification in the **Federal Register** no later than 6 months after the attainment date, which in the case of the Shoreline Sheboygan area would be no later than January 20, 2020.

As required under CAA section 181(b)(2)(A), if EPA finalizes the determination that the area failed to attain by the attainment date, it will be reclassified to Serious by operation of law. The reclassified area will then be subject to the Serious area requirement to attain the 2008 ozone NAAQS as expeditiously as practicable, but not later than July 20, 2021.

Once reclassified as Serious, the state must submit to EPA the SIP revisions for the area that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the SIP Requirements Rule. However, the statutory timeframes for SIP submissions applicable to areas originally classified as Serious have passed. For instance, 40 CFR 51.1108 established the deadline for Serious-area attainment demonstrations to be 48 months after the effective date of nonattainment designation, or July 20, 2016. Under CAA section 182(i), reclassified areas are required to meet the requirements associated with their newly reclassified status according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is ''necessary or appropriate to assure consistency among the required submissions.''

In our August 23, 2019, rulemaking, EPA exercised its discretion under CAA section 182(i) to adjust the deadlines for other areas in the country that were reclassified to ''Serious'' for submitting SIP revisions required by CAA section 182(c) (84 FR 44238). In accordance with CAA section 182(i), in order to ''assure consistency among the required submissions'', EPA proposes that the same SIP submission due dates and implementation deadlines finalized for other areas reclassified to Serious in our August 23, 2019, rulemaking will apply to the Shoreline Sheboygan area upon its reclassification to Serious. With regard to reasonably available control technology (RACT), EPA's August 23, 2019, rulemaking made a distinction between RACT measures that would be needed for purposes of meeting reasonable further progress (RFP) requirements or for attaining the NAAQS expeditiously, and the possible set of RACT measures that nevertheless are required to be adopted and implemented under the CAA but would not necessarily be needed for a state to meet RFP or demonstrate timely attainment in a particular nonattainment area. These two ''categories'' of RACT measures are referred to as ''RACT measures tied to attainment'' and ''RACT measures not tied to attainment,'' respectively.

A. Due Date for Serious Area SIP Revisions (Including RACT Measures Tied to Attainment), and Implementation Deadline for RACT Measures Tied to Attainment

EPA is proposing August 3, 2020, as the due date for Serious area SIP revisions, including RACT measures tied to attainment. EPA is also proposing August 3, 2020, as the implementation deadline for RACT measures tied to attainment for the Shoreline Sheboygan area. These deadlines are the same as for the other

[3] On July 15, 2019, EPA made a Clean Data Determination for the Inland Sheboygan area and, in accordance with 40 CFR 51.1118, suspended the requirements for the state to submit an attainment demonstration and associated RACM, RFP plans, contingency measures, and other planning elements related to attainment of the 2008 ozone NAAQS (84 FR 33699). Today's proposed action does not alter the status of the final Clean Data Determination for the Inland Sheboygan area.

areas reclassified to Serious in EPA's August 23, 2019, rulemaking.

The state submittal requirements for attainment plans, in general, are provided under CAA section 172(c); the SIP requirements that apply to Serious areas for the 2008 ozone NAAQS are listed under CAA section 182(c) and include: (1) Enhanced monitoring; (2) attainment demonstration and RFP plan; (3) an enhanced vehicle inspection and maintenance program, if applicable; (4) clean-fuel vehicle programs and transportation control; (5) nonattainment New Source Review program revisions; and (6) contingency measures. States must also provide an analysis of—and adopt all—reasonably available control measures (RACM), including RACT needed for purposes of meeting RFP or timely attaining the NAAQS. Such an analysis should include: (1) An evaluation of controls for sources emitting 100 tons per year (tpy) or more that may have become reasonably available since the January 1, 2017, Moderate area deadline for adopting and implementing RACT, and (2) an evaluation of controls that are currently reasonably available for sources emitting 50 tpy or more, consistent with the Serious area classification.

B. Due Date for Submitting SIP Revisions for RACT Measures Not Tied to Attainment

For Serious areas reclassified from Moderate, the requirement for RACT expands to include all sources that emit, or have the potential to emit, 50 tpy of volatile organic compounds (VOC) or nitrogen oxides (NO_X). State air agencies responsible for Moderate areas are already required to implement RACT for major sources, defined as sources that emit or have the potential to emit 100 tpy. Thus, states must revise their RACT SIPs to include those other sources emitting or having the potential to emit 50 to 100 tpy. EPA proposes that the State submit its SIP revisions for any RACT not otherwise needed for attainment purposes for the Shoreline Sheboygan area by March 23, 2021. This deadline is the same as for the other areas reclassified to Serious in EPA's August 23, 2019, rulemaking.

C. Implementation Deadline for RACT Measures Not Tied to Attainment

EPA is proposing July 20, 2021, the Serious area attainment date, as the deadline for implementation of RACT measures not tied to attainment for the Shoreline Sheboygan area. This deadline is the same as for the other areas reclassified to Serious in EPA's August 23, 2019, rulemaking.

IV. Summary of Proposed Actions

EPA is proposing to determine that the Inland Sheboygan area attained the 2008 ozone NAAQS by the July 20, 2019, extended attainment date. EPA is also proposing to determine that the Shoreline Sheboygan area failed to attain the standard by the extended attainment date. The effect of failing to attain by the attainment date is that the area will be reclassified by operation of law to ''Serious'' upon the effective date of the final reclassification action. WDNR will then be required to submit SIP revisions to satisfy the statutory and regulatory requirements for Serious areas for the 2008 ozone NAAQS. EPA is proposing deadlines for submittal of those SIP revisions and implementation of the related control requirements.

V. Statutory and Executive Order Reviews

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

This proposed action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget.

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

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

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

D. Regulatory Flexibility Act (RFA)

This action is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibilities Act (5 U.S.C. 601 *et seq.*)

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have a substantial direct effect on one or more Indian tribes, since EPA's proposed determination of attainment by the attainment date and reclassification do not impact any areas of Indian country. Furthermore, these regulation revisions do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal government and tribes in developing plans to attain the NAAQS, and these revisions to the regulations do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations and/or indigenous populations as specified in Executive

Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 17, 2020.

Cheryl Newton,

Deputy Regional Administrator, Region 5.

[FR Doc. 2020–02140 Filed 2–4–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200130–0040]

RIN 0648–BJ46

Fisheries of the Northeastern United States; Northeast Skate Complex; Framework Adjustment 8 and 2020–2021 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement measures recommended by the New England Fishery Management Council in Framework Adjustment 8 to the Northeast Skate Complex Fishery Management Plan. This action would specify skate catch limits for fishing years 2020 and 2021, and increase seasonal trip limits for both the wing and bait fisheries. This proposed action is necessary to establish skate specifications consistent with the most recent scientific information. The intent of this action is to establish appropriate catch limits for the skate fishery, while providing additional operational flexibility to fishery participants.

DATES: Comments must be received by March 6, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0143, by either of the following methods:

Electronic submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0143,*
2. Click the ''Comment Now!'' icon, complete the required fields, and
3. Enter or attach your comments.

—OR—

Mail: Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, Greater Atlantic Region, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: ''Comments on the Proposed Rule for Skate Framework Adjustment 8.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

New England Fishery Management Council staff prepared a draft environmental assessment (EA) for this action that describes the proposed measures and other considered alternatives. The EA also provides an economic analysis, as well as an analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Copies of the Framework Adjustment 8 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also accessible via the internet at *www.nefmc.org.*

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

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages a complex of seven skate species (barndoor, clearnose, little, rosette, smooth, thorny, and winter) off the New England and mid-Atlantic coasts through the Northeast Skate Complex Fishery Management Plan (FMP). The FMP was implemented in 2003. Skates are harvested and managed through two different targeted fisheries, one for food (the wing fishery) and one for use as bait in other fisheries (the bait fishery). The FMP requires that annual catch and possession limits for the skate fishery be reviewed and established through the specifications process for up to two fishing years at a time. The current specifications (revised February 15, 2019; 84 FR 4373) expire on April 30, 2020, and will remain effective in the event that a final rule for this action is delayed beyond that date.

In August 2019, the Council's Scientific and Statistical Committee (SSC) reviewed updated information on the status of the seven skate species and recommended an acceptable biological catch (ABC) of 32,715 mt for fishing years 2020 and 2021. This ABC incorporates updated data derived from the median catch/biomass exploitation ratio for the time series up to 2019 and the three-year average stratified mean biomass for skates, using the 2017–2019 spring New England Fisheries Science Center (NEFSC) survey data for little skate and the 2016–2018 fall NEFSC survey data for the other species.

At a meetings in late August and early September, the skate plan development team (PDT), advisory panel (AP), and Committee met to discuss and make recommendations on these specifications. The PDT and Committee agreed with the SSC recommendation for the ABC, and following Amendment 3 procedures, recommended that the annual catch limit (ACL) be set equal to the ABC. The PDT and Committee also recommended a moderate increase in the total allowable landings (TAL) for both the wing and bait fisheries, primarily due to recent data indicating fewer discards in the directed fisheries. The AP and Committee discussed ways to provide greater access to the skate resource to better utilize the increased quotas. Based on this discussion, the Committee recommended increasing seasonal possession limits for both the wing and bait fisheries. The Council took final action on this framework at the September 2019 meeting in Gloucester, MA.

Proposed Measures

This action proposes the Council's recommendations for 2020 and 2021. This action would increase the ACL to 32,715 mt (up from 31,327 mt in 2019) and the overall TAL to 17,864 mt (an increase from 15,788 mt in 2019). This would result in an approximately 13-

percent increase each in both the bait and wing fisheries' TALs. The bait fishery TAL would be 5,984 mt, and the wing fishery TAL would be 11,879 mt. The fishing year for skates is from May 1 to April 30. However, the directed wing and bait fisheries are broken up into separate seasons to more closely manage harvest. According to regulations at 50 CFR 648.322, 66.5 percent of the skate TAL is allocated to wing fishery. Of the wing fishery TAL, 57 percent is allocated to Season 1 (May 1–August 31), with the remainder allocated to Season 2 (September 1–April 30). In the bait fishery, Season 1 (May 1–July 31) is allocated 30.8 percent of the bait TAL, Season 2 (August 1–October 31) receives 37.1 percent, and the remainder is allocated to Season 3 (November 1–April 30). A summary of the proposed 2020–2021 skate fishery specifications is shown below in Table 1.

TABLE 1—SUMMARY OF PROPOSED 2020–2021 SKATE FISHERY SPECIFICATIONS COMPARED TO CURRENT 2019 LIMITS

[In metric tons]

	FY2019 (current)	FY2020–21 (proposed)
ABC/ACL	31,327	32,715
Annual Catch Target (ACT) (90%)	28,194	29,444
Overall TAL	15,788	17,864
Wing TAL (66.5% of Overall TAL)	10,499	11,879
Wing Season 1 TAL (57% of Wing TAL)	5,984	6,771
Wing Season 2 TAL (43% of Wing TAL)	4,515	5,108
Bait TAL (33.5% of Overall TAL)	5,289	5,984
Bait Season 1 TAL (30.8% of Bait TAL)	1,629	1,843
Bait Season 2 TAL (37.1% of Bait TAL)	1,962	2,220
Bait Season 3 TAL (32.1% of Bait TAL)	1,698	1,921

This proposed action would also increase seasonal possession limits in both the wing and bait fisheries to allow more flexibility in harvesting the additional quota. The wing fishery trip limit in Season 1 would be raised from 2,600 lb (1,179 kg) to 3,000 lb (1,361 kg), and the Season 2 trip limit would increase from 4,100 lb (1,860 kg) to 5,000 lb (2,268 kg). The barndoor skate possession limit within the wing fishery would also increase from 650 lb (295 kg) to 750 lb (340 kg) in Season 1, and from 1,025 lb (465 kg) to 1,250 lb (567 kg) in Season 2. In the bait fishery, the Season 3 trip limit would be raised from 12,000 lb (5,443 kg) to 25,000 lb (11,340 kg) to be consistent with the rest of the fishing year. The incidental possession limits of 500 lb (227 kg) in the wing fishery and 8,000 lb (3,629 kg) in the bait fishery would remain unchanged.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Skate Complex FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Council reviewed the proposed regulations for this action and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures. The action would impact vessels or affiliated groups that hold Federal skate permits and participate in skate fisheries. The Council's analysis of 2018 data, the most recent complete set of data available, and the commercial ownership affiliate database, indicated that the skate fishery had 364 vessels with federal permits that landed skates in 2018. Those 364 vessels were owned by a total of 331 business entities that could be directly affected by this action. Of the 331 affiliate groups that landed skate, 327 were classified as small businesses and 4 were large businesses.

The purpose of this action was previously outlined in the preamble to this proposed rule and is not repeated here. As proposed, this action would slightly increase the available catch limits in skate fishery for fishing years 2020–2021, as well as seasonal possession limits for both the wing and bait skate fisheries. This action is expected to result in increased revenues and economic benefits from the higher annual catch limits, while providing additional operational flexibility and fishing opportunity through the increased trip limits. This action is not expected to have a significant economic impact on a substantial number of small entities. The effects on the regulated small entities in this analysis are expected to be positive. Under the proposed action, small entities would not be placed at a competitive disadvantage relative to large entities, and the regulations would not reduce profits for any small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This action would not establish any new reporting or record-keeping requirements.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 30, 2020.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.322, revise paragraphs (b)(1)(i) and (ii), and paragraph (c)(3) to read as follows:

§ 648.322 Skate allocation, possession, and landing provisions.

* * * * *

(b) * * *

(1) *Vessels fishing under an Atlantic sea scallop, NE multispecies, or monkfish DAS.* (i) A vessel or operator of a vessel that has been issued a valid Federal skate permit under this part, and fishes under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§ 648.53, 648.82, and 648.92, respectively, unless otherwise exempted under § 648.80 or paragraph (c) of this section, may fish for, possess, and/or land up to the allowable trip limits specified as follows: Up to 3,000 lb (1,361 kg) of skate wings (6,810 lb (3,089 kg) whole weight) per trip in Season 1 (May 1 through August 31), and 5,000 lb (2,268 kg) of skate wings (11,350 lb (5,148 kg) whole weight) per trip in Season 2 (September 1 through April 30), or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section.

(ii) When fishing under the possession limits specified in paragraph (b)(1)(i) of this section, a vessel is allowed to possess and land up to 750 lb (340 kg) of barndoor skate wings (1,702 lb (772 kg) whole weight) per trip in Season 1, and 1,250 lb (567 kg) of barndoor skate wings (2,837 lb (1,287 kg) whole weight) per trip in Season 2. The possession limits for barndoor skate wings are included within the overall possession limit (*i.e.,* total pounds of skate wings on board, including barndoor skate wings, are not allowed to exceed 3,000 lb (1,361 kg) in Season 1 and 5,000 lb (2,268 kg) in Season 2). Vessels are prohibited from discarding any skate wings when in possession of barndoor skate wings. Barndoor skate wings and carcasses on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(c) * * *

(3) The vessel owner or operator possesses or lands no more than 25,000 lb (11,340 kg) of whole skates per trip.

* * * * *

[FR Doc. 2020–02172 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 24
Wednesday, February 5, 2020

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) WIC Breastfeeding Award of Excellence

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for awarding local agencies for excellence in WIC breastfeeding services and support. Section 231 of the Healthy, Hunger-Free Kids Act of 2010, Public Law 111–296, requires that the Department of Agriculture (USDA) establish a program to recognize WIC local agencies and clinics that demonstrate exemplary breastfeeding promotion and support activities.

DATES: Written comments must be received on or before April 6, 2020.

ADDRESSES: Comments may be sent to: Sarah Widor, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Braddock Metro Center, 1320 Braddock Place, Alexandria, VA 22314. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. All comments will be made available publicly on the internet at *http://www.regulations.gov.* All responses to this notice will be summarized and included in the request for Office of Management and Budget approval.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Anne Bartholomew, Chief, Nutrition Services Branch, Supplemental Food Programs Division, FNS, USDA, Braddock Metro Center, 1320 Braddock Place, Alexandria, VA 22314. Telephone: (703) 305–2746.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Special Supplemental Nutrition Program for Women, Infants and Children (WIC) WIC Breastfeeding Award of Excellence (formerly the Loving Support Award of Excellence).

Form Number: Not applicable.

OMB Number: 0584–0591.

Expiration Date: 09/30/2020.

Type of Request: Revision of a Currently Approved Collection.

Abstract: This information collection is mandated by section 231 of the Healthy, Hunger-Free Kids Act of 2010 (HHFKA) (Pub. L. 111–296). Section 231 of the HHFKA, requires USDA to implement a program to recognize exemplary breastfeeding support practices at WIC local agencies and clinics. The WIC Program provides breastfeeding promotion and support for pregnant and postpartum mothers as a part of its mission to improve the health of the approximately 6 million Americans it serves each month. Breastfeeding is a priority in WIC and WIC mothers are strongly encouraged to breastfeed their infants unless medically contraindicated.

In recognizing exemplary local agencies and clinics, the HHFKA requires that the Secretary consider the following criteria: (1) Performance measurements of breastfeeding; (2) the effectiveness of a peer counselor program; (3) the extent to which the agency or clinic has partnered with other entities to build a supportive breastfeeding environment for women participating in WIC; and (4) other criteria the Secretary considers appropriate after consultation with State and local program agencies. The information will be submitted voluntarily by WIC local agencies who will be applying for an award. FNS will use the information collected to evaluate the components of existing breastfeeding programs and support in WIC local agencies and make decisions about awards. This program is expected to provide models and motivate local agencies and clinics to strengthen their breastfeeding promotion and support activities. To streamline the submission of the application components, FNS plans to explore the possibility of conducting the application and submission process via an online platform. The total estimated time to complete the application is not expected to change.

The award program for breastfeeding excellence was originally titled the Loving Support Award of Excellence, consistent with the former WIC breastfeeding campaign, Loving Support Makes Breastfeeding Work. In 2018, the WIC breastfeeding campaign was updated and rebranded as WIC Breastfeeding Support. Therefore, the name of the award program will be rebranded as the WIC Breastfeeding Award of Excellence.

Affected Public: State, Local, and Tribal Government. The respondents include WIC local and state agencies in the states and territories.

Estimated Number of Respondents: The total estimated number of participants is 269: 180 local WIC agencies and 89 State WIC agencies.

WIC Peer Counseling is an FNS initiative that equips WIC programs with an implementation and management model—the '' WIC Breastfeeding Model for Peer Counseling''—that serves as a framework for designing, building, and

sustaining peer counseling programs; a requirement for award eligibility. According to program data, the number of local agencies operating a WIC program is 1,850. The number of local agencies submitting applications has increased annually; over 40% of eligible local agencies participated in the past five years. In Fiscal Year (FY) 2015, 77 eligible local agencies applied for an award; in FY 2016, 117 eligible local agencies applied for an award; in FY 2017, 123 eligible local agencies applied for an award; in FY 2018, 132 eligible local agencies applied for an award; and in FY 2019, 137 eligible local agencies applied for an award. Therefore, unlike the previous information collection request, the estimated number of respondents for local agency applications will not assume 30% of all eligible local WIC agencies will apply for an award annually. To better reflect the number of respondents for subsequent years, FNS estimates the annual submitted applications will continue to slowly increase, ranging from 140–180 applications submitted annually. The estimated number of respondents for the State agency application verification is derived from the total number of State WIC agencies.

Estimated Number of Responses per Respondent: The estimated number of responses per respondent for the WIC local agency is one, as each eligible WIC local agency will submit one application. The estimated number of responses per respondent for the WIC State agency is 2.0, as each WIC State agency will evaluate approximately 2.0 applications annually. These estimates were derived by dividing the total number of responses for the WIC Local Agency Application or the State Agency Evaluation by the respective number of respondents. Overall, the estimated number of responses per respondent across the entire collection is 1.3, which is derived by dividing the total number of responses (358) by the total estimated number of respondents (269).

Estimated Total Annual Responses: 358.

Estimated Time per Response: FNS estimates the WIC local agency application response is 2.5 hours, and the WIC State agency response is 1.5 hours. Overall, the average estimated time for all of the participants is 2 hours. The estimated average number of hours per response was derived by dividing the number of estimated total hours (717), by the number of total annual responses by all respondents (358). The time for the WIC local agency is an estimated time for the agency to voluntarily review the instructions, fill out the ''WIC Breastfeeding Award of Excellence'' application, and attach supportive documentation. The time for the State WIC agency is an estimated time for the agency to review the instructions, evaluate the components of the local WIC agencies applications, and make a recommendation for an award.

Estimated Total Annual Burden on Respondents: 717.0 hours.

See the table below for estimated total annual burden for each type of respondent.

Respondent	Estimated number respondent	Responses annually per respondent	Total annual responses	Estimated average number of hours per response *	Estimated total hours
Reporting Burden:					
WIC Local Agency Application	180.0	1.0	180.0	2.5	450.0
WIC State Agency Evaluation	89.0	2.0	178.0	1.5	267.0
Total Reporting Burden	269.0	1.3	358.0	2.0	717.0

* Estimated average # of hours per response includes .5 hours for reviewing instructions

Dated: January 29, 2020.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–02246 Filed 2–4–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lincoln Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lincoln Resource Advisory Committee (RAC) will meet in Libby, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/pts/specialprojects/racs.*

DATES: The meeting will be held on Monday, March 9, 2020 at 1:00 p.m. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Kootenai National Forest Supervisor's Office, 31374 U.S. Hwy. 2, Libby, Montana 59923.

Written comments may be submitted to the RAC Coordinator, Katie Andreessen.

FOR FURTHER INFORMATION CONTACT: Katie Andreessen, RAC Coordinator, by phone at 406–283–7781 or via e*mail at marikate.andreessen@usda.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Vote on a RAC Chair;
2. Discuss, prioritize, and approve project proposals;
3. Discuss and/or recommend recreation fee proposals; and
4. Receive public comment.

The meeting is open to the public. The agenda will include time for people to make oral statements, subject to time requirements by RAC facilitator. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION**

CONTACT. All reasonable accommodation requests are managed on a case by case basis.

Cikena Reid,

USDA, Committee Management Officer.

[FR Doc. 2020–02239 Filed 2–4–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture's Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by April 6, 2020.

FOR FURTHER INFORMATION CONTACT: Kimble Brown, Rural Development Innovation Center—Regulatory Team, U.S. Department of Agriculture, 1400 Independence Avenue SW, STOP 1522, Washington, DC 20250, Telephone: 202–720–6780, email: *kimble.brown@usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.

Title: 7 CFR part 1744, subpart B, Lien Accommodations and Subordination Policy.

OMB Control Number: 0572–0126.

Expiration Date of Approval: July 31, 2020

Type of Request: Revision of a currently approved information collection.

Abstract: RUS borrowers and other organizations providing telecommunications in rural areas, due to changes in the telecommunications industry, including deregulation and technological developments, may consider undertaking projects that provide new telecommunications services and other telecommunications services not ordinarily financed by RUS. Although some of these services may not be eligible for financing under the Rural Electrification Act of 1936 (RE Act), the services may nevertheless advance RE Act objectives where the borrower obtains financing from private lenders. To facilitate the financing of those projects and services, this program assists in facilitating funding from non-RUS sources in order to meet the growing capital needs of rural Local Exchange Carriers (LECs).

The information collected for lien accommodation requests is used by RUS to ascertain a borrower's level of financial strength and, upon agency approval of the lien accommodation, ensures that the government's loan security interest is protected.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.50 hours per response.

Respondents: Business or other for-profit and non-profit institutions.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 3.

Estimated Total Annual Burden on Respondents: 1.5.

Copies of this information collection can be obtained from Kimble Brown, Innovation Center—Regulations Team, at (202) 720–6780, or email: *kimble.brown@usda.gov*.

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.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–02270 Filed 2–4–20; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–05–2020]

Foreign-Trade Zone (FTZ) 158—Jackson, Mississippi; Notification of Proposed Production Activity; Traxys Cometals USA, LLC (Manganese and Aluminum Alloying Agents); Burnsville, Mississippi

Traxys Cometals USA, LLC (Traxys Cometals) submitted a notification of proposed production activity to the FTZ Board for its facility in Burnsville, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on January 30, 2020.

Traxys Cometals already has authority to produce high-grade manganese and aluminum alloying agents within FTZ 158. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Traxys Cometals from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Traxys Cometals would be able to choose the duty rate during customs entry procedures that applies to high-grade manganese and aluminum alloying agents (duty rate ranges from 1.4% to 14%). Traxys Cometals would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include low-carbon and medium-carbon ferromanganese powder (duty rate ranges from 1.4% to 2.3%). The request indicate that low-carbon and medium-carbon ferromanganese powder are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The

closing period for their receipt is March 16, 2020.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: January 30, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–02265 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–64–2019]

Foreign-Trade Zone (FTZ) 33—Pittsburgh, Pennsylvania; Authorization of Production Activity; Steelite International USA, Inc. (Hospitality Industry Serveware); New Castle, Pennsylvania

On October 3, 2019, the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of FTZ 33, submitted a notification of proposed production activity to the FTZ Board on behalf of Steelite International USA, Inc., within FTZ 33, in New Castle, Pennsylvania.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 55550, October 17, 2019). On January 31, 2020, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: January 31, 2020.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2020–02264 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the antidumping duty order on certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION: Matthew Renkey, 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) 482–2312.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2019, Commerce published the *Notice of Initiation* of the five-year review of the antidumping duty order on fish fillets from Vietnam, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] On October 11, 2019, Commerce received a notice of intent to participate in this review from the domestic interested parties,[2] within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers, producers, or wholesalers of a domestic like product in the United States. On October 31, 2019, the domestic interested parties provided a complete substantive response for this review within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from any other interested parties, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the order.

Scope of the Order

The merchandise covered by the order is certain frozen fish fillets. For a full description of the scope, *see* the Issues and Decision Memorandum.[3]

Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the orders were revoked, are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. 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 to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on fish fillets from Vietnam would likely lead to continuation or recurrence of dumping and that the magnitude of the margins is up to 63.88 percent.

Notification Regarding Administrative Protective Order (APO)

This notice serves as the only reminder to interested parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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

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[1] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 52067 (October 1, 2019) (*Notice of Initiation*).

[2] These parties are: Catfish Farmers of America and individual U.S. catfish processors America's Catch, Inc., Alabama Catfish, LLC d/b/a Harvest Select Catfish, Inc., Consolidated Catfish Companies, LLC d/b/a Country Select Catfish, Delta Pride Catfish, Inc.,1 Guidry's Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. d/b/a Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (collectively, domestic interested parties).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Dated: January 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. History of the Order
V. Discussion of the Issues
VI. Final Results of Sunset Review
VII. Recommendation

[FR Doc. 2020–02258 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–820]

Prestressed Concrete Steel Wire Strand From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that The Siam Industrial Wire Co., Ltd. (SIW) did not make sales of subject merchandise at less than normal value (NV) during the period of review (POR) January 1, 2018 through December 31, 2018. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Samantha Kinney, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–2285, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2019, based on a timely request for review filed by the petitioners,[1] we initiated an administrative review on prestressed concrete steel wire strand (PC Strand) from Thailand for SIW,[2] the only company for which a review was requested.[3] In September 2019, we extended the preliminary results of this review to no later than January 31, 2020.[4] For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5]

Scope of the Order

The product covered by the *Order*[6] is PC Strand from Thailand. Products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7312.10.3010 and 7312.10.3012. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive. For a full description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://enforcement.trade.gov/frn/index.htm.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

Preliminary Results of the Review

As a result of this review, Commerce preliminarily determines that a weighted-average dumping margin of 0.00 percent exists for SIW for the period January 1, 2018 through December 31, 2018.[7]

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days of the date of publication of this notice.[8] Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[9] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[10] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Case and rebuttal briefs should be filed using ACCESS.[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[13] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues

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[1] The petitioners are Insteel Wire Products Company, Sumiden Wire Products Corporation, and WMC Steel, LLC (collectively, the petitioners).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 12200 (April 1, 2019).

[3] *See* Petitioners' Letter, ''Prestressed Concrete Steel Wire Strand from Thailand: Petitioners' Request for 2018 Administrative Review,'' dated February 28, 2019.

[4] *See* Memorandum, ''Prestressed Concrete Steel Wire Strand from Thailand: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2018,'' dated September 24, 2019.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2018 Antidumping Duty Administrative Review: Prestressed Concrete Steel Wire Strand from Thailand,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Thailand,* 69 FR 4111 (January 28, 2004) (*Order*); *see also Prestressed Concrete Steel Wire Strand from Brazil, India, Japan, the Republic of Korea, Mexico, and Thailand: Continuation of the Antidumping Duty Finding/Orders and Countervailing Duty Order,* 80 FR 22708 (April 23, 2015).

[7] *See* Preliminary Decision Memorandum.

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c)(1)(ii).

[10] *See* 19 CFR 351.309(d).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.303.

[13] *See* 19 CFR 351.310(c).

raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to notify parties of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[14]

An electronically-filed document must be received successfully in its entirety via ACCESS by 5 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[15]

Assessment Rates

Upon publication of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[16]

If SIW's calculated weighted-average dumping margin is above *de minimis* (*i.e.,* greater than or equal to 0.5 percent) in the final results of this review, we will calculate importer-specific assessment *ad valorem* rates based on the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). If SIW's weighted-average dumping margin continues to be zero or *de minimis,* or the importer-specific assessment rate is zero or *de minimis* in the final results of review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[17]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

In accordance with our ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by SIW for which SIW did not know that the merchandise it sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[18]

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for SIW will be the rate established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for companies not participating in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently-completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 12.91 percent, the all-others rate established in the LTFV investigation.[19] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: January 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2020–02256 Filed 2–4–20; 8:45 am]

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[14] *See* 19 CFR 351.310(d).

[15] *See* section 751(a)(3)(A) of the Act.

[16] *See* 19 CFR 351.212(b)(1).

[17] *See* 19 CFR 351.106(c)(2).

[18] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[19] *See Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–853, A–570–117]

Wood Mouldings and Millwork Products From Brazil and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable January 28, 2020.

FOR FURTHER INFORMATION CONTACT: George Ayache at (202) 482–2623 (Brazil); Michael Bowen at (202) 482–0768 (the People's Republic of China (China)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 8, 2020, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of wood mouldings and millwork products (millwork products) from Brazil and China.[1] The AD Petitions were filed in proper form by the Coalition of American Millwork Producers (the petitioner or the Coalition).[2] The AD Petitions were accompanied by the countervailing duty (CVD) petition concerning imports of millwork products from China.

On January 10, 13, 17, and 21, 2020, Commerce requested supplemental

[1] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated January 8, 2020 (the AD Petitions).

[2] The Coalition of American Millwork Producers is comprised of Bright Wood Corporation, Cascade Wood Products, Inc., Endura Products, Inc., Sierra Pacific Industries, Sunset Moulding, Woodgrain Millwork Inc., and Yuba River Moulding.

information pertaining to certain aspects of the AD Petitions in separate supplemental questionnaires and phone calls with the petitioner.[3] Responses to the supplemental questionnaires were filed on January 15, 16, and 22, 2020.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of millwork products from Brazil and China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing millwork products in the United States. Consistent with section 732(b)(1) of the Act, the AD Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the AD Petitions on behalf of the domestic industry, because the Coalition is an interested party under section 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigations.[5]

Periods of Investigation

Because the AD Petitions were filed on January 8, 2020, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Brazil investigation is January 1, 2019 through December 31, 2019. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is July 1, 2019 through December 31, 2019.

Scope of the Investigations

The products covered by these investigations are millwork products from Brazil and China. For a full description of the scope of these investigations, *see* the appendix to this notice.

Scope Comments

During our review of the AD Petitions, we contacted the petitioner regarding the proposed scope to ensure that the scope language in the AD Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[6] As a result, the scope of the AD Petitions was modified to clarify the description of the merchandise covered by the AD Petitions. The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 18, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[9] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on February 28, 2020, which is 10 calendar days from the initial comment deadline.[10]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of millwork products to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Wood Mouldings and Millwork Products from Brazil and the People's Republic of China and Countervailing Duties on Imports of Wood Mouldings and Millwork Products from the People's Republic of China: Supplemental Questions;'' dated January 10, 2020; ''Petition for the Imposition of Antidumping Duties on Imports of Wood Mouldings and Millwork Products from Brazil: Supplemental Questions;'' dated January 13, 2020; ''Petition for the Imposition of Antidumping Duties on Imports of Wood Mouldings and Millwork Products from the People's Republic of China: Supplemental Questions,'' dated January 13, 2020. *See also* Memorandum, ''January 21, 2020 Phone Call with Counsel for Coalition of American Millwork Producers,'' dated January 21, 2020; and Memorandum, ''Phone Call with Counsel to the Petitioner,'' dated January 22, 2020 (Scope Phone Call Memo).

[4] *See* Petitioner's Letters, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Responses to First Supplemental Questionnaire on General Issues Volume I of the Petition,'' dated January 15, 2020 (General Issues Supplement); ''Wood Mouldings and Millwork Products from Brazil: Responses to First Supplemental Questionnaire on Brazil AD Volume II of the Petition,'' dated January 16, 2020; ''Wood Mouldings and Millwork Products from the People's Republic of China: Responses to First Supplemental Questions on China AD Volume III of the Petition,'' dated January 16, 2020; ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Responses to Second Supplemental Questionnaire on General Issues Volume I of the Petition,'' dated January 22, 2020 (Second General Issues Supplement); ''Wood Mouldings and Millwork Products from Brazil: Responses to First Supplemental Questions on Brazil AD Volume II of the Petition,'' dated January 22, 2020; and ''Wood Mouldings and Millwork Products from the People's Republic of China: Responses to First Supplemental Questions on China AD Volume III of the Petition,'' dated January 22, 2020.

[5] *See infra,* section on ''Determination of Industry Support for the AD Petitions.''

[6] *See* Scope Phone Call Memo; *see also* General Issues Supplement at 2–11; and Second General Issues Supplement at 1–6.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[9] The current deadline for scope comments falls on Monday, February 17, 2020, which is a federal holiday. Therefore, in accordance with our *Next Business Day Rule,* the deadline is moved to Tuesday, February 18, 2020. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

[10] *See* 19 CFR 351.303(b).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe millwork products, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on February 18, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[12] Any rebuttal comments must be filed by 5:00 p.m. ET on February 28, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the AD Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[15] Based on our analysis of the information submitted on the record, we have determined that millwork products, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

On January 23, 2020, we received comments on industry support from Composite Technology International, Inc. (CTI), an importer of the subject merchandise.[17] The petitioner responded to CTI's industry support comments on January 27, 2020.[18]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the AD Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2018 production of the domestic like product for the U.S. producers that support the AD Petitions.[19] The petitioner estimated the production of the domestic like product for the remaining U.S. producers of millwork products based on production information from the Moulding and Millwork Producers Association and the Architectural Woodwork Institute, as well as estimated production information for U.S. producers that are not members of either of these two groups.[20] The petitioner notes that 2019 production data are not yet available and contends that 2018 calendar year production data are a reasonable estimate of production in 2019.[21] The petitioner compared the production of

[12] *See* 19 CFR 351.303(b). The current deadline for product characteristics comments falls on Monday, February 17, 2020, which is a federal holiday. Therefore, in accordance with our *Next Business Day Rule,* the deadline is moved to Tuesday, February 18, 2020.

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[15] *See* Volume I of the AD Petitions, at 13–15; *see also* General Issues Supplement, at 11–14.

[16] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Wood Mouldings and Millwork Products from Brazil (Brazil AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Wood Mouldings and Millwork Products from Brazil and the People's Republic of China (Attachment II); *see also* Antidumping Duty Investigation Initiation Checklist: Wood Mouldings and Millwork Products from the People's Republic of China (China AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

[17] *See* CTI's Letter, ''Wood Mouldings & Millwork Products from Brazil and the People's Republic of China: Pre-Initiation Comments on Industry Support,'' dated January 23, 2020.

[18] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Response to Pre-Initiation Comments on Industry Support,'' dated January 27, 2020.

[19] *See* Volume I of the AD Petitions, at 2–3 and Exhibits I–3—I–5; *see also* General Issues Supplement, at 16 and Exhibits I–Supp–13 and I–Supp–14.

[20] *See* Volume I of the AD Petitions, at 2–4 and Exhibits I–3, I–6, I–7, I–8, and I–9; *see also* General Issues Supplement, at 16–18 and Exhibits I–Supp–14—I–Supp–16.

[21] *See* Second General Issues Supplement, at 7–8.

the companies supporting the AD Petitions to the estimated total production of the domestic like product for the entire domestic industry.[22] We relied on data provided by the petitioner for purposes of measuring industry support.[23]

Our review of the data provided in the AD Petitions, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the AD Petitions.[24] First, the AD Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[25] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the AD Petitions account for at least 25 percent of the total production of the domestic like product.[26] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the AD Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the AD Petitions.[27] Accordingly, Commerce determines that the AD Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[28]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[29]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and revenues; declining financial performance; a decline in the domestic industry's capacity utilization and production and related workers; shuttered manufacturing facilities and bankruptcies; and actual and potential negative effects on cash flow.[30] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[31]

Allegations of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of millwork products from Brazil and China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist for each country.

Export Price

For both Brazil and China, the petitioner based export price (EP) on price quotes for millwork products produced in, and exported from, Brazil and China and offered for sale in the United States during the POI.[32] Where appropriate, the petitioner made deductions from U.S. price for foreign brokerage and handling, foreign inland freight, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. customs duties and fees, consistent with the terms of sale, as applicable.[33]

Normal Value

For Brazil, the petitioner obtained home market prices through market research for millwork products produced in and sold, or offered for sale, in Brazil during the POI. The petitioner calculated net home market prices, adjusted as appropriate for Brazilian taxes.[34] The petitioner provided information indicating that the prices were below the cost of production (COP) and, therefore, the petitioner calculated NV based on constructed value (CV).[35] For further discussion of COP and NV based on CV, *see* the section ''Normal Value Based on Constructed Value'' below.[36]

With respect to China, Commerce considers China to be an NME country.[37] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by Commerce. Therefore, we continue to treat China as an NME for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[38]

The petitioner claims that Brazil is an appropriate surrogate country for China, because it is a market economy country that is at a level of economic development comparable to that of China and a significant producer of comparable merchandise.[39] Further, public information from Brazil is available to value all material input factors.[40] Based on the information provided by the petitioner, we determine that it is appropriate to use Brazil as a surrogate country for initiation purposes.

[22] *See* Volume I of the AD Petitions, at 4 and Exhibit I–3; *see also* General Issues Supplement, at 16 and Exhibit I–Supp–14.

[23] *See* Volume I of the AD Petitions, at 2–4 and Exhibits I–3—I–9; *see also* General Issues Supplement, at 14–18 and Exhibits I–Supp–11—I–Supp–16. For further discussion, *see* Brazil AD Initiation Checklist, at Attachment II; *see also* China AD Initiation Checklist, at Attachment II.

[24] *See* Brazil AD Initiation Checklist, at Attachment II; *see also* China AD Initiation Checklist, at Attachment II.

[25] *See* section 732(c)(4)(D) of the Act; *see also* Brazil AD Initiation Checklist, at Attachment II; and China AD Initiation Checklist, at Attachment II.

[26] *See* Brazil AD Initiation Checklist, at Attachment II; *see also* China AD Initiation Checklist, at Attachment II.

[27] *Id.*

[28] *Id.*

[29] *See* General Issues Supplement, at 18–19 and Exhibit I–Supp–17.

[30] *See* Volume I of the AD Petitions, at 12–13, 15–26, and Exhibits I–13 through I–23.

[31] *See* Brazil AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering Wood Mouldings and Millwork Products from Brazil and the Republic of China (Attachment III); *see also* China AD Initiation Checklist, at Attachment III.

[32] *See* Brazil AD Initiation Checklist and China AD Initiation Checklist.

[33] *Id.*

[34] *See* Brazil AD Initiation Checklist.

[35] *Id.*

[36] In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices less than the COP of the product.

[37] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying Memorandum, ''China's Status as a Non-Market Economy,'' unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[38] *See* China AD Initiation Checklist.

[39] *See* Volume III of the AD Petitions at 10–12.

[40] *Id.* at Exhibit III–22.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by the Chinese producers/exporters is not reasonably available, the petitioner relied on the production experience of a domestic producer as an estimate of Chinese manufacturers' FOPs.[41] The petitioner valued the estimated FOPs using surrogate values from Brazil and used the average POI exchange rate to convert the data to U.S. dollars, where necessary.[42]

Normal Value Based on Constructed Value

As noted above, for Brazil, the petitioner obtained home market prices but provided information indicating that these prices were below the COP during the POI; therefore, the petitioner based NV on CV pursuant to section 773(a)(4) of the Act. Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, profit, and packing expenses.

The petitioner calculated the COM based on a domestic producer's production inputs and usage rates for raw materials, labor, energy, and packing.[43] The petitioner valued the production inputs using publicly available data on costs specific to Brazil during the POI. Specifically, the petitioner based the prices for raw material and packing inputs on publicly available import price data for Brazil.[44] The petitioner valued labor and energy costs using publicly available sources for Brazil.[45] The petitioner calculated factory overhead, SG&A, financial expenses, and profit for Brazil based on the experience of a Brazilian producer of comparable merchandise.[46]

Fair Value Comparisons

Based on the data provided in the AD Petitions, there is reason to believe that imports of millwork products from Brazil and China are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for millwork products for each of the countries covered by this initiation are as follows: (1) Brazil—86.73 percent;[47] and (2) China—181.17 and 359.16 percent.[48]

Initiation of LTFV Investigations

Based upon the examination of the AD Petitions and supplemental responses, we find that the AD Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of millwork products from Brazil and China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

The petitioner named 27 companies in Brazil as producers/exporters of millwork products.[49] Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in Brazil based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed with the scope in the appendix, below.[50]

On January 24, 2020, Commerce released CBP data on imports of millwork products from Brazil under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at *http://enforcement.trade.gov/apo.*

The petitioner named 92 producers/exporters of millwork products in China.[51] In AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. After considering the large number of producers and exporters identified in the China AD Petition, and considering the resources that must be used by Commerce to mail Q&V questionnaires to all of these companies, Commerce has determined that it does not have sufficient administrative resources to mail Q&V questionnaires to all 92 identified producers and exporters. Therefore, Commerce has determined to limit the number of Q&V questionnaires it will send out to exporters and producers based on CBP data for imports during the POI under the appropriate HTSUS numbers listed within the scope in the appendix, below. Accordingly, Commerce will send Q&V questionnaires to the largest producers and exporters that are identified in the CBP data for which there is address information on the record.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at *http://www.trade.gov/enforcement/news.asp.* In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to base respondent selection on the responses to the Q&V questionnaire that we receive.

Producers/exporters of millwork products from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. The Q&V response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on February 11, 2020.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[52] The specific requirements

[41] *Id.* at 12.

[42] *Id.* at 14; *see also* China AD Initiation Checklist.

[43] *See* Brazil AD Initiation Checklist.

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *See* Brazil AD Initiation Checklist.

[48] *See* China AD Initiation Checklist.

[49] *See* Volume I of the AD Petitions, at Exhibit I–11.

[50] *See, e.g., Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 58223, 58227 (November 19, 2018).

[51] *See* Volume I of the AD Petitions, at Exhibit I–11.

[52] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at

for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[53] Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.[54]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Brazil and China via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of millwork products from Brazil and/or China are materially injuring, or threatening material injury to, a U.S. industry.[55] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[56] Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[57] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[58] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.[59] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time

http://enforcement.trade.gov/policy/bull05-1.pdf (Policy Bulletin 05.1).

[53] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[54] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[55] *See* section 733(a) of the Act.

[56] *Id.*

[57] *See* 19 CFR 351.301(b).

[58] *See* 19 CFR 351.301(b)(2).

[59] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[60] Parties must use the certification formats provided in 19 CFR 351.303(g).[61] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise subject to these investigations consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood that undergoes additional manufacturing or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn).

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to these investigations consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and door components such as rails and stiles.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (*e.g.,* gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscures the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (*e.g.,* endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, coating, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the in-scope product.

Excluded from the scope of these investigations are exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (*e.g.,* composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads and rail fittings); and picture frame components three feet and under in individual lengths.

Excluded from the scope of these investigations are all products covered by the scope of the antidumping and countervailing duty orders on *Hardwood Plywood from the People's Republic of China. See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018); *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018).

Excluded from the scope of these investigations are all products covered by the scope of the antidumping and countervailing duty orders on *Multilayered Wood Flooring from the People's Republic of China. See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011); *Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order,* 76 FR 76693 (December 8, 2011).

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.22.4000, 4409.22.5000, 4409.29.4100, and 4409.29.5100. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000, 4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4418.99.9095 and 4421.99.9780. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

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[60] *See* section 782(b) of the Act.

[61] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–843]

Certain Cold-Rolled Steel Flat Products From Brazil: Rescission of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on certain cold-rolled steel flat products from Brazil for the period of review (POR) September 1, 2018 through August 31, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION CONTACT: William Langley, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3861.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on certain cold-rolled steel flat products (cold-rolled steel) from Brazil for the POR of September 1, 2018 through August 31, 2019.[1] United States Steel Corporation (U.S. Steel) timely filed requests for administrative review of Aperam Inox America do Sul S.A. (Aperam Inox); Armco do Brasil S.A. (Armco); Arvedi Metalfer do Brasil (Arvedi Metalfer); Companhia Siderurgica Nacional (CSN); NVent do Brasil Eletrometalurgica (NVent); Signode Brasileira Ltda. (Signode Brasileira); and Usinas Siderurgicas de Minas Gerais (Usiminas), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[2]

On November 12, 2019, pursuant to these requests and in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating an administrative review of the antidumping order on cold-rolled steel from Brazil with respect to Aperam Inox, Armco, Arvedi Metalfer, CSN, NVent, Signode Brasileira, and Usiminas.[3] On January 8, 2020, U.S. Steel withdrew its request for an administrative review with respect to all of the companies for which it had requested a review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. U.S. Steel withdrew its request within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 45949 (September 3, 2019).

[2] *See* U.S. Steel's letter, ''Cold-Rolled Steel Flat Products from Brazil: Request for Administrative Review of Antidumping Duty Order,'' dated September 30, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 61011 (November 12, 2019).

[4] *See* U.S. Steel's letter, ''Cold-Rolled Steel Flat Products from Brazil: Withdrawal of Request for Administrative Review of Antidumping Duty Order,'' dated January 8, 2020.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of cold-rolled steel from Brazil. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.42(f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of AD duties occurred and the subsequent assessment of doubled AD duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all 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. 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 terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: January 30, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–02260 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (China), covering the period May 1, 2018 through April 30, 2019. Commerce preliminarily determines that Tianjin Magnesium International, Co., Ltd. and Tianjin Magnesium Metal, Co., Ltd. (collectively TMI/TMM) did not have reviewable entries during the period of review (POR). We invite interested parties to comment on these preliminary results.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, 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) 482–5449.

Background

On May 1, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from China for the POR.[1] On July 15, 2019, in response to a timely request from the petitioner,[2] and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on pure magnesium from China with respect to TMI/TMM.[3]

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 18479 (May 1, 2019).

[2] *See* US Magnesium LLC's Letter, ''Pure Magnesium from the People's Republic of China: Request for Administrative Review,'' dated May 31, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 33739 (July 15, 2019). In the 2011–2012 administrative review of the order, Commerce collapsed TMM and TMI, and treated the companies as a single entity for purposes of the proceeding. Because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this

Continued

Scope of the Order

The product covered by this antidumping duty order is pure magnesium from China, regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as ''ultra pure'' magnesium) Magnesium Alloy''[4] and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as ''alloy'' magnesium).

(2) Products that contain less than 99.95%, but not less than 99.8%, primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as ''off–specification pure'' magnesium).

''Off–specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.,* length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Preliminary Determination of No Shipments

We received timely submissions from TMI/TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.[5] On December 20, 2019, we requested the U.S. Customs and Border Protection (CBP) data file of entries of subject merchandise imported into the United States during the POR, and exported by TMI/TMM. This query returned no entries during the POR.[6] Additionally, we sent an inquiry to CBP requesting that any CBP officer alert Commerce if he/she had information contrary to TMI/TMM's no-shipments claims.[7]

Based on the available record information, and consistent with our practice, we preliminarily determine that TMI/TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies but, rather, to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.[8]

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the **Federal Register**.[9] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the date for filing case briefs.[10] Parties who submit arguments are requested to submit with each argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[11] Parties submitting briefs should do so pursuant to Commerce's electronic filing system: Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[12] ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

Unless extended, we intend to issue the final results of this administrative review, including our analysis of all issues raised in any written brief, within 120 days of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[13] We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Pursuant to Commerce's

administrative review. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 94 (January 2, 2014) and accompanying Issues and Decision Memorandum at Comment 5.

[4] The meaning of this term is the same as that used by the American Society for Testing and Materials (ATSM) in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[5] *See* TMI's Letter, ''Pure Magnesium from the People's Republic of China, A–570–832; No Shipment Certification for Tianjin Magnesium International Co., Ltd.,'' dated August 7, 2019; *see also* TMM's Letter, ''Pure Magnesium from the People's Republic of China, A–570–832; No Shipment Certification for Tianjin Magnesium Metal Co., Ltd.,'' dated August 7, 2019.

[6] *See* Memorandum, ''2018–2019 Administrative Review of Pure Magnesium from the People's Republic of China, U.S. Customs and Border Protection Data,'' dated January 28, 2020, at Attachment 1.

[7] *Id.* at Attachment 2.

[8] *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014–2015,* 81 FR 72567 (October 20, 2016) and the ''Assessment Rates'' section, below.

[9] *See* 19 CFR 351.309(c)(1)(ii).

[10] *See* 19 CFR 351.309(d)(1) and (2).

[11] *See* 19 CFR 351.309(c)(2), (d)(2).

[12] *See* 19 CFR 351.303 (for general filing requirements).

[13] *See* 19 CFR 351.212(b)(1).

practice in NME cases, if we continue to determine in the final results that TMI/TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from TMI/TMM will be liquidated at the China-wide rate.[14]

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 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 TMI/TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 111.73 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

[14] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Dated: January 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–02257 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–865]

Carbon and Alloy Steel Threaded Rod From Taiwan: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing an antidumping duty order on carbon and alloy steel threaded rod from Taiwan.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Dusten Hom or Mary Kolberg, AD/CVD Operations Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075 or (202) 482–1785, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on December 9, 2019, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation with respect to imports of carbon and alloy steel threaded rod from Taiwan.[1] On January 23, 2020, the ITC notified Commerce of its final determination pursuant to section 735(b)(1)(A) of the Act that an industry in the United States is materially injured by reason of the LTFV imports of carbon and alloy steel threaded rod from Taiwan.[2]

Scope of the Order

The merchandise covered by this order is carbon and alloy steel threaded rod from Taiwan. For a complete description of the scope of the order, *see* the Appendix to this notice.

[1] *See Carbon and Alloy Steel threaded Rod from Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value,* 84 FR 67258 (December 9, 2019) (*Final Determination*).

[2] *See* Notification Letter from the ITC, dated January 23, 2020 (ITC Letter).

Antidumping Duty Order

As stated above, on January 23, 2020, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A) by reason of imports of carbon and alloy steel threaded rod from Taiwan. Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this antidumping duty order. Because the ITC determined that imports of carbon and alloy steel threaded rod from Taiwan are materially injuring a U.S. industry, unliquidated entries of such merchandise from Taiwan, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of carbon and alloy steel threaded rod from Taiwan. Antidumping duties will be assessed on unliquidated entries of carbon and alloy steel treaded rod from Taiwan entered, or withdrawn from warehouse, for consumption on or after September 25, 2019, the date of publication of the *Preliminary Determination*.[3]

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to continue to suspend liquidation of all appropriate entries of carbon and alloy steel threaded rod from Taiwan as described in the Appendix to this notice which were entered, or withdrawn from warehouse, for consumption on or after September 25, 2019, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require cash deposits equal to the amounts indicated below. Accordingly, effective on the date of publication of the ITC's final

[3] *See Carbon and Alloy Steel Threaded Rod from Taiwan: Preliminary Affirmative Determination of Sales at Less than Fair Value,* 84 FR 50382 (September 25, 2019) (*Preliminary Determination*).

affirmative injury determination, Commerce will instruct CBP to require, at the same time as estimated normal customs duties on this subject merchandise are deposited, cash deposits equal to the rates listed below.[4] The all-others rate applies to producers or exporters not specifically listed, as appropriate.

Estimated Weighted-Average Dumping Margins

The weighted-average dumping duty percentages are as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Quintain Steel Co. Ltd	32.26
Top Forever Screws Co. Ltd	32.26
Fastenal Asia Pacific Ltd. TW Repres	32.26
QST International Corporation	32.26
Ta Chen Steel Pipe Ltd	32.26
All Others	32.26

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to carbon and alloy steel threaded rod from Taiwan pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: January 24, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The merchandise covered by the scope of the order is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to the order are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A329 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of the order, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of the order whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of the order are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Specifically excluded from the scope of the order is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–02274 Filed 2–4–20; 8:45 am]

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[4] *See* section 736(a)(3) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–844]

Steel Concrete Reinforcing Bars (Rebar) From Mexico: Final Results of Expedited Sunset Review of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on steel concrete reinforcing bars (rebar) from Mexico would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable February 5, 2020.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore, 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- 3692.

SUPPLEMENTARY INFORMATION

Background

On October 1, 2019, Commerce published the notice of initiation of the sunset review of the *AD Order*[1] on rebar from Mexico.[2] We received a notice of intent to participate in the review from the Rebar Trade Action Coalition (RTAC) and its individual members, Nucor Corporation, Gerdau Ameristeel US Inc., Commercial Metals Company, Steel Dynamics, Inc., and Byer Steel Group, Inc. (collectively, domestic interested parties).[3] Commerce received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] We received no substantive responses from any other interested parties, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce has conducted an expedited (120-day) sunset review of the *AD Order.*[5]

Scope of the AD Order

The merchandise subject to this order is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. 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

[1] *See Steel Concrete Reinforcing Bar from Mexico: Antidumping Duty Order,* 79 FR 65925 (November 6, 2014) (*AD Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 52067 (October 1, 2019).

[3] *See* Domestic Interested Parties' Letter, ''Steel Concrete Reinforcing Bars from Mexico: Notice of Intent to Participate in Sunset Review,'' dated October 16, 2019.

[4] *See* Domestic Interested Parties' Letter, ''Steel Concrete Reinforcing Bars from Mexico: Substantive Response to Notice of Initiation,'' dated October 30, 2019.

[5] *See* Letter, ''Sunset Review Initiated on October 1, 2019,'' dated November 22, 2019.

under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.,* non-deformed 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. HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margin likely to prevail if the *AD Order* was revoked, are addressed in the accompanying Issues and Decision Memorandum.[6] 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 *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Commerce building. A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, we determine that revocation of the *AD Order* would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the dumping margin likely to prevail for Mexico would be a weighted-average dumping margin up to 66.70 percent.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the First Expedited Sunset Review of the Antidumping Duty Order on Steel Concrete Reinforcing Bars from Mexico,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely 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.

Notification to Interested Parties

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: January 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *AD Order*
IV. History of the *AD Order*
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of the Continuation or Recurrence of Dumping
  2. Magnitude of the Margin Likely to Prevail
VII. Final Results of Review
VIII. Recommendation

[FR Doc. 2020–02255 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–118]

Wood Mouldings and Millwork Products From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable January 28, 2020.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik at (202) 482–6905, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On January 8, 2020, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of wood mouldings and millwork products (millwork products) from the People's Republic of China (China).[1] The Petition was filed in proper form by the Coalition of American Millwork Producers (the petitioner or the Coalition).[2] The Petition was accompanied by antidumping duty (AD) petitions concerning imports of millwork products from Brazil and China.

On January 10 and 17, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires and phone calls with the petitioner.[3] The petitioner responded to the supplemental questionnaires on January 14,[4] 15,[5] and 22, 2020.[6]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of millwork products in China and that imports of such products are materially injuring, or threatening material injury to, the domestic millwork products industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged

[1] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated January 8, 2020 (the Petition).

[2] The Coalition of American Millwork Producers is comprised of Bright Wood Corporation, Cascade Wood Products, Inc., Endura Products, Inc., Sierra Pacific Industries, Sunset Moulding, Woodgrain Millwork, Inc., and Yuba River Moulding.

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Wood Mouldings and Millwork Products from Brazil and the People's Republic of China and Countervailing Duties on Imports of Wood Mouldings and Millwork Products from the People's Republic of China: Supplemental Questions,'' dated January 10, 2020, and ''Petition for the Imposition of Countervailing Duties on Imports of Wood Mouldings and Millwork Products from the People's Republic of China: Supplemental Questions,'' dated January 10, 2020; *see also* Memorandum to the File, ''Phone Call with Counsel to the Petitioner,'' dated January 22, 2020 (Scope Phone Call Memo).

[4] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from the People's Republic of China: Responses to the First Supplemental Questions on China CVD Volume IV of the Petition,'' dated January 14, 2020.

[5] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Responses to First Supplemental Questions on General Issues Volume I of the Petition,'' dated January 15, 2020 (General Issues Supplement).

[6] *See* Petitioner's Letter, ''Responses to Second Supplemental Questions on General Issues Volume I of the Petition,'' dated January 22, 2020 (Second General Issues Supplement).

programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition, on behalf of the domestic industry, because the Coalition is an interested party under section 771(9)(F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested CVD investigation.[7]

Period of Investigation

Because the Petition was filed on January 8, 2020, the period of investigation (POI) is January 1, 2019 through December 31, 2019, or the most recently completed fiscal year for the GOC and all of the companies under investigation, provided the GOC and the companies have the same fiscal year.

Scope of the Investigation

The products covered by this investigation are millwork products from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Scope Comments

During our review of the Petition, we contacted the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[8] As a result, the scope of the Petition was modified to clarify the description of the merchandise covered by the Petition. The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[9] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[10] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on February 18, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[11] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on February 28, 2020, which is 10 calendar days from the initial comments deadline.[12]

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[13] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOC of the receipt of the Petition and provided them the opportunity for consultations with respect to the Petition.[14] The GOC did not request consultations.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product

[7] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[8] *See* General Issues Supplement, Scope Phone Call Memo, and Second General Issues Supplement.

[9] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[10] *See* 19 CFR 351.102(b) (21) (defining ''factual information'').

[11] The current deadline for scope comments falls on Monday, February 17, 2020, which is a federal holiday. Therefore, in accordance with our *Next Business Day Rule,* the deadline is moved to Tuesday, February 18, 2020. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[12] *See* 19 CFR 351.303(b).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at: *https://access.trade.gov/help.aspx,* and a handbook can be found at: *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[14] *See* Commerce's Letter, ''Countervailing Duty Petition on Wood Mouldings and Millwork Products from the People's Republic of China: Invitation for Consultations,'' dated January 8, 2020.

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[17] Based on our analysis of the information submitted on the record, we have determined that millwork products, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

On January 23, 2020, we received comments on industry support from Composite Technology International, Inc. (CTI), an importer of the subject merchandise.[19] The petitioner responded to CTI's industry support comments on January 27, 2020.[20]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided the 2018 production of the domestic like product for the U.S. producers that support the Petition.[21] The petitioner estimated the production of the domestic like product for the remaining U.S. producers of millwork products based on production information from the Moulding and Millwork Producers Association and the Architectural Woodwork Institute, as well as estimated production information for U.S. producers that are not members of either of these two groups.[22] The petitioner notes that 2019 production data are not yet available and contends that 2018 calendar year production data are a reasonable estimate of production in 2019.[23] The petitioner compared the production of the companies supporting the Petition to the estimated total production of the domestic like product for the entire domestic industry.[24] We relied on data provided by the petitioner for purposes of measuring industry support.[25]

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[26] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[27] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[28] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[29] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[30]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injures, or threatens material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[31]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and revenues; declining financial performance; a decline in the domestic industry's capacity utilization and production and related workers; shuttered manufacturing facilities and bankruptcies; and actual and potential negative effects on cash flow.[32] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[33]

Initiation of CVD Investigation

Based on the examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD

[17] *See* Volume I of the Petition, at 13–15; *see also* General Issues Supplement, at 11–14.

[18] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Wood Mouldings and Millwork Products from the People's Republic of China (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Wood Mouldings and Millwork Products from Brazil and the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

[19] *See* CTI's Letter, ''Wood Mouldings & Millwork Products from Brazil and the People's Republic of China: Pre-Initiation Comments on Industry Support,'' dated January 23, 2020.

[20] *See* Petitioner's Letter, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Response to Pre-Initiation Comments on Industry Support,'' dated January 27, 2020.

[21] *See* Volume I of the Petition, at 2–3 and Exhibits I–3—I–5; *see also* General Issues Supplement, at 16 and Exhibits I–Supp–13 and I–Supp–14.

[22] *See* Volume I of the Petition, at 2–4 and Exhibits I–3, I–6, I–7, I–8, and I–9; *see also* General Issues Supplement, at 16–18 and Exhibits I–Supp–14—I–Supp–16.

[23] *See* Second General Issues Supplement, at 7–8.

[24] *See* Volume I of the Petition, at 4 and Exhibit I–3; *see also* General Issues Supplement, at 16 and Exhibit I–Supp–14.

[25] *See* Volume I of the Petition, at 2–4 and Exhibits I–3—I–9; *see also* General Issues Supplement, at 14–18 and Exhibits I–Supp–11—I–Supp–16. For further discussion, *see* China CVD Initiation Checklist, at Attachment II.

[26] *See* China CVD Initiation Checklist, at Attachment II.

[27] *See* section 702(c)(4)(D) of the Act; *see also* China CVD Initiation Checklist, at Attachment II.

[28] *See* China CVD Initiation Checklist, at Attachment II.

[29] *Id.*

[30] *Id.*

[31] *See* General Issues Supplement, at 18–19 and Exhibit I–Supp–17.

[32] *See* Volume I of the Petition, at 12–13, 15–26, and Exhibits I–13 through I–23.

[33] *See* China CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering Wood Mouldings and Millwork Products from Brazil and the Republic of China (Attachment III).

investigation to determine whether imports of millwork products from China benefit from countervailable subsidies conferred by the GOC. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition and supplemental responses, we find that there is sufficient information to initiate a CVD investigation on 37 of the 38 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named 92 companies in China as producers/exporters of millwork products.[34] Following standard practice in CVD investigations, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of millwork products from China during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed within the scope in the appendix, below.

On January 17, 2020, Commerce released CBP data for U.S. imports of millwork products from China under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.[35] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the GOC via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of millwork products from China are materially injuring, or threatening material injury to, a U.S. industry.[36] A negative ITC determination will result in the investigation being terminated.[37] Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [38] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[39] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at: *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[40] Parties must use the certification formats provided in 19 CFR 351.303(g).[41] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing

[34] *See* Volume I of the Petitions, at Exhibit I–11; *see also* General Issues Supplement at Exhibit I–Supp–1.

[35] *See* Memorandum, ''Wood Mouldings and Millwork Products from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated January 17, 2020.

[36] *See* section 703(a)(2) of the Act.

[37] *See* section 703(a)(1) of the Act.

[38] *See* 19 CFR 351.301(b).

[39] *See* 19 CFR 351.301(b)(2).

[40] *See* section 782(b) of the Act.

[41] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: January 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise subject to this investigation consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood that undergoes additional manufacturing or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn).

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to this investigation consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and door components such as rails and stiles.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (*e.g.,* gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscures the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (*e.g.,* endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, 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 in-scope product.

Excluded from the scope of this investigation are exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (*e.g.,* composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads and rail fittings); and picture frame components three feet and under in individual lengths.

Excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Hardwood Plywood from the People's Republic of China. See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018); *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018).

Excluded from the scope of this investigation are all products covered by the scope of the antidumping and countervailing duty orders on *Multilayered Wood Flooring from the People's Republic of China. See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011); *Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order,* 76 FR 76693 (December 8, 2011).

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.22.4000, 4409.22.5000, 4409.29.4100, and 4409.29.5100. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000,4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4418.99.9095 and 4421.99.9780. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2020–02153 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA027]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Scallop Plan Team will meet on February 19, 2020, in Kodiak, AK.

DATES: The meeting will be held on Wednesday, February 19, 2020, from 9 a.m. to 5 p.m. Alaska Standard Time.

ADDRESSES: The meeting will be held at the Alaska Department of Fish and Game Office, 351 Research Ct., Kodiak, AK 99615. Teleconference line is: (907) 271–2896.

Council address: North Pacific Fishery Management Council, 1007 West Third, Suite 400, Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Jim Armstrong, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday, February 19, 2020

The Council's Scallop Plan Team will update the status of the Statewide Scallop Stocks and Stock Assessment and Fishery Evaluation (SAFE) report, including catch specification recommendations for the 2020 fishing year. Additionally, there will be discussion of survey results and the scallop assessment program, survey plans for 2020, and a review and update of scallop research priorities. The agenda is subject to change and will be posted at *https://meetings.npfmc.org/Meeting/Details/1283.*

Public Comment

Public comment letters will be accepted and should be submitted either electronically at: *https://meetings.npfmc.org/Meeting/Details/1283* or through the mail: North Pacific Fishery Management Council, 1007 West Third, Suite 400, Anchorage, AK 99501–2252.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

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

Dated: January 30, 2020.

Diane M. DeJames-Daly,

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

[FR Doc. 2020–02165 Filed 2–4–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XR067]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy 2020 Ice Exercise Activities in the Beaufort Sea and Arctic Ocean

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

ACTION: Notice; issuance of an Incidental Harassment Authorization (IHA).

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to the United States Department of the Navy (Navy) to incidentally harass, by Level B harassment only, marine mammals during submarine training and testing activities associated with Ice Exercise 2020 (ICEX20) north of Prudhoe Bay, Alaska. The Navy's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (NDAA).

DATES: This authorization is effective from February 1, 2020, through January 31, 2021.

FOR FURTHER INFORMATION CONTACT: Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings must be set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On July 3, 2019, NMFS received a request from the Navy for an IHA to take marine mammals incidental to submarine training and testing activities, including establishment of a tracking range on an ice floe in the Beaufort Sea and Arctic Ocean north of Prudhoe Bay, Alaska. The application was deemed adequate and complete on November 22, 2019. The Navy's request was for take of ringed seals (*Pusa hispida hispida*) and bearded seals (*Erignathus barbatus*) by Level B harassment. Neither the Navy nor NMFS expect serious injury or mortality to result from this activity. Therefore, an IHA is appropriate.

NMFS previously issued an IHA to the Navy for similar activities conducted in 2018 (83 FR 6522; February 14, 2018). The Navy complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring results may be found in the Estimated Take section.

Description of Proposed Activity

The Navy proposes to conduct submarine training and testing activities from an ice camp established on an ice floe in the Beaufort Sea and Arctic Ocean for approximately six weeks beginning in February 2020. The ice camp would be established approximately 100–200 nautical miles (nmi) north of Prudhoe Bay, Alaska. The submarine training and testing activities would occur over approximately four weeks during the six-week period. Submarine active acoustic transmissions may result in occurrence of temporary hearing impairment (temporary threshold shift (TTS)) and behavioral harassment (Level B harassment) of ringed and bearded seals.

A detailed description of ICEX20 activities is provided in the **Federal Register** notice for the proposed IHA (84 FR 68886; December 17, 2019). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the Navy was published in the **Federal Register** on December 17, 2019 (84 FR 68886). That notice described, in detail, the Navy's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission).

Comment 1: The Commission noted that the Navy used cutoff distances instead of relying on Bayesian biphasic dose response functions (BRFs) to inform take estimates. The Commission asserted that the cutoff distances used by the Navy are unsubstantiated and that the Navy arbitrarily set a cutoff distance of 10 kilometers (km) for pinnipeds, which could effectively eliminate a large portion of the estimated number of takes. The Commission, therefore, recommended that the Navy refrain from using cut-off distances in conjunction with the Bayesian BRFs.

Response: We disagree with the Commission's recommendation. The derivation of the behavioral response functions and associated cutoff distances is provided in the Navy's Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III) technical report (Navy 2017a). The consideration of proximity (distance cutoff) was part of criteria developed in consultation with NMFS and was applied within the Navy's BRF. Distance cutoffs beyond which the potential of significant behavioral responses were considered to be unlikely were used in conducting analysis for ICEX20. The Navy's BRF applied within these distances is an appropriate method for providing a realistic (but still conservative where some uncertainties exist) estimate of impact and potential take for these activities.

Comment: The Commission recommended that NMFS stipulate that an IHA Renewal is a one-time opportunity in all **Federal Register** notices requesting comments on possibility of a Renewal, on its web page detailing the Renewal process, and in all draft and final authorizations that include a term and condition for Renewal.

Response: NMFS' website indicates that Renewals are good for ''up to another year of the activities covered in the initial IHA.'' NMFS has never issued a Renewal for more than one year, and in no place have we implied that Renewals are available for more than one year. Any given **Federal Register** notice considering a Renewal clearly indicates that it is only being considered for one year. Accordingly, changes to the Renewal language on the website, **Federal Register** notices, or authorizations is not necessary.

Changes From the Proposed IHA to Final IHA

NMFS has added specific elements that must be reported in the Navy's post-activity monitoring report. These requirements are detailed in the Monitoring and Reporting section of this notice.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of ringed and bearded seals. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality or serious injury is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this notice represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprise that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto *et al.,* 2019). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2018 Alaska SARs (Muto *et al.,* 2019).

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales) Family Balaenidai						
Bowhead whale	*Balaena mysticetus*	Western Arctic	E/D;Y	16,982 (0.058, 16,091, 2011).	161	44
Superfamily Odontoceti (toothed whales, dolphins, and porpoises) Family Delphinidae						
Beluga whale	Delphinapterus leucas	Beaufort Sea	-/-;N	39,258 (0.229, 32,453, 1992).	649	166
Order Carnivora—Superfamily Pinnipedia Family Phocidae (earless seals)						
Ringed seal	*Pusa hispida hispida*	Alaska	T/D;Y	170,000 (-, 170,000, 2013) (Bering Sea and Sea of Okhotsk only).	5,100 (Bering Sea-U.S. portion only).	1,054
Bearded seal	Erignathus barbatus	Alaska	T/D;Y	299,174 (-, 273,676, 2012) (Bering Sea-U.S. portion only).	8,210 (Bering Sea-U.S. portion only).	557

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.
NOTE: *Italicized species are not expected to be taken.*

All species that could potentially occur in the proposed survey areas are included in Table 1. However, the temporal and/or spatial occurrence of bowhead whales and beluga whales is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Bowhead whales migrate annually from wintering areas (December to March) in the northern Bering Sea, through the Chukchi Sea in the spring (April through May), to the eastern Beaufort Sea, where they spend much of the summer (June through early to mid-October) before returning again to the Bering Sea (Muto *et al.,* 2017). They are unlikely to be found in the ICEX20 study area during the February through April ICEX20 timeframe. Beluga whales follow a similar pattern, as they tend to spend winter months in the Bering Sea and migrate north to the eastern Beaufort Sea during the summer months.

In addition, the polar bear (*Ursus maritimus*) may be found in the project area. However, polar bears are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A detailed description of the species likely to be affected by ICEX20, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 68886; December 17, 2019). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NFMS's website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from submarine training and testing activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the study area. The notice of proposed IHA (84 FR 68886; December 17, 2019) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from ICEX20 activities on marine mammals and their habitat. That information and analysis is incorporated by reference in to this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (84 FR 68886; December 17, 2019).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform NMFS' negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines *harassment* as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes are by Level B harassment only, in the form of disruption of behavioral patterns and TTS, for individual marine mammals resulting from exposure to acoustic transmissions. Based on the nature of the activity, Level A harassment is neither anticipated nor authorized, and as described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take from exposure to sound by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. For this IHA, the Navy employed a sophisticated model known as the Navy Acoustic Effects Model (NAEMO) for assessing the impacts of underwater sound.

Acoustic Thresholds

Using the best available science, NMFS applies acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—In coordination with NMFS, the Navy developed behavioral thresholds to support environmental analyses for the Navy's testing and training military readiness activities utilizing active sonar sources; these behavioral harassment thresholds are used here to evaluate the potential effects of the active sonar components of the proposed action. The response of a marine mammal to an anthropogenic sound will depend on the frequency, duration, temporal pattern and amplitude of the sound as well as the animal's prior experience with the sound and the context in which the sound is encountered (*i.e.,* what the animal is doing at the time of the exposure). The distance from the sound source and whether it is perceived as approaching or moving away can also affect the way an animal responds to a sound (Wartzok *et al.* 2003). For marine mammals, a review of responses to anthropogenic sound was first conducted by Richardson *et al.* (1995). Reviews by Nowacek *et al.* (2007) and Southall *et al.* (2007) address studies conducted since 1995 and focus on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated.

Multi-year research efforts have conducted sonar exposure studies for odontocetes and mysticetes (Miller *et al.* 2012; Sivle *et al.* 2012). Several studies with captive animals have provided data under controlled circumstances for odontocetes and pinnipeds (Houser *et al.* 2013a; Houser *et al.* 2013b). Moretti *et al.* (2014) published a beaked whale dose-response curve based on passive acoustic monitoring of beaked whales during U.S. Navy training activity at Atlantic Underwater Test and Evaluation Center during actual Anti-Submarine Warfare exercises. This new information necessitated the update of the behavioral response criteria for the U.S. Navy's environmental analyses.

Southall *et al.* (2007) synthesized data from many past behavioral studies and observations to determine the likelihood of behavioral reactions at specific sound levels. While in general, the louder the sound source the more intense the

behavioral response, it was clear that the proximity of a sound source and the animal's experience, motivation, and conditioning were also critical factors influencing the response (Southall *et al.* 2007). After examining all of the available data, the authors felt that the derivation of thresholds for behavioral response based solely on exposure level was not supported because context of the animal at the time of sound exposure was an important factor in estimating response. Nonetheless, in some conditions, consistent avoidance reactions were noted at higher sound levels depending on the marine mammal species or group allowing conclusions to be drawn. Phocid seals showed avoidance reactions at or below 190 decibels (dB) referenced to 1 microPascal (μPa) @1 m; thus, seals may actually receive levels adequate to produce TTS before avoiding the source.

The Navy's Phase III proposed pinniped behavioral threshold has been updated based on controlled exposure experiments on the following captive animals: Hooded seal, gray seal, and California sea lion (Götz *et al.* 2010; Houser *et al.* 2013a; Kvadsheim *et al.* 2010). Overall exposure levels were 110–170 dB re 1 μPa for hooded seals, 140–180 dB re 1 μPa for gray seals and 125–185 dB re 1 μPa for California sea lions; responses occurred at received levels ranging from 125 to 185 dB re 1 μPa. However, the means of the response data were between 159 and 170 dB re 1 μPa. Hooded seals were exposed to increasing levels of sonar until an avoidance response was observed, while the grey seals were exposed first to a single received level multiple times, then an increasing received level. Each individual California sea lion was exposed to the same received level 10 times. These exposure sessions were combined into a single response value, with an overall response assumed if an animal responded in any single session. Because these data represent a dose-response type relationship between received level and a response, and because the means were all tightly clustered, the Bayesian biphasic Behavioral Response Function for pinnipeds most closely resembles a traditional sigmoidal dose-response function at the upper received levels and has a 50 percent probability of response at 166 dB re 1 μPa. Additionally, to account for proximity to the source discussed above and based on the best scientific information, a conservative distance of 10 km is used beyond which exposures would not constitute a take under the military readiness definition. NMFS used this dose response function to predict behavioral harassment of pinnipeds for this activity.

Level A harassment and TTS—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

These thresholds were developed by compiling the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product. The references, analysis, and methodology used in the development of the thresholds are described in the Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

The Navy's PTS/TTS analyses begins with mathematical modeling to predict the sound transmission patterns from Navy sources, including sonar. These data are then coupled with marine species distribution and abundance data to determine the sound levels likely to be received by various marine species. These criteria and thresholds are applied to estimate specific effects that animals exposed to Navy-generated sound may experience. For weighting function derivation, the most critical data required are TTS onset exposure levels as a function of exposure frequency. These values can be estimated from published literature by examining TTS as a function of sound exposure level (SEL) for various frequencies.

To estimate TTS onset values, only TTS data from behavioral hearing tests were used. To determine TTS onset for each subject, the amount of TTS observed after exposures with different sound pressure levels (SPLs) and durations were combined to create a single TTS growth curve as a function of SEL. The use of (cumulative) SEL is a simplifying assumption to accommodate sounds of various SPLs, durations, and duty cycles. This is referred to as an ''equal energy'' approach, since SEL is related to the energy of the sound and this approach assumes exposures with equal SEL result in equal effects, regardless of the duration or duty cycle of the sound. It is well known that the equal energy rule will over-estimate the effects of intermittent noise, since the quiet periods between noise exposures will allow some recovery of hearing compared to noise that is continuously present with the same total SEL (Ward 1997). For continuous exposures with the same SEL but different durations, the exposure with the longer duration will also tend to produce more TTS (Finneran *et al.,* 2010; Kastak *et al.,* 2007; Mooney *et al.,* 2009a).

As in previous acoustic effects analysis (Finneran and Jenkins 2012; Southall *et al.,* 2007), the shape of the PTS exposure function for each species group is assumed to be identical to the TTS exposure function for each group. A difference of 20 dB between TTS onset and PTS onset is used for all marine mammals including pinnipeds. This is based on estimates of exposure levels actually required for PTS (*i.e.,* 40 dB of TTS) from the marine mammal TTS growth curves, which show differences of 13 to 37 dB between TTS and PTS onset in marine mammals. Details regarding these criteria and thresholds can be found in NMFS' Technical Guidance (NMFS 2016).

Table 2 below provides the weighted criteria and thresholds used in this analysis for estimating quantitative acoustic exposures of marine mammals from the proposed action.

TABLE 2—INJURY (PTS) AND DISTURBANCE (TTS, BEHAVIORAL) THRESHOLDS FOR UNDERWATER SOUNDS

Group	Species	Behavioral criteria	Physiological criteria	
			Onset TTS	Onset PTS
Phocid (in water)	Ringed/Bearded seal	Pinniped Dose Response Function.	181 dB SEL cumulative	201 dB SEL cumulative.

Quantitative Modeling

The Navy performed a quantitative analysis to estimate the number of mammals that could be harassed by the underwater acoustic transmissions during the proposed action. Inputs to the quantitative analysis included marine mammal density estimates, marine mammal depth occurrence distributions (U.S Department of the Navy, in prep), oceanographic and environmental data, marine mammal hearing data, and criteria and thresholds for levels of potential effects.

The density estimate used to estimate take is derived from habitat-based modeling by Kaschner *et al.,* (2006) and Kaschner (2004). The area of the Arctic where the planned action will occur (100–200 nm north of Prudhoe Bay, Alaska) has not been surveyed in a manner that supports quantifiable density estimation of marine mammals. In the absence of empirical survey data, information on known or inferred associations between marine habitat features and (the likelihood of) the presence of specific species have been used to predict densities using model-based approaches. These habitat suitability models include relative environmental suitability (RES) models. Habitat suitability models can be used to understand the possible extent and relative expected concentration of a marine species distribution. These models are derived from an assessment of the species occurrence in association with evaluated environmental explanatory variables that results in defining the RES suitability of a given environment. A fitted model that quantitatively describes the relationship of occurrence with the environmental variables can be used to estimate unknown occurrence in conjunction with known habitat suitability. Abundance can thus be estimated for each RES value based on the values of the environmental variables, providing a means to estimate density for areas that have not been surveyed. Use of the Kaschner's RES model resulted in a value of 0.3957 ringed seals per km^2 in the cold season (defined as December through May) and a maximum value of 0.0332 bearded seals per km^2 in the cold and warm seasons. The density numbers are assumed static throughout the ice camp action area for this species. The density data generated for this species was based on environmental variables known to exist within the ice camp action area during the late winter/early springtime period.

The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential animal exposures. The model calculates sound energy propagation from the proposed sonars, the sound received by animat (virtual animal) dosimeters representing marine mammals distributed in the area around the modeled activity, and whether the sound received by a marine mammal exceeds the thresholds for effects.

The Navy developed a set of software tools and compiled data for estimating acoustic effects on marine mammals without consideration of behavioral avoidance or Navy's standard mitigations. These tools and data sets serve are integral components of NAEMO. In NAEMO, animats are distributed non-uniformly based on species-specific density, depth distribution, and group size information, and animats record energy received at their location in the water column. A fully three-dimensional environment is used for calculating sound propagation and animat exposure in NAEMO. Site-specific bathymetry, sound speed profiles, wind speed, and bottom properties are incorporated into the propagation modeling process. NAEMO calculates the likely propagation for various levels of energy (sound or pressure) resulting from each source used during the training event.

NAEMO then records the energy received by each animat within the energy footprint of the event and calculates the number of animats having received levels of energy exposures that fall within defined impact thresholds. Predicted effects on the animats within a scenario are then tallied and the highest order effect (based on severity of criteria; *e.g.,* PTS over TTS) predicted for a given animat is assumed. Each scenario or each 24-hour period for scenarios lasting greater than 24 hours is independent of all others, and therefore, the same individual marine animal could be impacted during each independent scenario or 24-hour period. In few instances, although the activities themselves all occur within the study area, sound may propagate beyond the boundary of the study area. Any exposures occurring outside the boundary of the study area are counted as if they occurred within the study area boundary. NAEMO provides the initial estimated impacts on marine species with a static horizontal distribution.

There are limitations to the data used in the acoustic effects model, and the results must be interpreted within these context. While the most accurate data and input assumptions have been used in the modeling, when there is a lack of definitive data to support an aspect of the modeling, modeling assumptions believed to overestimate the number of exposures have been chosen:

- Animats are modeled as being underwater, stationary, and facing the source and therefore always predicted to receive the maximum sound level (*i.e.,* no porpoising or pinnipeds' heads above water);
- Animats do not move horizontally (but change their position vertically within the water column), which may overestimate physiological effects such as hearing loss, especially for slow moving or stationary sound sources in the model;
- Animats are stationary horizontally and therefore do not avoid the sound source, unlike in the wild where animals would most often avoid exposures at higher sound levels, especially those exposures that may result in PTS;
- Multiple exposures within any 24-hour period are considered one continuous exposure for the purposes of calculating the temporary or permanent hearing loss, because there are not sufficient data to estimate a hearing recovery function for the time between exposures; and
- Mitigation measures that are implemented were not considered in the model. In reality, sound-producing activities would be reduced, stopped, or delayed if marine mammals are detected by submarines via passive acoustic monitoring.

Because of these inherent model limitations and simplifications, model-estimated results must be further analyzed, considering such factors as the range to specific effects, avoidance, and the likelihood of successfully implementing mitigation measures. This analysis uses a number of factors in addition to the acoustic model results to predict effects on marine mammals.

For non-impulsive sources, NAEMO calculates the sound pressure level (SPL) and sound exposure level (SEL) for each active emission during an event. This is done by taking the following factors into account over the propagation paths: Bathymetric relief and bottom types, sound speed, and attenuation contributors such as absorption, bottom loss and surface loss. Platforms such as a ship using one or more sound sources are modeled in accordance with relevant vehicle dynamics and time durations by moving them across an area whose size is representative of the training event's operational area. Table 3 provides range to effects for active acoustic sources proposed for ICEX20 to phocid pinniped specific criteria. Phocids within these ranges would be predicted to receive the associated effect. Range to

effects is important information in not only predicting acoustic impacts, but also in verifying the accuracy of model results against real-world situations and determining adequate mitigation ranges to avoid higher level effects, especially physiological effects to marine mammals.

TABLE 3—RANGE TO BEHAVIORAL EFFECTS, TTS, AND PTS IN THE ICEX STUDY AREA

Source/exercise	Range to effects (m)		
	Behavioral	TTS	PTS
Submarine Exercise	10,000 [a]	4,025	15

[a] Empirical evidence has not shown responses to sonar that would constitute take beyond a few km from an acoustic source, which is why NMFS and Navy conservatively set a distance cutoff of 10 km. Regardless of the source level at that distance, take is not estimated to occur beyond 10 km from the source.

As discussed above, within NAEMO animats do not move horizontally or react in any way to avoid sound. Furthermore, mitigation measures that are implemented during training or testing activities that reduce the likelihood of physiological impacts are not considered in quantitative analysis. Therefore, the current model overestimates acoustic impacts, especially physiological impacts near the sound source. The behavioral criteria used as a part of this analysis acknowledges that a behavioral reaction is likely to occur at levels below those required to cause hearing loss (TTS or PTS). At close ranges and high sound levels approaching those that could cause PTS, avoidance of the area immediately around the sound source is the assumed behavioral response for most cases.

In previous environmental analyses, the Navy has implemented analytical factors to account for avoidance behavior and the implementation of mitigation measures. The application of avoidance and mitigation factors has only been applied to model-estimated PTS exposures given the short distance over which PTS is estimated. Given that no PTS exposures were estimated during the modeling process for this proposed action, the implementation of avoidance and mitigation factors were not included in this analysis.

Table 4 shows the exposures expected for bearded and ringed seals based on NAEMO modeled results.

TABLE 4—AUTHORIZED TAKE FOR ICEX ACTIVITIES

Species	Level B harassment		Level A harassment	Total
	Behavioral	TTS		
Bearded seal	3	1	0	4
Ringed seal	1,395	11	0	1,406

Effects of Specified Activities on Subsistence Uses of Marine Mammals

Subsistence hunting is important for many Alaska Native communities. A study of the North Slope villages of Nuiqsut, Kaktovik, and Barrow identified the primary resources used for subsistence and the locations for harvest (Stephen R. Braund & Associates 2010), including terrestrial mammals (caribou, moose, wolf, and wolverine), birds (geese and eider), fish (Arctic cisco, Arctic char/Dolly Varden trout, and broad whitefish), and marine mammals (bowhead whale, ringed seal, bearded seal, and walrus). Of these species, only bearded and ringed seals would be located within the study area during the proposed action.

The study area is at least 100–150 mi (161–241 km) from land, well seaward of known subsistence use areas and the planned activities would conclude prior to the start of the summer months, during which the majority of subsistence hunting would occur. In addition, the specified activity would not remove individuals from the population, therefore there would be no impacts caused by this action to the availability of bearded seals or ringed seals for subsistence hunting. Therefore, subsistence uses of marine mammals would not be impacted by this action.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The NDAA for FY 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the

likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

The following general mitigation actions are required for ICEX20 to minimize impacts on ringed and bearded seals on the ice floe:

• Camp deployment will begin in mid-February and must be completed by March 15. Based on the best available science, Arctic ringed seal whelping is not expected to occur prior to mid-March. Construction of the ice camp would be completed prior to whelping in the area of ICEX20. As such, pups are not anticipated to be in the vicinity of the camp at commencement, and mothers would not need to move newborn pups due to construction of the camp. Additionally, if a seal had a lair in the area they would be able to relocate. Completing camp deployment before ringed seal pupping begins will allow ringed seals to avoid the camp area prior to pupping and mating seasons, reducing potential impacts;

• Camp location will not be in proximity to pressure ridges in order to allow camp deployment and operation of an aircraft runway. This will minimize physical impacts to subnivean lairs;

• Camp deployment will gradually increase over five days, allowing seals to relocate to lairs that are not in the immediate vicinity of the camp;

• Personnel on all on-ice vehicles must observe for marine and terrestrial animals; any marine or terrestrial animal observed on the ice must be avoided by 328 ft (100 m). On-ice vehicles would not be used to follow any animal, with the exception of actively deterring polar bears if the situation requires;

• Personnel operating on-ice vehicles must avoid areas of deep snowdrifts near pressure ridges, which are preferred areas for subnivean lair development; and

• All material (*e.g.,* tents, unused food, excess fuel) and wastes (*e.g.,* solid waste, hazardous waste) must be removed from the ice floe upon completion of ICEX20.

The following mitigation actions are required for ICEX20 activities involving acoustic transmissions:

• For activities involving active acoustic transmissions from submarines and torpedoes, passive acoustic sensors on the submarines must listen for vocalizing marine mammals for 15 minutes prior to the initiation of exercise activities. If a marine mammal is detected, the submarine must delay active transmissions, and not restart until after 15 minutes have passed with no marine mammal detections. If there are no animal detections, it may be assumed that the vocalizing animal is no longer in the immediate area and is unlikely to be subject to harassment. Ramp up procedures are not proposed as Navy determined, and NMFS accepts, that they would result in an unacceptable impact on readiness and on the realism of training.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the required mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density).

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

• Mitigation and monitoring effectiveness.

The U.S. Navy has coordinated with NMFS to develop an overarching program plan in which specific monitoring would occur. This plan is called the Integrated Comprehensive Monitoring Program (ICMP) (U.S. Department of the Navy 2011). The ICMP was created in direct response to Navy permitting requirements established in various MMPA rules, ESA consultations, and applicable regulations. As a framework document, the ICMP applies by regulation to those activities on ranges and operating areas for which the Navy is seeking or has sought incidental take authorizations. The ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort based on set of standardized research goals, and in acknowledgement of regional scientific value and resource availability.

The ICMP is focused on Navy training and testing ranges where the majority of Navy activities occur regularly as those areas have the greatest potential for being impacted. ICEX20 in comparison is a short duration exercise that occurs approximately every other year. Due to the location and expeditionary nature of the ice camp, the number of personnel onsite is extremely limited and is constrained by the requirement to be able to evacuate all personnel in a single day with small planes. As such, a dedicated monitoring project would not be feasible as it would require additional personnel and equipment to locate, tag and monitor the seals.

The Navy is committed to documenting and reporting relevant

aspects of training and research activities to verify implementation of mitigation, comply with current permits, and improve future environmental assessments. All sonar usage will be collected via the Navy's Sonar Positional Reporting System database and reported. If any injury or death of a marine mammal is observed during the ICEX20 activity, the Navy must immediately halt the activity and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS. The following information must be provided:

- Time, date, and location of the discovery;
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal(s) was discovered (*e.g.,* during submarine activities, observed on ice floe, or by transiting vessel).

The Navy will provide NMFS with a draft exercise monitoring report within 90 days of the conclusion of the planned activity. The proposed IHA required the monitoring report to include data regarding sonar use and any mammal sightings or detection will be documented. The report would also include information on the number of sonar shutdowns recorded. NMFS has revised this requirement since the notice of proposed IHA was published to specify that the draft exercise monitoring report must include the number of marine mammals sighted, by species, and any other available information about the sighting(s) such as date, time, and approximate location (latitude and longitude). The draft report must be submitted to NMFS within 90 days of the end of ICEX20 activities. If no comments are received from NMFS within 30 days of submission of the draft final report, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments. As the information is classified, the Navy must also provide data regarding sonar use and the number of shutdowns during monitoring in the Atlantic Fleet Training and Testing (AFTT) Letter of Authorization annual classified report due in February 2021. The Navy must also analyze any declassified underwater recordings collected during ICEX20 for marine mammal vocalizations and report that information to NMFS, including the types and natures of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal) and the species or taxonomic group (if determinable). This information must be submitted to NMFS with the annual AFTT declassified monitoring report due in April 2021.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Underwater acoustic transmissions associated with ICEX20, as outlined previously, have the potential to result in Level B harassment of ringed and bearded seals in the form of TTS and behavioral disturbance. No serious injury, mortality or Level A takes are anticipated to result from this activity. At close ranges and high sound levels approaching those that could cause PTS, avoidance of the area immediately around the sound source would be seals' likely behavioral response.

NMFS estimates 11 takes of ringed seals and 1 take of bearded seals due to TTS from the submarine activities. TTS is a temporary impairment of hearing and TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, however, hearing sensitivity recovers rapidly after exposure to the sound ends. This activity has the potential to result in only minor levels of TTS, and hearing sensitivity of affected animals would be expected to recover quickly. Though TTS may occur in up to 11 ringed seals and 1 bearded seal, the overall fitness of these individuals is unlikely to be affected and negative impacts to the entire stocks are not anticipated.

Effects on individuals that are taken by Level B harassment could include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight. More severe behavioral responses are not anticipated due to the localized, intermittent use of active acoustic sources and mitigation by passive acoustic monitoring which will limit exposure to sound sources. Most likely, individuals will be temporarily displaced by moving away from the sound source. As described previously in the behavioral effects section, seals exposed to non-impulsive sources with a received sound pressure level within the range of calculated exposures, (142–193 dB re 1 μPa), have been shown to change their behavior by modifying diving activity and avoidance of the sound source (Götz *et al.,* 2010; Kvadsheim *et al.,* 2010). Although a minor change to a behavior may occur as a result of exposure to the sound sources associated with the planned action, these changes would be within the normal range of behaviors for the animal (*e.g.,* the use of a breathing hole further from the source, rather than one closer to the source, would be within the normal range of behavior). Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and would not result in any adverse impact to the stock as a whole.

The Navy's planned activities are localized and of relatively short duration. While the total project area is large, the Navy expects that most activities will occur within the ice camp action area in relatively close proximity to the ice camp. The larger study area depicts the range where submarines may maneuver during the exercise. The ice camp will be in existence for up to six weeks with acoustic transmission occurring intermittently over approximately four weeks.

The project is not expected to have significant adverse effects on marine mammal habitat. The project activities are limited in time and would not modify physical marine mammal habitat. While the activities may cause some fish to leave a specific area ensonified by acoustic transmissions, temporarily impacting marine mammals' foraging opportunities, these fish would likely return to the affected area. As such, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

For on-ice activity, serious injury and mortality are not anticipated. Level B harassment could occur but is unlikely due to mitigation measures followed during the exercise. Foot and snowmobile movement on the ice will be designed to avoid pressure ridges, where ringed seals build their lairs; runways will be built in areas without pressure ridges; snowmobiles will follow established routes; and camp buildup is gradual, with activity increasing over the first five days providing seals the opportunity to move to a different lair outside the ice camp area. The Navy will also employ its standard 100-m avoidance distance from any arctic animals. Implementation of these measures should ensure that ringed seal lairs are not crushed or damaged during ICEX20 activities and minimize the potential for seals and pups to abandon lairs and relocate.

The ringed seal pupping season on the ice lasts for five to nine weeks during late winter and spring. Ice camp deployment would begin in mid-February and be completed by March 15, before the pupping season. This will allow ringed seals to avoid the ice camp area once the pupping season begins, thereby reducing potential impacts to nursing mothers and pups. Furthermore, ringed seal mothers are known to physically move pups from the birth lair to an alternate lair to avoid predation. If a ringed seal mother perceives the acoustic transmissions as a threat, the local network of multiple birth and haulout lairs would allow the mother and pup to move to a new lair.

There is an ongoing unusual mortality event (UME) for ice seals, including ringed and bearded seals. Elevated strandings have occurred in the Bering and Chukchi Seas since June 2018. Though elevated numbers of seals have stranded during this UME, this event does not provide cause for concern regarding population-level impacts, as the population abundance estimates for each of the affected species number in the hundreds of thousands. The study area for ICEX20 activities is in the Beaufort Sea and Arctic Ocean, well north and east of the primary area where seals have stranded along the western coast of Alaska (see map of strandings at: *https://www.fisheries.noaa.gov/national/marine-life-distress/2018–2019-ice-seal-unusual-mortality-event-alaska*). The location of the ICEX20 activities, combined with the short duration and low-level potential effects on marine mammals, suggest that the planned activities are not expected to contribute to the ongoing UME.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Impacts will be limited to Level B harassment, primarily in the form of behavioral disturbance;
- Anticipated TTS is only of a low degree, and expected to affect only a limited number of animals;
- The numbers of takes proposed to be authorized are low relative to the estimated abundances of the affected stocks;
- There will be no loss or modification of ringed or bearded seal habitat and minimal, temporary impacts on prey;
- Physical impacts to ringed seal subnivean lairs will be avoided; and
- Mitigation requirements for ice camp activities would minimize impacts to animals during the pupping season.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Unmitigable Adverse Impact Analysis and Determination

Impacts to subsistence uses of marine mammals resulting from the planned action are not anticipated. The planned action would occur outside of the primary subsistence use season (*i.e.,* summer months), and the study area is 100–150 mi (161–241 km) seaward of known subsistence use areas. Harvest locations for ringed seals extend up to 80 nmi (148 km) from shore during the summer months while winter harvest of ringed seals typically occurs closer to shore. Additionally, no mortality or serious injury is expected or authorized, and therefore no marine mammals would be removed from availability for subsistence. Based on this information, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from the Navy's activities.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (CEQ; 40 CFR parts 1500–1508), the Navy prepared a Supplemental Environmental Assessment/Overseas Environmental Assessment (Supplemental EA/OEA) to consider the direct, indirect, and cumulative effects to the human environment resulting from ICEX20. NMFS provided a link to the Navy's Supplemental EA/OEA (at *http://www.nepa.navy.mil/icex*) for the public to review and comment, concurrently with the publication of the proposed IHA, in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to the Navy. Also in compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has reviewed the Navy's Supplemental EA/OEA, determined it to be sufficient, and adopted that Supplemental EA/OEA and signed a Finding of No Significant Impact (FONSI) on January 30, 2020.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Alaska Regional Office (AKR), whenever we propose to authorize take for endangered or threatened species.

There are two marine mammal species (ringed seals and bearded seals) with confirmed presence in the project area that are listed under the ESA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion on January 27, 2020, which concluded that the Navy's activities and NMFS's issuance of an IHA are not likely to jeopardize the continued

existence of the Arctic ringed seal or Beringia DPS bearded seal.

Authorization

As a result of these determinations, NMFS has issued an IHA to the Navy for conducting submarine training and testing activities in the Beaufort Sea and Arctic Ocean beginning in February 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: January 30, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 200130–0037; RTID 0648–XG758]

Listing Endangered and Threatened Wildlife and Plants; Notice of 12-Month Finding on a Petition To List Summer-Run Steelhead in Northern California as Endangered Under the Endangered Species Act

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

ACTION: Notice of 12-month petition finding.

SUMMARY: We, NMFS, announce a 12-month finding on a petition to delineate Northern California (NC) summer-run steelhead as a distinct population segment (DPS) of West Coast steelhead (*Oncorhynchus mykiss*), and to list that DPS as endangered under the Endangered Species Act (ESA). We have completed a comprehensive DPS analysis of NC summer-run steelhead in response to the petition. Based on the best scientific and commercial data available, including the DPS configuration review report, we have determined that listing NC summer-run steelhead as an endangered DPS is not warranted. We determined that summer-run steelhead in the NC steelhead DPS do not meet the criteria to be considered a DPS separate from winter-run steelhead. We also announce the availability of the DPS configuration review report prepared pursuant to the ESA for the NC steelhead DPS.

DATES: This finding was made on February 5, 2020.

ADDRESSES: The documents informing the 12-month finding, including the DPS configuration report (Pearse *et al.* 2019), are available by submitting a request to the Assistant Regional Administrator, Protected Resources Division, West Coast Regional Office, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, Attention: NC Summer-run Steelhead 12-month Finding. The documents are also available electronically at *https://www.fisheries.noaa.gov/region/west-coast.*

FOR FURTHER INFORMATION CONTACT: Gary Rule, NMFS West Coast Region at *gary.rule@noaa.gov,* (503) 230–5424; or Heather Austin, NMFS Office of Protected Resources at *heather.austin@noaa.gov,* (301) 427–8422.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 2018, the Secretary of Commerce received a petition from the Friends of the Eel River (hereafter, the Petitioner) to list NC summer-run steelhead as an endangered DPS under the ESA. Currently, NC summer-run steelhead are part of the NC steelhead DPS that combines winter-run and summer-run steelhead and is listed as threatened under the ESA (71 FR 833; January 5, 2006). The Petitioner is requesting that NC summer-run steelhead be considered as a separate DPS and listed as endangered. On April 22, 2019, we published a positive 90-day finding (84 FR 16632) announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. In our 90-day finding, we also announced the initiation of a status review of the NC summer-run steelhead and requested information to inform our decision on whether the species warrants listing as threatened or endangered under the ESA.

Listing Species Under the ESA

We are responsible for determining whether species under our jurisdiction are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a ''species'' under section 3 of the ESA (16 U.S.C. 1532), and then, if so, consider whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include any subspecies of fish or wildlife or plants, and any DPS of any species of vertebrate fish or wildlife which interbreeds when mature. On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted the Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act, a policy describing what constitutes a DPS of a taxonomic species (DPS Policy; 61 FR 4722). Under the DPS Policy, we consider the following when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species or subspecies to which it belongs; and (2) the significance of the population segment to the species or subspecies to which it belongs.

Section 3 of the ESA further defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species as one which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Thus, we interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future. In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA also requires us to determine whether any species is endangered or threatened as a result of any of the following five factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1)(A)–(E)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any state or foreign nation or political subdivision thereof to protect the species. In evaluating the efficacy of formalized domestic conservation efforts that have yet to be implemented or demonstrate effectiveness, we rely on the Services' joint Policy on Evaluation of Conservation Efforts When Making Listing Decisions (PECE; 68 FR 15100; March 28, 2003).

Status Review

As part of our review of the Petitioner's request to delineate a NC summer-run steelhead DPS and list it as endangered under the ESA, we formed an expert panel (Panel) consisting of scientists from NMFS Southwest Fisheries Science Center (SWFSC) and Northwest Fisheries Science Center (NWFSC). We asked the Panel to provide: (1) An analysis and review of the petitioners' claim that NC summer-run steelhead should be considered a separate DPS; and, if so, (2) a description of the demographic risks (*i.e.,* abundance, productivity, spatial distribution and diversity) of any new DPSs identified. The first task was for the Panel to compile the best available scientific and commercial information relevant to evaluating the DPS structure of summer-run steelhead in northern California, including information presented by the petitioners. Specifically the NMFS West Coast Region (WCR) requested the Panel address the criteria in the DPS Policy (61 FR 4722; February 7, 1996). Completion of the second task depended on the Panel's finding and the WCR's concurrence with their finding in the first task. If the Panel concluded that summer-run steelhead should be considered a separate DPS, and the WCR concurred, the Panel would complete the second task and submit their report on both tasks to the WCR. If the Panel concluded, and WCR concurred, that there should not be a change in the current DPS structure (*i.e.,* the summer-run steelhead are part of the NC steelhead DPS), the Panel would finalize their DPS structure findings and submit a report to the WCR. Under this second scenario, review of the viability of the NC steelhead DPS would be assessed in 2020 as part of the coast-wide five-year assessment.

In order to complete their DPS analysis, the Panel considered a variety of scientific information from the literature, unpublished documents, and direct communications with researchers working on the genetics of steelhead, as well as technical information submitted to NMFS. Information that was not previously peer-reviewed was formally reviewed by the Panel. Only the best-available science was considered further. The Panel evaluated all factors highlighted by the petitioners as well as additional factors that may contribute to our understanding of the evolutionary significance of run-timing in steelhead.

Following an evaluation of the two DPS criteria, the Panel arrived at a final conclusion regarding the DPS configuration using a voting method. Each of the four Panel members were given 10 votes to apportion between the two DPS configurations: (1) Summer-run and winter-run steelhead should remain together in a single NC steelhead DPS; or (2) summer-run and winter-run steelhead in Northern California should be separated into two DPSs.

The Panel's draft report was subjected to independent peer review as required by the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004). The draft report was peer reviewed by an independent specialist selected from the academic and scientific community, with expertise in the genetic diversity of salmonids, as well as biology, conservation, and management. The peer reviewer was asked to evaluate the adequacy, appropriateness, and application of data used in the report. All peer reviewer comments were addressed prior to dissemination and finalization of the draft report and publication of this finding.

We subsequently reviewed the report, its cited references, and peer review comments, and believe the report, upon which this 12-month finding is based, provides the best available scientific and commercial information on the NC steelhead DPS. Much of the information discussed below is attributable to the report. In making the 12-month finding, we have applied the statutory provisions of the ESA; this includes an evaluation of the application of the factors set forth in section 4(a)(1)(A)–(E); our regulations regarding listing determinations (50 CFR part 424); and the DPS Policy (61 FR 4722; February 7, 1996).

Northern California Steelhead

On June 7, 2000, using the Policy on Applying the Definition of Species under the Endangered Species Act to Pacific Salmon (56 FR 58612; November 20, 1991) (Evolutionarily Significant Unit (ESU) Policy), NMFS listed the NC steelhead ESU as a threatened species (65 FR 36074). In the final listing determination, we concluded that in certain situations the ESU consisted of both anadromous and resident life forms of *O. mykiss.* We listed the anadromous portion of the ESU, which was under our jurisdiction. A court ruling in 2001 (*Alsea Valley Alliance* v. *Evans,* 161 F. Supp. 2d 1154 (D. Or. 2001)) determined that listing only a subset of a species or ESU/DPS, such as the anadromous portion of *O. mykiss,* was not allowed under the ESA. Because of this court ruling, NMFS conducted updated status reviews for all West Coast steelhead ESUs that took into account those non-anadromous individuals below dams and other major migration barriers that were considered to be part of the steelhead ESUs (Good *et al.,* 2005). Subsequently, NMFS decided that the joint USFWS-NMFS DPS Policy was more appropriate for steelhead listing decisions than the ESU Policy, which was specifically designed for Pacific salmon. Using the DPS Policy, NMFS redefined the NC steelhead ESU as a steelhead-only DPS and reaffirmed that the NC steelhead DPS was a threatened species under the ESA (71 FR 834; January 5, 2006). The DPS includes both summer-run and winter-run steelhead. Since 2006, NMFS has conducted two status reviews (76 FR 50447; August 15, 2011 and 81 FR 33468; May 26, 2016) to evaluate whether the listing classification of NC steelhead remains accurate or should be changed. In both instances, after reviewing the best available scientific and commercial data, we concluded that no change in ESA-listing status for NC steelhead was warranted.

The NC steelhead DPS extends from Redwood Creek (Humboldt County) in the north, southward to, but not including, the Russian River. Within this region, the Eel River is the largest watershed, with numerous tributaries that contain significant spawning habitat for steelhead. Importantly, the DPS contains populations of both the more widespread winter-run life history type and scattered populations with the summer-run life history type, the largest of which is in the Middle Fork of the Eel River. The timing of river entry varies considerably among populations and run-types, both across the species range and within California (Busby *et al.* 1996). For California populations, summer-run steelhead typically enter freshwater in the spring or early summer (approximately March through June or July); however, these fish do not spawn until the following fall, winter, or spring. In contrast, winter-run steelhead enter freshwater at any time from the late summer through the following spring, and spawn sometime during that same period (Shapovalov and Taft 1954; Puckett 1975; Busby *et al.* 1996).

Extant and historical summer- and winter-run steelhead populations in the Northern California DPS were identified by Bjorkstedt *et al.* (2005). Within the NC steelhead DPS area, winter-run are widely distributed across the landscape, but summer-run steelhead have very specific habitat requirements for parts of their life history, primarily the need for access to large pools with cool water in which they remain during the summer holding period (Nakamoto 1994; Nielsen

et al. 1994). Puckett (1975) identified potential natural migrational barriers in the Middle Fork Eel River and Van Duzen River that provided some degree of separation between summer-run and winter-run steelhead spawning habitat, and recommended against removing migration barriers because it would likely result in increased mixing of the two run types. In the Mad River, a natural barrier apparently separating summer- and winter-run steelhead was identified by Knutson (1975) near Bug Creek. Roelofs (1983) suggested that summer-run spawning habitat is often characterized by limited accessibility, ''ruggedness,'' and intermittent flow. Thus, a combination of factors influencing river geomorphology and hydrology (*e.g.,* precipitation, stream gradient, geology, *etc.*) likely limit the distribution of summer-run steelhead, but may be highly variable among years such that complete reproductive isolation is unlikely even in the presence of a strongly flow-dependent migration barrier.

In the most recent five-year status review (NMFS 2016a; Williams *et al.* 2016), data on summer-run steelhead populations were available for Redwood Creek, Mad River, Van Duzen River, Middle Fork Eel River, and Mattole River. Additional potential populations for which little information was available included Larabee Creek, North Fork Eel River, and South Fork Eel River (Williams *et al.* 2016). Although both life-history types were likely to have been negatively impacted by the recent drought in California, Williams *et al.* (2016) concluded that there was ''no strong evidence to indicate conditions for winter-run populations in the DPS have worsened appreciably since the last status review (Williams et al. 2011).'' However, they also noted that ''Summer-run populations continue to be of significant concern. The Middle Fork Eel River population has remained remarkably stable for nearly five decades and is closer to its viability target than any other population in the DPS. Although the time series is short, the Van Duzen River and Mad River appear to be supporting populations numbering in the low hundreds. However, the Redwood Creek and Mattole River populations appear small, and little is known about other populations including various tributaries of the Eel River (*i.e.,* Larabee Creek, North Fork Eel, and South Fork Eel)'' (Williams *et al.* 2016). Furthermore, Spence *et al.* (2008) defined representation and redundancy criteria to specifically account for persistence of major life-history types in assessing viability, and considered it ''highly likely that, at a minimum, the representation and redundancy criteria are not being met for summer-run steelhead.''

Distinct Population Segment Determination

The Petitioner requested we delineate and list a NC summer-run steelhead DPS. As described above, the ESA's definition of ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The DPS Policy requires the consideration of two elements when deciding whether a population is a DPS: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; and (2) the significance of the population segment to the species to which it belongs.

A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (and quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. If a population segment is found to be discrete under one or both of the above conditions, its biological and ecological significance to the taxon to which it belongs is evaluated. Factors that can be considered in evaluating significance may include, but are not limited to: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that the loss of the discrete population segment would result in a significant gap in the range of a taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

Considerations for Criterion 1: Discreteness of the Population Segment

We considered whether NC summer-run steelhead are markedly separated from other populations of NC steelhead as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity were also considered. Northern California summer-run and winter-run steelhead are physically distinguishable only for a short, albeit important, part of their life-cycle, *i.e.,* during adult freshwater migration following return from the ocean and summer holding in freshwater. Adult summer-run steelhead enter freshwater between April and October, arriving in sexually immature condition and holding in deep, cold pools for as long as six–eight months before moving into natal streams to spawn. In contrast, adult winter-run steelhead enter freshwater and migrate into natal streams between December and April, arriving in reproductive condition and spawning shortly thereafter. No consistent differences have been documented over the rest of their life history, including during the juvenile rearing, smolting, and sub-adult marine phases. Furthermore, while the redds and juveniles of the summer-run and winter-run steelhead may be somewhat spatially and/or temporally partitioned, the extent of this partitioning is highly variable among specific spawning tributaries as well as among years. The degree of this separation is dependent on changes in geomorphology, rainfall patterns, temperatures, and other climate variables, leading to incomplete and fluctuating separation at all stages of their life-cycle, as well as mating between life-history types when conditions limit their separation. Importantly, the high variability in the natural hydrograph of the Middle Fork Eel River and other coastal rivers that support Northern California summer-run steelhead is unlike the hydrographs in the snow melt-driven streams of the interior Columbia or Sacramento rivers, which may separate early- and late-migrating adults in a more predictable manner. This suggests that there will be a larger amount of variation among years in the degree to which a particular natural flow barrier temporally separates migrating adult steelhead in coastal watersheds.

The Petitioner presented new genetic evidence to suggest that the summer-run steelhead populations may qualify as a separate DPS from the winter-run populations. The Petitioner contends that the findings from recently published articles on the evolutionary basis of premature migration in Pacific salmon (Prince *et al.* 2017; Thompson *et al.* 2018) indicate that summer-run steelhead in the NC steelhead DPS

should be considered a separate DPS. After careful consideration of the new evidence presented, and the best available genetic data, the Panel concluded that summer-run and winter-run steelhead should remain together in a single Northern California steelhead DPS.

Hess *et al.* (2016), Prince *et al.* (2017) and Thompson *et al.* (2018) have studied the relationship between genetic material from a portion of the genome that includes the Greb1L gene (otherwise referred to as the Greb1L region of the genome) and run-timing in Chinook salmon and steelhead. The authors characterized the Greb1L region as two alleles (different forms) and three genotypes (different combinations of the alleles): Individuals with two early run-timing alleles (early run homozygotes), individuals with two late run-timing alleles (late run homozygotes), and individuals with one allele for the early and one for the late run-timing (heterozygotes).

To understand whether variation in the Greb1L-region is a useful basis to support separation of summer-run and winter-run NC steelhead into two DPSs, we must first understand the distribution of individuals present in this geographic area representing different genotypic categories under consideration. Data collected by the SWFSC clearly show that many *O. mykiss* collections in California contain individuals with all three Greb1L-region genotypes present at a given place and time (Pearse *et al.* 2019). Furthermore, Greb1L-region variation is distributed broadly among populations, including the widespread occurrence of heterozygotes and the presence of both summer and winter homozygotes in many populations without documented expression of the summer run-timing. This demonstrates that this genetic variation is not uniquely partitioned into summer-run and winter-run steelhead DPSs, but is broadly distributed across a range of interconnected populations with variable phenotypes (observable characteristics). This conclusion is further supported within the NC steelhead DPS by analyses provided as part of a public comment, showing the distribution of Greb1L-region variants throughout the Eel River system (S. Kannry, public comment).

Notably, Prince *et al.* (2017) did not observe the overlapping distribution of the Greb1L-region genotypes because they intentionally selected sample locations to represent the most divergent examples of these life-history types, including the summer-run samples from the Middle Fork Eel River and winter-run from the upper mainstem Eel River (Van Arsdale Fisheries Station). Prince *et al.* (2017) intentionally excluded samples from locations with less clearly defined summer-run or winter-run phenotypes because they represented intermediate phenotypes (*e.g.,* ''fall-run'' steelhead in the South Fork of the Trinity River). As a result, the Prince *et al.* (2017) data were not informative with respect to questions involving the temporal or geographic distribution of genetic variation in the Greb1L region, the relative frequency, dominance, or relative fitness of Greb1L-region genotypes in different locations, or the extent of gene flow between summer-run and winter-run steelhead.

In addition to the above examples, data from the Van Arsdale Fisheries Station indicates considerable overlap in the return timing of the Greb1L-region genotypes. The data show a nearly complete overlap in the return timing of individuals with the heterozygous and winter-run Greb1L-region genotypes. The data also document that some individuals with the homozygous summer-run genotypes were apparently migrating during the typical winter-run migration period (Pearse *et al.* 2019). Furthermore, this information indicates that matings between parents of with alternate Greb1L-region genotypes must occur, resulting in full-sibling families with a mix of Greb1L-region genotypes.

Thus, designation of separate summer-run and winter-run DPSs would both ignore the contribution of Greb1L-heterozygous individuals to these populations and potentially create situations in which full-siblings of these matings would be divided into different species under the ESA. More simply, ignoring the contribution of Greb1L-heterozygous individuals could create a situation in which a single redd would produce fish assigned to different DPSs.

While our understanding of the specific genetic basis of run-timing is improved by the data presented in Prince *et al.* (2017), these new genetic data do not substantially change our understanding of the biology of summer-run and winter-run steelhead, as run timing has been recognized as a proxy for the underlying genetic variation (Dizon *et al.* 1992; Waples 2006). It was understood that there was a genetic basis for these traits long before biologists could say exactly what that basis was (Clemento 2006; Pearse 2016). In addition, it is likely that there are additional genes that contribute to run timing expression (Abadía-Cardoso *et al.* 2013), and that different parts of the species' genetic material contain adaptive genetic variation associated with other, unknown, traits important to local adaptation within the NC steelhead DPS. Thus, despite the finding that variation in the Greb1L region is strongly associated with run-timing in steelhead, our understanding of the evolutionary dynamics of this and other genetic variation is not fundamentally altered by this knowledge. The available data on genetic variation continue to support a model in which summer-run steelhead evolved from existing genetic variation, in populations dominated by winter-run steelhead, where and when the ecological conditions capable of supporting the summer-run life history exist (Arciniega *et al.* 2016).

Overall, while summer-run and winter-run steelhead are nominally recognizable as distinct life-history types, they occupy dynamic and partially overlapping habitats incompletely separated by waterfalls, dams, or other barriers to migration. It is also clear that there is variable but active and ongoing gene flow between these life-history types over ecological and evolutionary timescales. The lack of physical barriers separating summer-run and winter-run within the range of the NC steelhead DPS and the fact that they are indistinguishable for much of their life-cycle further suggest that they cannot be managed separately, just as all juvenile *O. mykiss* below barriers to anadromy are de facto considered to be steelhead due to their ''similarity of appearance'' (Hey *et al.* 2005; NMFS 2006). Based on all of the above information, we conclude that the summer-run population of steelhead is not discrete from the winter-run population in the NC steelhead DPS. Thus, splitting these summer-run and winter-run groups would create a similar situation to the one that was rejected by the Alsea decision (*Alsea Valley Alliance* v. *Evans,* No. 99–6265–HO, Sept. 10, 2001), which ruled against listing below the species level under the ESA. This interpretation is also consistent with that of an earlier NMFS review of a petition to list summer steelhead in Deer Creek, Washington, that concluded that they should not be considered a separate species under the ESA (59 FR 59981; November 21, 1994).

Considerations for Criterion 2: Significance of the Population Segment

Although the Panel found, and we concurred, that NC summer-run steelhead do not qualify as a ''discrete'' population, the Panel elected to examine the second DPS criterion.

The success of the species *O. mykiss* both in its native range and globally is due at least in part to the resilience it

gets from being able to express a diverse array of life-history strategies. These strategies can include adult steelhead run-timing variation and others such as variation in juvenile migratory behavior (Hayes *et al.* 2011; Moore *et al.* 2014), variation in adult age-at-return, within-season variance in spawn timing (Abadía-Cardoso *et al.* 2013), variation in the half-pounder life history (steelhead that return from the ocean after only two to four months of saltwater residence, are generally sexually immature, and migrate back to saltwater the following spring: Roelofs 1983; Hayes *et al.* 2016), and variation in non-anadromous life histories (freshwater adfluvial and resident life histories; Hayes *et al.* 2011). This diversity allows different individuals in the species to maximize their fitness by taking advantage of the habitat conditions present in a particular place and time. Given the importance of inter-annual variation in this geographic area and its effect on the ability of streams in the NC steelhead DPS geographic range to support salmonids (Power *et al.* 2015), this diversity clearly adds resilience to the NC steelhead DPS and supports its continued survival. Life-history variants that do best in one year may not have the highest fitness in a different year, but collectively they can maintain a viable population size and high genetic diversity (*i.e.,* the portfolio effect: Schindler *et al.* 2015; Moore *et al.* 2014; Brennan *et al.* 2019). The contribution of the many diverse life-history forms is critical to the resilience of *O. mykiss.*

With respect to the significance of the summer-run steelhead to the Northern California steelhead DPS, this life-history diversity is already recognized by its explicit inclusion in the recovery and viability documents developed for salmon and steelhead in this area (Spence *et al.* 2008; NMFS 2016b; Williams *et al.* 2016). The recovery plans were based on viability criteria, which in turn were based on the viable salmonid population (VSP) concept (McElhany *et al.* 2000). The VSP concept recognizes that life-history diversity is: (1) A key parameter; and (2) hierarchical in nature (from populations on up to species). These summer-run populations have been explicitly identified as having viability criteria based on their shorter-term demographic independence and the need to maintain the appropriate building blocks for recovery (*i.e.,* population units capable of persisting in relative isolation of other units). Having summer-run populations as substrata within diversity strata (and essential for viability) provides the umbrella under which longer-term evolutionary processes are maintained. However, it is also important to keep in mind that all of the other life history variations described above in the species *O. mykiss* are likely to be of equal if not greater significance to the resilience of the species as the variation in adult migration timing associated with the Greb1L region. Thus, there is no clear basis for deciding that adult migratory timing variation should be prioritized more highly than the other, similarly important and diverse characteristics of this highly variable species, or that separating any of these life history variations into separate management units would provide a benefit given their interdependent and dynamic relationships.

NC Steelhead DPS Conclusions

We conclude that summer-run and winter-run steelhead should remain together in a single Northern California steelhead DPS. The best available data indicate that summer-run steelhead cannot be listed as a separate DPS from winter-run steelhead, as the two groups maintain an ongoing and interconnected genetic legacy. Retention of both life-history types in a single DPS, however, does not indicate a lack of recognition that summer-run steelhead are an important component of the DPS, or suggest that measures should not be taken to protect and improve habitat, including access to upstream habitats through dam removals, fish passage programs, reduced water diversions, *etc.* Rather, it is an acknowledgment that the run-types are fundamental parts of the listed unit as a whole and should not be separated from each other. As noted above, this is explicitly addressed in the NMFS status reviews and recovery plans through recognition of the need to focus protection on and consider populations of both of these run-types in assessing recovery status (NMFS 2016a, NMFS 2016b; Spence *et al.* 2008).

Final Determination

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information, including the information contained in the petition, public comments submitted on the 90-day finding (84 FR 16632; April 22, 2019), and the DPS configuration review report, and other published and unpublished information, and we have consulted with species experts and individuals familiar with the NC steelhead DPS.

Our determination set forth here is based on a synthesis and integration of the foregoing information. Based on our consideration of the best available scientific and commercial information, as summarized here and in the status review report, we conclude that NC summer-run steelhead do not constitute a DPS. Accordingly, NC summer-run steelhead does not meet the definition of a species, and thus, NC summer-run steelhead does not warrant listing as a separate DPS.

This is a final action, and, therefore, we are not soliciting public comments.

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 30, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–02174 Filed 2–4–20; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:30 a.m., Wednesday, February 12, 2020.

PLACE: Three Lafayette Centre, 1155 21st Street NW, Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

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

Dated: February 3, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–02385 Filed 2–3–20; 4:15 pm]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for VISTA Project Implementation Evaluation Sponsor Survey

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, CNCS is proposing a new information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 6, 2020.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention: Craig Kinnear, 250 E Street SW, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through *www.regulations.gov.*

Comments submitted in response to this notice may be made available to the public through *regulations.gov.* For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Craig Kinnear, (202) 606–6708, or by email at *ckinnear@cns.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: VISTA Project Implementation Evaluation Sponsor Survey.

OMB Control Number: TBD.

Type of Review: New.

Respondents/Affected Public: Businesses and Organizations.

Total Estimated Number of Annual Responses: 800.

Total Estimated Number of Annual Burden Hours: 200.

Abstract: To inform CNCS's implementation of its Transformation and Sustainability Plan, a CNCS contractor will conduct a study about Volunteers in Service to America (VISTA) project development, management, and sustainability, including member recruitment and retention. The survey of approximately 800 VISTA project sponsors, which will be administered online, will help to identify implementation challenges and best practices among VISTA project sponsors, will be used to make program improvements and mitigate potential challenges, and will also be used to develop training and technical assistance materials to strengthen and enhance VISTA programming. Sponsors will be sent individualized emails and survey data will be merged with existing administrative data regarding project characteristics.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov.*

Dated: January 28, 2020.

Desiree Tucker-Sorini,

Director, AmeriCorps VISTA.

[FR Doc. 2020–02154 Filed 2–4–20; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2020–HQ–0012]

Submission for OMB Review; Comment Request

AGENCY: Secretary of the Air Force, DoD.

ACTION: 30-day information collection 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 March 6, 2020.

ADDRESSES: 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, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Working Dog Adoption Application; DD Form 810–7; OMB Control Number 0701–XXXX.

Type of Request: Extension.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 1 hour.

Annual Burden Hours: 200 hours.

Needs and Uses: This form will be used to assess the suitability of US citizens and local and state law enforcement agencies to adopt Department of Defense Military Working

Dogs, as outlined in DoDI 5200.31E, Title 10 United States Code § 2583, and AFI 31–126. The information is needed to determine if individuals voluntarily submitting the adoption application are suitable adopters for Military Working Dogs, based on the best interests of the Military Working Dog. The information will be used to contact applicants and to interview, screen and select applicants for voluntary adoption.

Affected Public: Individuals or Households; State, Local, or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

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: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02211 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2019–HQ–0030]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, Network Enterprise Technology, DoD.

ACTION: 30-Day information collection 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 March 6, 2020.

ADDRESSES: 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, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application to Operate a Military Auxiliary Radio System (MARS) Station, Army MARS Form AM–1, OMB Control Number 0702–0140.

Type of Request: Extension.

Number of Respondents: 550.

Responses per Respondent: 1.

Annual Responses: 550.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 137.5.

Needs and Uses: The information collection requirement is necessary to operate a Military Auxiliary Radio System (MARS) Station. The MARS program is a civilian auxiliary consisting primarily of licensed amateur radio operators who are interested in assisting the military with communications on a local, national, and international basis as an adjunct to normal communications and providing worldwide auxiliary emergency communications during times of need. The information collection requirement is necessary not only an application to join ARMY MARS, but to maintain an accurate roster of civilians enrolled in the program for the purpose of providing contingency communications support to the Department of Defense. Additionally, the collected information is used by the MARS program manager to determine an individual's eligibility for the program, as well as to initiate a background investigation should a security clearance be required; used to show the geographic dispersion of the members who participate in the global High Frequency radio network in support of the Department of Defense; and to ensure our radio spectrum authorizations cover the geographic areas from which our members will operate. The information is also used periodically to email informational updates about the MARS program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

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: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02213 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2020–HQ–0002]

Proposed Collection; Comment Request

AGENCY: Office of the Director of Army Safety, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Director of Army Safety announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: The accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24 Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Director of Army Safety (ODASAF), 2530 Crystal Dr., Office of Director of Army Safety, ATTN: [Tim Mikulski], Arlington, VA 22202, or call ODASAF, at (703) 697–1321/1128, email *timothy.h.mikulski.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Radiation Exposure Data Collection; DD Form 1952 (Dosimetry Application and Record of Previous Radiation Exposure), DA Form 7689 (Bioassay Information Summary Sheet); and 0702–XXXX.

Needs and Uses: The information collection requirement is to document and record an individual's external and internal short and long-term exposure to radioactive materials and radiation generating equipment. The information collection is also utilized to monitor, evaluate and control the risks and associated health hazards, conduct investigations, management studies and training to ensure individual qualifications and education in handling radioactive materials are maintained in compliance with the Nuclear Regulatory Commission (NRC) 10 CFR 20, Army NRC license conditions, and Occupational Safety and Health Administration (OSHA) 29 CFR 1926.53.

Affected Public: Individuals or households, Federal Government, State, Local Not-for-Profit or Tribal Governments.

Annual Burden Hours: 6.

Number of Respondents: 25.

Responses per Respondent: 1.

Annual Responses: 25.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are members of the public who are working in/around or visiting a Department of the Army facility where there is a potential to receive an exposure from ionizing radiation.

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02206 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2016–HQ–0038]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: 30-Day information collection 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 March 6, 2020.

ADDRESSES: 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, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Automated Installation Entry (AIE) System; OMB Control Number 0702–0125.

Type of Request: Extension.

Number of Respondents: 886,294.

Responses per Respondent: 1.

Annual Responses: 886,294.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 44,315.

Needs and Uses: The information collection requirement is necessary to verify the identity of an individual and determine the fitness of an individual requesting and/or requiring access to installations, and issuance of local access credentials. The information collection methodology involves the employment of technological collection of data via an electronic physical access control system (PACS) which provides the capability to rapidly and electronically authenticate credentials and validate and individual's authorization to enter an installation.

Affected Public: Business or other for-profit; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

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: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02212 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2020–HQ–0003]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Corps of Engineers announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Army Corps of Engineers, Institute for Water Resources, Casey Building, 8801 Telegraph Road, Alexandria VA 22315, ATTN Meredith Bridgers or call 703–428–8458.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Recreation Use and Expenditure Survey; OMB Control Number 0710–0020.

Needs and Uses: The information collection requirement is necessary to produce recreation visitation and local expenditure estimates at U.S. Army Corps of Engineers Water Resource Projects.

Affected Public: Individuals or households, business or other for-profit, and not-for-profit institutions.

Annual Burden Hours: 2,115 hours.

Number of Respondents: 19,050.

Responses per Respondent: 1.11.

Annual Responses: 21,146.

Average Burden per Response: 6 minutes.

Frequency: On occasion.

Respondents are public visitors to U.S. Army Corps of Engineers Recreation Areas. Visitors exiting the recreation area by vehicle are stopped as potential respondents. Participation is voluntary.

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02208 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2020–OS–0017]

Proposed Collection; Comment Request

AGENCY: Defense Counterintelligence and Security Agency, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Counterintelligence and Security Agency, ATTN: Mr. Corey Beckett, Chief Finanical Officer, 27130 Telegraph Road, Quantico, VA 22134.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: National Industrial Security Program Cost Collection Survey; DSS Form 232; OMB Control Number 0704–0458.

Needs and Uses: The information collection requirement is necessary as a result of Executive Order 12829, ''National Industrial Security Program,'' which requires the Department of Defense to account each year for the costs associated with implementation of the National Industrial Security Program and report those costs to the Director of the Information Security Oversight Office (ISOO).

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 507.

Number of Respondents: 1,014.

Responses per Respondent: 1.

Annual Responses: 1,014.

Average Burden per Response: 30 minutes.

Frequency: Annually.

Collection of this data is required to comply with the reporting requirements of Executive Order 12829, ''National Industrial Security Program.'' This collection of information requests the assistance of the Facility Security Officer to provide estimates of annual security labor cost in burdened, current year dollars and the estimated percentage of security labor dollars to the total security costs for the facility. Security labor is defined as personnel whose positions exist to support operations and staff in the implementation of government security requirements for the protection of classified information. Guards who are

required as supplemental controls are included in security labor. This data will be incorporated into a report produced to ISOO for the estimated cost of securing classified information within industry. The survey will be distributed electronically via a Web-based commercial survey tool.

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02207 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2019–OS–0124]

Submission for OMB Review; Comment Request

AGENCY: Department of Defense Education Activity, DoD.

ACTION: 30-Day information collection 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 March 6, 2020.

ADDRESSES: 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, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for DoD Impact Aid for Children with Severe Disabilities; SD Form 816 and 816c; OMB Control Number 0704–0425.

Type of Request: Extension.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 8 hours.

Annual Burden Hours: 400.

Needs and Uses: The information collection requirement is necessary to authorize DoD funds for local educational agencies (LEAs) that educate military dependent students with severe disabilities that meet certain criteria. This application will be requested of military-impacted LEAs to determine if they meet the DoD criteria to receive compensation for the cost of educating military dependent students with severe disabilities.

Affected Public: State, Local, or Tribal Governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

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: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02210 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2020–OS–0018]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Finance and Accounting Service (DFAS) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 6, 2020.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24 Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, ATTN: JFBB—Mr. Charles Moss, Room 1569, Cleveland, OH 44199 or phone at 216–204–4426.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Physician Certificate for Child Annuitant; DD Form 2828; OMB Control Number 0730–0011.

Needs and Uses: The information collection requirement is necessary to support an incapacitation occurring prior to age 18. The form provides the authority for the DFAS to establish and pay a Retired Serviceman's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual.

Affected Public: Individuals and households.

Annual Burden Hours: 480 hours.

Number of Respondents: 240.

Responses per Respondent: 1.

Annual Responses: 240.

Average Burden per Response: 2 hours.

Frequency: On occasion.

The form will be used by the DFAS in order to establish and start the annuity for a potential child annuitant. When the form is completed, it will serve as a medical report to substantiate a child's incapacity. The law requires that an unmarried child who is incapacitated must provide a current certified medical report. When the incapacity is not permanent a medical certification must be received by DFAS every two years in order for the child to continue receiving annuity payments.

Dated: January 31, 2020.

Morgan E. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–02209 Filed 2–4–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Native American-Serving Nontribal Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2020 for the Native American-Serving Nontribal Institutions (NASNTI) Program, Catalog of Federal Domestic Assistance (CFDA) numbers 84.031X. This notice relates to the approved information collection under OMB control number 1840–0816.

DATES:

Applications Available: February 5, 2020.

Deadline for Transmittal of Applications: March 6, 2020.

Deadline for Intergovernmental Review: May 5, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Don Crews, U.S. Department of Education, 400 Maryland Avenue SW, Room 268–42, Washington, DC 20202–4260. Telephone: (202) 453–7920. Email: *Don.Crews@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 NASNTI Program provides grants to eligible institutions of higher education (IHEs) to enable them to improve and expand their capacity to serve Native American students and low-income individuals. Institutions may use these grants to plan, develop, or implement activities that strengthen the institution.

Priorities: This notice contains two competitive preference priorities. These priorities are from the Secretary's Notice of Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities).

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application, depending on how well the application responds to one of the following priorities. Applicants should clearly identify which competitive preference priority, if any, they intend to address and will only receive points for addressing one of the following priorities.

These priorities are:

Competitive Preference Priority 1—Fostering Knowledge and Promoting the Development of Skills That Prepare Students to be Informed, Thoughtful, and Productive Individuals and Citizens (up to 5 points)

Projects that are designed to address supporting instruction in personal financial literacy, knowledge of markets and economics, knowledge of higher education financing and repayment (*e.g.,* college savings and student loans), or other skills aimed at building personal financial understanding and responsibility.

Competitive Preference Priority 2—Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science (up to 5 points)

Projects designed to improve student achievement or other educational outcomes in one or more of the following areas: Science, technology, engineering, math, or computer science (as defined in this notice). Projects that are designed to address increasing access to STEM coursework, including computer science (as defined in this notice), and hands-on learning opportunities, such as through expanded course offerings, dual-enrollment, high-quality online coursework, or other innovative delivery mechanisms.

Definitions: The definitions below are from 34 CFR part 77.1 and the Secretary's Notice of Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities).

Computer science means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications.

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information. In addition to coding, the expanding field of computer science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets, or presentation software; or using computers in the study and exploration of unrelated subjects.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at *https://ies.ed.gov/ncee/*

edlabs/regions/pacific/elm.asp, to help design their logic models. Other sources include: *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf,* and *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.*

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Program Authority: 20 U.S.C. 1059f (title III, part A, of the Higher Education Act of 1965, as amended (HEA)).

Note: In 2008, the HEA was amended by the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110–315. Please note that the regulations in 34 CFR part 607 have not been updated to reflect these statutory changes.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 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 607. (e) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants. Five-year Individual Development Grants and Cooperative Arrangement Development Grants will be awarded in FY 2020.

Note: A cooperative arrangement is an arrangement to carry out allowable grant activities between an institution eligible to receive a grant under this part and another eligible or ineligible IHE, under which the resources of the cooperating institutions are combined and shared to better achieve the purposes of this part and avoid costly duplication of effort.

Estimated Available Funds: $4,444,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 from the list of unfunded applications from this competition.

Individual Development Grants:

Estimated Range of Awards: $200,000–$300,000 per year.

Estimated Average Size of Awards: $250,000 per year.

Maximum Award: We will not make an award exceeding $300,000 for a single budget period of 12 months.

Estimated Number of Awards: 12.

Cooperative Arrangement Development Grants:

Estimated Range of Awards: $300,000–$400,000 per year.

Estimated Average Size of Awards: $350,000 per year.

Maximum Award: We will not make an award exceeding $400,000 for a single budget period of 12 months.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. a. *Eligible Applicants:*

This program is authorized by title III, part A, of the HEA. At the time of submission of their applications, applicants must certify their total undergraduate headcount enrollment and that 10 percent of the IHE's enrollment is Native American. An assurance form, which is included in the application materials for this competition, must be signed by an official for the applicant and submitted.

To qualify as an eligible institution under the NASNTI Program, an institution must—

(i) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(ii) Be legally authorized by the State in which it is located to be a junior or community college or to provide an educational program for which it awards a bachelor's degree; and

(iii) Be designated as an ''eligible institution,'' as defined in 34 CFR 600.2, by demonstrating that it: (1) Has an enrollment of needy students as described in 34 CFR 607.3; and (2) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

Note: The notice announcing the FY 2020 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on December 16, 2019 (84 FR 68434). Only institutions that the Department determines are eligible, or which are granted a waiver under the process described in that notice, may apply for a grant in this program.

b. *Relationship between the Title III, Part A Programs and the Developing Hispanic-Serving Institutions (HSI) Program:*

A grantee under the HSI Program, which is authorized under title V of the HEA, may not receive a grant under any HEA, title III, part A program. The title III, part A programs are: The Strengthening Institutions Program; the Tribally Controlled Colleges and Universities Program; the Asian American and Native American Pacific Islander-Serving Institutions Program; the Alaska Native and Native Hawaiian-Serving Institutions Program; and the Native American-Serving Nontribal Institutions Pprogram. Furthermore, a current HSI Program grantee may not give up its HSI Program grant in order to be eligible to receive a grant under the NASNTI Program or any title III, part A program as described in 34 CFR 607.2(g)(1).

An eligible HSI that is not a current grantee under the HSI Program may apply for a FY 2020 grant under all title III, part A programs for which it is eligible, as well as receive consideration for a grant under the HSI Pprogram. However, a successful applicant may receive only one grant as described in 34 CFR 607.2(g)(1).

An eligible IHE that submits applications for an Individual Development Grant and a Cooperative Arrangement Development Grant in this competition may be awarded both in the same fiscal year. However, we will not award a second Cooperative Arrangement Development Grant to an otherwise eligible IHE for an award year for which the IHE already has a Cooperative Arrangement Development Grant award under the NASNTI Program. A grantee with an Individual Development Grant or a Cooperative Arrangement Development Grant may be a subgrantee in one or more Cooperative Arrangement Development Grants. The lead institution in a Cooperative Arrangement Development Grant must be an eligible institution. Partners or subgrantees are not required to be eligible institutions.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Grant funds must be used so that they supplement and, to the extent practical,

increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds (34 CFR 607.30 (b)).

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *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.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 607.10(c). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative 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 to no more than 50 pages for Individual Development Grants and no more than 65 pages for Cooperative Arrangement Development Grants 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, references, and captions as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and 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 the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract and the bibliography. However, the recommended page limit does apply to all of the application narrative.

Note: The Budget Information-Non-Construction Programs Form (ED 524) Sections A–C are not the same as the narrative response to the Budget section of the selection criteria.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this competition are from 34 CFR 75.210. Applicants should address each of the following selection criteria separately for each proposed activity. The selection criteria are worth a total of 100 points; the maximum score for each criterion is noted in parentheses.

a. (a) *Need for project.* (Maximum 20 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (10 points)

(2) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (5 points)

(3) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (5 points)

(b) *Quality of the project design.* (Maximum 25 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:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

(3) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (10 points)

(c) *Quality of project services.* (Maximum 10 points) The Secretary considers the quality of the services to be provided by the proposed project.

(1) 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. (5 points)

(2) In addition, the Secretary considers:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (3 points)

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (2 points)

(d) *Quality of project personnel.* (Maximum 10 points) The Secretary considers the quality of the personnel who will carry out the proposed project.

(1) In determining the quality of project personnel, 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. (4 points)

(2) In addition, the Secretary considers:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator. (3 points)

(ii) The qualifications, including relevant training and experience, of key project personnel. (3 points)

(e) *Adequacy of resources.* (Maximum 5 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(1) The extent to which the budget is adequate to support the proposed project. (3 points)

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (2 points)

(f) *Quality of the management plan.* (Maximum 15 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(1) 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. (5 points)

(2) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (5 points)

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

(g) *Quality of the project evaluation.* (Maximum 15 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (10 points)

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

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 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 (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of two non-Federal reviewers will review and score each application in accordance with the selection criteria. A rank order funding slate will be made from this review. Awards will be made in rank order according to the average score received from the peer review and from the competitive preference priority addressed by the applicant.

In tie-breaking situations for development grants, under 34 CFR 607.23(b) we award one additional point to an application from an IHE that has an endowment fund of which the current market value, per FTE enrolled student, is less than the average current market value of the endowment funds, per FTE enrolled student, at comparable type institutions that offer similar instruction. We award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditure for library materials per FTE enrolled student at similar type institutions. We also add one additional point to an application from an IHE that proposes to carry out one or more of the following activities:—

(1) Faculty development;

(2) Funds and administrative management;

(3) Development and improvement of academic programs;

(4) Acquisition of equipment for use in strengthening management and academic programs;

(5) Joint use of facilities; and

(6) Student services.

For the purpose of these funding considerations, we use 2018–2019 data.

If a tie remains after applying the tie-breaker mechanism above, priority will be given to applicants that have the lowest endowment values per FTE enrolled student.

3. *Risk Assessment and Specific 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 specific 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 $250,000), 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 the System for Award Management. 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. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *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.*

5. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the NASNTI Program:

(a). The percentage of first-time, full-time degree-seeking undergraduate students at four-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

(b). The percentage of first-time, full-time degree-seeking undergraduate students at two-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

(c). The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year NASNTIs who graduate within six years of enrollment; and

(d). The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year NASNTIs who graduate within three years of enrollment.

6. *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) 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**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Robert L. King,

Assistant Secretary for the Office of Postsecondary Education.

[FR Doc. 2020–02215 Filed 2–4–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, March 2, 2020; 8:15 a.m.–4:00 p.m.

ADDRESSES: Crystal City Marriott at Reagan National Airport, 1999 Richmond Highway, Salons D & E, Arlington, Virginia 22202, 703–413–5500.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26/Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585–1290; Telephone: (301) 903–0536, or email: *brenda.may@science.doe.gov.*

The most current information concerning this meeting can be found on the website: *https://science.osti.gov/np/nsac/meetings.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Committee is to provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Monday, March 2, 2020

- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Office's
- Presentation and Discussion of the Committee of Visitors Subcommittee Report
- Presentation and Discussion of the Mo-99 Subcommittee Report
- Presentation on the Fission in R-process Elements Topical Collaboration
- Presentation on the Transverse Momentum Topical Collaboration
- NSAC Business/Discussions

Note: The NSAC Meeting will be broadcast live on the internet. You may find out how to access this broadcast by going to the Office of Science's website prior to the start of the meeting at: *https://science.osti.gov/np/nsac/meetings.* A video record of the meeting, including the presentations that are made, will be archived at this site after the meeting.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, 301–903–0536 or *Brenda.May@science.doe.gov* (email). You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for review on the U.S. Department of Energy's Office of Nuclear Physics website at *https://science.osti.gov/np/nsac/meetings.*

Signed in Washington, DC, on January 30, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–02160 Filed 2–4–20; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2020–0017; FRL 10004–75–OW]

Proposed Information Collection Request; Comment Request; Information Collection Request for the 2020 Drinking Water Infrastructure Needs Survey and Assessment (DWINSA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Information Collection Request for the 2020 Drinking Water Infrastructure Needs Survey and Assessment (DWINSA)'' (EPA ICR No. 2616.01, OMB Control No. 2040–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described in this document. This is a request for approval of a new collection. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 6, 2020.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2020–0017 online using *https://www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov* or by mail to: The EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert Barles, Drinking Water Protection Division (Mail Code 4606M), Office of Ground Water and Drinking Water, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–3814; fax number: 202–564–3754; email address: *barles.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about the EPA's public docket, visit *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), the EPA is soliciting comments and information to enable it to: (i) 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; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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 EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The purpose of this information collection is to identify the infrastructure needs of public water systems for the 20-year period from January 2020 through December 2039. The EPA's Office of Ground Water and Drinking Water will collect these data to comply with sections 1452(h) and 1452(i)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12). This data collection effort will include the 2020 State DWINSA and the 2020 Native American DWINSA. For the State DWINSA, the EPA will collect the 20-year need for systems that are in all 50 states, the U.S. territories (Guam, U.S. Virgin Islands, Northern Mariana Islands, and American Samoa), Puerto Rico, and the District of Columbia. The EPA will use a questionnaire to collect capital investment need information from selected community water systems (CWSs) and not-for-profit noncommunity water systems (NPNCWSs). The EPA will collect data from NPNCWSs serving 10,000 or fewer persons and small CWSs serving 3,300 or fewer persons through site visits. For the Native American DWINSA, the EPA will survey selected American Indian and Alaska Native Village CWSs and NPNCWSs. These systems will receive the same data collection instrument as the systems selected for the 2020 State DWINSA, except that American Indian and Alaska Native Village water systems will not receive questions related to American Iron and Steel because those requirements do not apply to these systems. Participation in the survey is voluntary. The data from the questionnaires will provide the EPA with new information from the field to assist in the 2020 update to the Agency's assessment of the nationwide infrastructure needs of public water systems. As mandated by section 1452(a)(1)(D)(ii) of the Safe Drinking Water Act, the EPA uses the results of the latest survey to allocate Drinking Water State Revolving Fund (DWSRF) monies among states, territories, the EPA Regions (for direct implementation programs), and the Navajo Nation.

Form Numbers: None.

Respondents/affected entities: The respondents for the 2020 Drinking Water Infrastructure Needs Survey and Assessment are CWSs, NPNCWSs, state agencies, the EPA Regions, and the Navajo Nation.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 3,969 (total).

Frequency of response: One time.

Total estimated burden: 14,510 hours (average per year over three years). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $734,686 (average per year over three years), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: This ICR does not modify an existing ICR. An ICR was prepared for the previous survey effort done in 2015, which is outside of the 3-year window for modifying an existing ICR for a new effort. For purposes of this reinstatement, the EPA has provided a

comparison of burden of the proposed new effort to the estimates of the previous 2015 DWINSA ICR.

The estimated total public reporting burden over the entire 4-year length of the 2015 DWINSA was 37,195 hours. The total public reporting burden for the 2020 DWINSA is estimated to be 43,531 hours, an increase of 17 percent over the 2015 DWINSA. Some aspects of the 2020 DWINSA resulted in an estimated decrease in burden compared to the same data collection for the 2015 effort, and some aspects that are new to the 2020 DWINSA resulted in an increase compared to the 2015 DWINSA. Specific differences between the 2015 and 2020 DWINSAs that resulted in changes in burden are as follows:

• The 2015 DWINSA focused on collecting data on 20-year infrastructure needs from medium and large systems through a State DWINSA. The 2015 DWINSA did not collect new data from small CWSs, state NPNCWSs, or American Indian or Alaska Native Village water systems. The 2015 DWINSA relied on data from the 2007 DWINSA for small CWSs' needs, from the 1999 DWINSA for the state NPNCWSs' needs, and from the 2011 DWINSA for the American Indian and Alaska Native Village systems' needs. The 2020 DWINSA will collect 20-year infrastructure need data from all of those survey groups. This increased scope of the 2020 DWINSA efforts to collect infrastructure needs compared to the 2015 DWINSA added survey groups with corresponding increased burden.

• The approach to data collection and therefore the overall assumptions on the burdens associated with collecting 20-year infrastructure need information from each large, medium, and small CWS for the State DWINSA did not change relative to the most recent State DWINSA in which these water systems were last surveyed. However, the burden estimate for collecting data from each NPNCWS has increased since the last time this type of system was surveyed in the 1999 State DWINSA. At that time, the EPA estimated that NPNCWS staff would spend little time accompanying the survey team during the site visit. Subsequently, the EPA developed more in-depth interview methods to improve capture of the 20-year infrastructure needs. The EPA will apply these newer survey methods to small NPNCWSs (serving 10,000 and fewer persons) for the first time in this 2020 State DWINSA. These changes to the survey methods were previously applied for small CWSs in the 2007 survey and, therefore, the same burden estimates will now apply to both small CWSs and small NPNCWSs. The EPA will apply the same survey methods and, therefore, the same burden to CWS serving 10,000–50,000 persons and NPNCWS serving more than 10,000 persons.

• As previously described, the assumed burdens for collecting 20-year infrastructure need information from each large, medium, and small CWS did not change relative to the most recent DWINSA in which these water systems were surveyed. However, the number of medium and large systems in the State DWINSA that will be surveyed decreased by 322 systems from 2,859 systems in 2015 to 2,537 systems in the 2020 DWINSA. This results in a lower burden estimate.

• The 2015 DWINSA focused on the 20-year infrastructure needs of the surveyed systems. The 2020 DWINSA includes three categories of new questions: Lead Service Lines, Operator Workforce, and American Iron and Steel. These new questions add burden to participating survey respondents, dependent on the category of the question and type of respondent.

• For the first time, the 2015 State Survey used a modified statistical approach where a large majority of the medium systems sampled had been previously sampled in the earlier 2011 State Survey; the change resulted in a significant decrease in states' and systems' reported burden hours. The 2020 State DWINSA applies the same modified approach to the medium system survey as was applied for the 2015 DWINSA. The 2020 DWINSA also applies this approach for the first time to the 2020 Native American DWINSA. The 2015 DWINSA did not collect data on American Indian (AI) and Alaska Native Village (ANV) Needs; however, the estimated burden associated with the 2020 Native American DWINSA is less than was reported in the 2011 ICR.

The increase in burden from the 2015 to the 2020 DWINSA attributable to the addition of new survey respondents (*i.e.,* small water systems; NPNCWSs; and AI and ANV systems, including Navajo Nation water systems) for their 20-year infrastructure investment needs is a combined 3,382 burden hours. That increase is partially offset by a decrease of 1,548 burden hours to ascertain infrastructure needs for fewer large and medium systems. The net result is an increase of 1,560 burden hours from the 2015 to the 2020 DWINSA for water system respondents to report infrastructure needs. Thus, the increase in burden for water systems overall is small relative to the additional data to be collected. The combined burden on primacy agencies for ascertaining water systems' infrastructure needs actually decreases from the 2015 to the 2020 DWINSA.

Most of the increase in burden due to the expanded scope of the type of systems surveyed for infrastructure needs in the 2020 DWINSA is borne by the EPA. The EPA is responsible for collection of data from the small CWSs and NPNCWS for the State DWINSA, and by the EPA Regions for all but the Navajo Nation systems in the Native American DWINSA (the Navajo Nation will collect data for their systems).

An increase of 3,573 burden hours from the 2015 to the 2020 DWINSA for water system respondents is attributable to the additional Lead Service Line, Operator Workforce, and American Iron and Steel questions. Most of this increase in burden is due to the Lead Service Line questions. The Lead Service Line questions account for 2,978 hours (83 percent) of the 3,573 hours of increased burden for the three additional question categories. The Lead Service Line questions will gather information about the water systems' service lines, as mandated by the America's Water Infrastructure Act of 2018 section 2015(e)(2). These 2,978 hours translate to an average of 0.76 burden hours per water system respondent to specifically address the Lead Service Line questions.

These changes are further discussed in the Supporting Statement of the Information Collection Request available in the EPA's docket for comment.

Dated: January 31, 2020.

Jennifer McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2020–02263 Filed 2–4–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1252; FRS 16465]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the

following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 6, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1252.

Title: Application to Participate in Rural Digital Opportunity Fund Auction, FCC Form 183.

Form Number: FCC Form 183.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, and State, Local or Tribal governments.

Number of Respondents and Responses: 500 respondents and 500 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r) of the Communications Act of 1934, as amended.

Estimated Total Annual Burden: 3,500 hours.

Total Annual Costs: No cost.

Nature and Extent of Confidentiality: Although most information collected in FCC Form 183 will be made available for public inspection, the Commission will withhold certain information collected in FCC Form 183 from routine public inspection. Specifically, the Commission will treat certain technical and financial information submitted in FCC Form 183 as confidential and as though the applicant has requested that this information be treated as confidential trade secrets and/or commercial information. In addition, an applicant may use the abbreviated process under 47 CFR 0.459(a)(4) to request confidential treatment of certain financial information contained in its FCC Form 183 application. However, if a request for public inspection for this technical or financial information is made under 47 CFR 0.461, and the applicant has any objections to disclosure, the applicant will be notified and will be required to justify continued confidential treatment of its request. To the extent that a respondent seeks to have other information collected in FCC Form 183 withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected to determine whether applicants are eligible to participate in the Rural Digital Opportunity Fund auction. On January 30, 2020 the Commission adopted the *Rural Digital Opportunity Fund Order,* WC Docket Nos. 19–126, 10–90, FCC 20–5 which will commit up to $20.4 billion over the next decade to support up to gigabit speed broadband networks in rural America. The funding will be allocated through a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition in order to ensure that the greatest possible number of Americans will be connected to the best possible networks, all at a competitive cost.

To implement the Rural Digital Opportunity Fund auction, the Commission adopted new rules for the Rural Digital Opportunity Fund auction, including the adoption of a two-stage application process. For the Connect America Fund Phase II auction, applicants that wanted to qualify to bid in the auction were required to submit the FCC Form 183 short-form application. Because the Connect America Fund Phase II auction has ended, the Commission intends to repurpose the FCC Form 183 for the Rural Digital Opportunity Fund auction. Any entity that wishes to participate in the Rural Digital Opportunity Fund auction will be required to submit the FCC Form 183 short-form application to demonstrate its qualifications to bid. Accordingly, the Commission proposes to revise this collection to indicate that it now intends to collect this information pursuant to section 54.804(a) of the Commission's rules, replacing section 54.315(a) of the Commission's rules. 47 CFR 54.315(a), 54.804(a). The Commission also intends to make several revisions to FCC Form 183, including text changes to reflect the Rural Digital Opportunity Fund auction. Based on the Commission's experience with auctions and consistent with the record, this two-stage collection of information balances the need to collect information essential to conduct a successful auction with administrative efficiency.

Under this information collection, the Commission will collect information that will be used to determine whether an applicant is legally qualified to participate in an auction for Rural Digital Opportunity Fund support. To aid in collecting this information, the Commission will use FCC Form 183, which the public will use to provide the necessary information and certifications. Commission staff will review the information collected on FCC Form 183 as part of the pre-auction process, prior to the start of the auction, and determine whether each applicant satisfies the Commission's requirements to participate in an auction for Rural Digital Opportunity Fund support. Without the information collected on FCC Form 183, the Commission will not be able to determine if an applicant is legally qualified to participate in the auction and has complied with the various applicable regulatory and statutory auction requirements for such participation. This approach is an appropriate assessment of providers for ensuring serious participation without being unduly burdensome.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–02273 Filed 2–4–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement

under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201331.

Agreement Name: NMCC/WLS/Grimaldi U.S.—Mexico Space Charter Agreement.

Parties: Nissan Motor Car Carrier Co. Ltd. and World Logistics Service (U.S.A.) Inc. (acting as a single party); and Grimaldi Deep Sea S.p.A. and Grimaldi Euromed S.p.A. (acting as a single party).

Filing Party: Eric Jeffrey; Nixon Peabody.

Synopsis: The agreement authorizes the Parties to charter space to one another on an as needed, as available basis for the carriage of vehicles and other Ro-Ro cargo in the trade between the United States and Mexico.

Proposed Effective Date: 1/24/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/26459.

Agreement No.: 012293–007.

Agreement Name: Maersk/MSC Vessel Sharing Agreement.

Parties: Maersk A/S and Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment revises the name of the Maersk entry that is party to the agreement and the contact person for Maersk under Article 10.4.

Proposed Effective Date: 1/28/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/153.

Agreement No.: 201284–001.

Agreement Name: Hyundai Glovis/Sallaum Mediterranean Space Charter Agreement.

Parties: Hyundai Glovis Co., Ltd. and Sallaum Lines SA.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the Sallaum entity that is a party to the Agreement.

Proposed Effective Date: 1/29/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/20309.

Agreement No.: 012443–002.

Agreement Name: Hyundai Glovis/Sallaum Cooperative Working Agreement.

Parties: Hyundai Glovis Co., Ltd. and Sallaum Lines SA.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the Sallaum entity that is a party to the Agreement.

Proposed Effective Date: 3/14/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1921.

Agreement No.: 201264–001.

Agreement Name: Maersk/MSC Turkey Space Charter Agreement.

Parties: Maersk A/S and Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of the Maersk entity that is a party to the Agreement.

Proposed Effective Date: 1/29/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/15239.

Agreement No.: 012128–005.

Agreement Name: Southern Africa Agreement.

Parties: Maersk A/S and Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of the Maersk party to the Agreement.

Proposed Effective Date: 1/29/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/373.

Agreement No.: 012136–004.

Agreement Name: ML/MSC Space Charter Agreement.

Parties: Maersk A/S and Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of the Maersk entity that is party to the Agreement.

Proposed Effective Date: 1/29/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/382.

Agreement No.: 011928–010.

Agreement Name: Maersk/HLAG Slot Charter Agreement.

Parties: Maersk A/S and Hapag-Lloyd AG.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of the Maersk entity that is party to the Agreement.

Proposed Effective Date: 1/29/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/503.

Dated: January 31, 2020.

Rachel Dickon,

Secretary.

[FR Doc. 2020–02259 Filed 2–4–20; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0012; Docket No. 2019–0003; Sequence No. 33]

Submission for OMB Review; Termination Settlement Proposal Forms—FAR (SF 1435 Through 1440)

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement regarding termination settlement proposal forms in the FAR.

DATES: Submit comments on or before March 6, 2020.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503 or at *Oira_submission@omb.eop.gov.* Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Lois Mandell/IC 9000–0012, Termination Settlement Proposal Forms—FAR (SF 1435 through 1440).

Instructions: All items submitted must cite Information Collection 9000–0012, Termination Settlement Proposal Forms—FAR (SF 1435 through 1440).

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0012, Termination Settlement Proposal Forms—FAR (SF 1435 through 1440).

B. Needs and Uses

The termination settlement proposal forms (Standard Forms 1435 through 1440) provide a standardized format for listing essential cost and inventory information needed to support the terminated contractor's negotiation position per the Federal Acquisition Regulation subpart 49.6, Contract Termination Forms and Formats. Submission of the information assures that a contractor will be fairly reimbursed upon settlement of the terminated contract.

C. Annual Burden

Respondents: 4,995.
Total Annual Responses: 14,128.
Total Burden Hours: 33,907.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 84 FR 65158, on November 26, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0012, Termination Settlement Proposal Forms—FAR (SF 1435 through 1440), in all correspondence.

Dated: January 30, 2020.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2020–02205 Filed 2–4–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20HF; Docket No. CDC–2020–0012]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''2019 Novel Coronavirus Airport Entry Questionnaires and Aircraft Contact Investigations Information Collection,'' which will provide CDC with the ability to perform enhanced public health assessments of travelers from China, or other areas affected by the 2019 Novel Coronavirus (2019–nCoV) outbreak, to determine risk of infection with 2019-nCoV, and to facilitate any necessary public health follow-up.

DATES: CDC must receive written comments on or before April 6, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0012 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov. Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, of the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

2019 Novel Coronavirus Airport Entry Questionnaires and Contact Investigations—New Emergency—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC and the Department of Homeland Security (DHS) have been tasked with conducting risk assessment activities at international U.S. airports to detect individuals ill or at risk of being ill with 2019–nCoV. This primarily involves travelers coming from China. As the outbreak evolves, travelers from

additional countries may be assessed for risk of 2019–nCoV infection at U.S. airports.

The information collected will be limited to that necessary to confirm the individual's identity, establish their travel itinerary, and make a public health risk assessment. This includes travel itinerary data, information about who the traveler is, and contact and locating information sufficient to complete potential follow-up after arrival. CDC will also observe travelers to determine if the traveler is experiencing any overt signs and symptoms of disease, as well as ask basic questions about signs or symptoms of illness. The information also includes a field for a temperature, which will be taken via a non-contact thermometer. CDC will require all travelers from Wuhan, China, and any symptomatic travelers from China, to provide information as part of an initial public health risk assessment. Travelers from other areas may be required to answer questions as part of a risk assessment if there is a demonstrated risk of exportation to the United States.

If an individual from an area where the virus is spreading has a fever, answers ''Yes'' to any of the symptom questions, or has visible signs of specific symptoms, they will be required to undergo a further public health evaluation that will ask more in-depth health and exposure-related questions.

In the event that there is a repatriation of U.S. citizens or other groups from foreign countries to the United States, and those individuals are coming from areas experiencing an outbreak of 2019-nCoV, individuals may be required to respond to a pre-boarding health screening and a questionnaire to assess their risk of infection depending on the risk of exposure. CDC may monitor individuals repatriated to the United States from areas experiencing an outbreak of 2019-nCoV for symptoms associated with the disease for a period of up to two weeks (14 days) after arrival, depending on exposure risks and whether or not they develop symptoms.

CDC is also seeking authorization to ask state and local health departments to administer questionnaires to air travelers who may have been exposed to a case of 2019-nCoV. In the event a confirmed case of 2019-nCoV flew to the United States, CDC will distribute the questionnaires to state health departments and ask them to make contact with their respective residents to determine if additional public health follow-up is needed. CDC will then ask the state health department to return the completed questionnaires. In limited circumstances, CDC may make direct contact with the at-risk travelers. There are no costs to respondents other than their time. The total estimated burden hours requested are 36,751.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondent	Form	Number of respondents	Number of responses per respondent	Average burden per response (in minutes)	Total burden hours
Traveler	United States Travel Health Declaration (English or Mandarin Chinese).	100,000	1	10/60	16,667
Traveler	United States Travel Health Declaration for Repatriation.	5,000	1	15/60	1,250
Traveler	2019n-CoV Supplemental Questionnaire	5,000	1	15/60	1,250
Traveler	Preboarding Health Screen	5,000	1	5/60	417
Traveler	2019-nCoV Air CI Basic Questionnaire	5,500	1	30/60	2,750
Traveler	2019-nCoV Air CI Follow-up Questionnaire	5,500	1	30/60	2,750
Traveler	2019-nCoV Daily Symptom Check	5,000	28	5/60	11,667
Total					36,751

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–02266 Filed 2–4–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–4337]

Prescription Drug User Fee Act of 2017; Electronic Submissions and Data Standards; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the following public meeting entitled ''Prescription Drug User Fee Act of 2017; Electronic Submissions and Data Standards.'' The purpose of the public meeting and the request for comments is to fulfill FDA's commitment to seek stakeholder input related to data standards and the electronic submission system's past performance, future targets, emerging industry needs, and technology initiatives. FDA will use the information from the public meeting as well as from comments submitted to the docket to inform data standards initiatives, FDA Information Technology (IT) Strategic Plan, and electronic submissions gateway target timeframes.

DATES: The public meeting will be held on April 22, 2020, from 9 a.m. to 4 p.m. Submit either electronic or written comments on this public meeting by April 22, 2020. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503, Section A), Silver Spring, MD 20993–0002. Entrance for public meeting participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and securing information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 22, 2020. The *https://www.regulations.gov* electronic filing

system will accept comments until 11:59 p.m. Eastern Time at the end of April 22, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–4337 for ''Prescription Drug User Fee Act of 2017; Electronic Submissions and Data Standards.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure laws. 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.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Chenoa Conley, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1117, Silver Spring, MD 20993–0002, 301–796–0035, *chenoa.conley@fda.hhs.gov,* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is committed to achieving the long-term goal of improving the predictability and consistency of the electronic submission process and enhancing transparency and accountability of FDA information technology-related activities. In the Prescription Drug User Fee Act (PDUFA) VI commitment letter, FDA agreed to hold annual public meetings to seek stakeholder input related to electronic submissions and data standards to inform the FDA IT Strategic Plan and published targets. The commitment letter outlines FDA's performance goals and procedures under the PDUFA program for the years 2018 through 2022. The commitment letter can be found at *https://www.fda.gov/forindustry/userfees/prescriptiondruguserfee/ucm446608.htm.*

FDA will consider all comments made at this meeting or received through the docket (see **ADDRESSES**).

II. Participating in the Public Meeting

Registration: To register to attend ''Prescription Drug User Fee Act of 2017; Electronic Submissions and Data Standards,'' please visit the following website: *https://www.eventbrite.com/e/pdufa-vi-2020-public-meeting-on-electronic-submissions-and-data-standards-tickets-73294889989.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone. A draft agenda will be posted approximately 1 month prior to the meeting.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by 11:59 p.m. Eastern Time on April 1, 2020. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted.

Request for Oral Presentations: During the request for comment period, you may indicate if you wish to present at the public meeting and which topic(s) you would like to address. FDA will do its best to accommodate requests to make an oral presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. Following the close of registration, FDA will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin and will select and notify participants by April 8, 2020. All requests to make oral presentations must be received by the close of registration at 11:59 p.m. Eastern Time

on April 1, 2020. If selected for presentation, any presentation materials must be emailed to *cderdatastandards@fda.hhs.gov* no later than April 15, 2020. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast: *https://collaboration.fda.gov/pdufa042220/.*

Persons attending FDA's meetings are advised that the Agency is not responsible for providing access to electrical outlets.

If you need special accommodations due to a disability, please contact Chenoa Conley, (see **FOR FURTHER INFORMATION CONTACT**) no later than April 1, 2020.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/forindustry/userfees/prescriptiondruguserfee/ucm446608.htm.*

Dated: January 29, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02163 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–6046]

Advancing Animal Models for Antibacterial Drug Development; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Advancing Animal Models for Antibacterial Drug Development.'' The purpose of the public workshop is to discuss progress and challenges in the development of various animal models for serious infection funded by FDA, the National Institutes of Health (NIH), and the Biomedical Advanced Research and Development Authority (BARDA) to facilitate antibacterial drug development, and to discuss ideas for future research. This public workshop is a follow up to the FDA public workshop held on March 1, 2017, entitled ''Current Status and Future Development of Animal Models of Serious Infections Caused by *Acinetobacter baumannii* and *Pseudomonas aeruginosa.*''

DATES: The public workshop will be held on March 5, 2020, from 8:30 a.m. to 4 p.m. Submit either electronic or written comments on this public workshop by April 6, 2020. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time on April 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–6046 for ''Advancing Animal Models for Antibacterial Drug Development.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting

of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: James Byrne, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6383, Silver Spring, MD 20993–0002, 301–796–5001.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop to discuss ongoing research efforts to advance the development of animal models of serious bacterial infection. As a follow up to the FDA public workshop held on March 1, 2017, entitled ''Current Status and Future Development of Animal Models of Serious Infections Caused by *Acinetobacter baumannii* and *Pseudomonas aeruginosa,*'' FDA is holding this public workshop to discuss research results regarding the development of various animal models of serious infection funded by FDA, NIH, and BARDA, and to discuss ideas for future research in this area. [1]

Animal models of serious infection are useful to explore the activity of a new antibacterial drug and may be further developed to better predict whether the drug might be efficacious in humans, and thus potentially contribute to the selection of drugs, dosing regimens, and design elements for appropriate human clinical trials. Further developed models may be particularly useful in settings in which the use of concomitant or prior antibacterial drugs in clinical trials is common, such as development of a new antibacterial drug with activity against a single species.

II. Topics for Discussion at the Public Workshop

FDA is particularly interested in discussing challenges encountered in animal model development and ideas for future research. Discussions will focus on the following topic areas:

- An overview of urinary tract infection, abdominal infection, and pneumonia animal models currently used in antibacterial drug development;
- pharmacokinetic considerations in animal model development;
- animal model resources and development supported by NIH;
- progress and challenges in advancement of murine, rabbit, and porcine models of serious bacterial infections supported by FDA and BARDA; and
- potential priorities for further research and development.

The Agency encourages health care providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders to attend this public workshop.

III. Participating in the Public Workshop

Registration: Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register online by March 2, 2020, 11:59 p.m. Eastern Time. To register, please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone by visiting *https://www.eventbrite.com/e/advancing-animal-models-for-antibacterial-drug-development-tickets-73803340779.*

Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact James Byrne (see **FOR FURTHER INFORMATION CONTACT**) no later than February 21, 2020.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. We will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin and will select and notify participants by February 25, 2020. All requests to make oral presentations must be received by February 21, 2020. If selected for presentation, any presentation materials must be emailed to *ONDPublicMTGSupport@fda.hhs.gov* no later than March 2, 2020. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Persons attending FDA's workshops are advised that FDA is not responsible for providing access to electrical outlets.

Streaming Webcast of the public workshop: This public workshop will also be webcast at the following website: *https://collaboration.fda.gov/amdworkshop.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A link to the transcript will also be available on the internet at *https://www.fda.gov/drugs/news-events-human-drugs/advancing-animal-models-antibacterial-drug-development-03052020-03052020.*

Dated: January 29, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02159 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

[1] We support the principles of the ''3Rs,'' to reduce, refine, and replace animal use in testing when feasible. We encourage sponsors to consult with us if it they wish to use a non-animal testing method that they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1155]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection activity associated with our food labeling regulations.

DATES: Submit either electronic or written comments on the collection of information by April 6, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–1155 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food Labeling Regulations.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-;18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Labeling Regulations—21 CFR Parts 101, 102, 104, and 105

OMB Control Number 0910–0381—Revision

This information collection supports our food labeling regulations and associated Agency guidance. Under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (FPLA) (15 U.S.C. 1453, 1454, and 1455) and sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e), we have issued regulations regarding the labeling of food. The regulations are codified in parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) and implement statutory provisions that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. While part 101 sets forth general food labeling provisions, requirements pertaining to the common or usual name for nonstandardized foods; guidelines for nutritional quality to prescribe the minimum level or range of nutrient composition appropriate for a given class of food; and requirements for foods for special dietary use are found in parts 102, 104, and 105, respectively.

The disclosure requirements, along with the reporting and recordkeeping provisions, are necessary to ensure the safety of food products produced or sold in the United States and enable consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables consumers to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to us provide the basis for us to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable us to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the FD&C Act or the FPLA.

Specifically, the regulations set forth the general content and format requirements for food packaging, including nutrition and ingredient information. Additional regulations provide for nutrient content claims. To assist respondents in this regard, we developed the guidance document entitled ''Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body.'' The guidance document is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-notification-health-claim-or-nutrient-content-claim-based-authoritative-statement.* The guidance document communicates our recommendations regarding food labeling claims associated with regulations found in §§ 101.13, 101.14, 101.54, 101.69, and 101.70 (21 CFR 101.13, 101.14, 101.54, 101.69, and 101.70). It was developed to assist respondents in satisfying criteria found or discussed in these regulations regarding the submission of notifications for certain health claims and identifies information to include and information we will evaluate in determining compliance with statutory requirements (*e.g.,* supporting literature; discussion of analytical methodology or methodologies used in support of a particular claim).

The regulations also include provisions applicable to the labeling of dietary supplements. To assist respondents in this regard and in understanding provisions under the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462, 120 Stat. 3469), we developed the guidance document entitled ''Questions and Answers: Labeling of Dietary Supplements as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act.'' The guidance document is available from our website at: *www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-questions-and-answers-regarding-labeling-dietary-supplements-required-dietary.* The guidance document communicates the following information:

(1) What ''domestic address'' means for purposes of the dietary supplement labeling requirements in section 403(y) of the FD&C Act;

(2) FDA's recommendation for the use of an introductory statement before the domestic address or phone number that is required to appear on the product label under section 403(y); and

(3) when FDA intends to begin enforcing the labeling requirements of section 403(y).

The guidance document entitled ''Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act'' has also been developed to assist respondents to the information collection. The guidance document is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-substantiation-dietary-supplement-claims-made-under-section-403r-6-federal-food.* The guidance document discusses the requirement that a manufacturer of a dietary supplement making a nutritional deficiency, structure/function, or general well-being claim have substantiation that the claim is truthful and not misleading. The guidance document is intended to describe the amount, type, and quality of evidence FDA recommends that a manufacturer have to substantiate a claim under section 403(r)(6) of the FD&C Act.

Finally, we are revising the information collection by consolidating elements associated with revised Nutrition Facts and Supplement Facts labels regulations. Requirements included among the food labeling regulations found in part 101 govern both format and content of the Nutrition Facts (§ 101.9 (21 CFR 101.9)) and Supplement Facts (§ 101.36 (21 CFR 101.36)) labels. Currently, the information collection provisions are approved under OMB control number 0910–0813 and were established upon the implementation of associated rulemaking (RIN 0910–AF22). Now that the rulemaking is concluded, we are consolidating information collection associated with the specific regulations into this information collection.

Description of Respondents: Respondents to this information collection are manufacturers, packers, and distributors of food products, as well as certain food retailers, such as supermarkets and restaurants.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
101.9(c)(6)(i); dietary fiber	28	1	28	1	28
101.9(j)(18) and 101.36(h)(2); procedure for small business nutrition labeling exemption notice using Form FDA 3570	10,000	1	10,000	8	80,000
101.12(h); petitions to establish or amend referenced amounts customarily consumed (RACC)	5	1	5	80	400
101.69; petitions for nutrient content claims	3	1	3	25	75
101.70; petitions for health claims	5	1	5	80	400
101.108; written proposal for requesting temporary exemptions from certain regulations for the purpose of conducting food labeling experiments	1	1	1	40	40
Total			10,042		80,943

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
101.9(c)(6)(iii); [2] added Sugars	31,283	1	31,283	1	31,283
101.9(c)(6)(i); [2] dietary fiber	31,283	1	31,283	1	31,283
101.9(c)(6)(i)(A); [2] soluble fiber	31,283	1	31,283	1	31,283
101.9(c)(6)(i)(B); [2] insoluble fiber	31,283	1	31,283	1	31,283
101.9(c)(8); [3] vitamin E	31,283	1	31,283	1	31,283
101.9(c)(8); [3] folate/folic acid	31,283	1	31,283	1	31,283
New Products	216	1	216	1	216
101.12(e); recordkeeping to document the basis for density-adjusted RACC	25	1	25	1	25
101.13(q)(5); recordkeeping to document the basis for nutrient content claims	300,000	1.5	450,000	0.75	337,500
101.14(d)(2); recordkeeping to document nutrition information related to health claims for food products	300,000	1.5	450,000	0.75	337,500
101.22(i)(4); recordkeeping to document supplier certifications for flavors designated as containing no artificial flavors	25	1	25	1	25
101.100(d)(2); recordkeeping pertaining to agreements that form the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act	1,000	1	1,000	1	1,000
101.7(t); recordkeeping pertaining to disclosure requirements for food not accurately labeled for quality of contents	100	1	100	1	100
Total			1,089,064		864,064

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for added sugars, dietary fiber, and soluble and insoluble fiber. Manufacturers will only need to keep records for products with both added and naturally occurring sugars, added sugars that undergo fermentation in certain fermented foods, and products with non-digestible carbohydrates (soluble or insoluble) that do and do not meet the definition of dietary fiber.

[3] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for vitamin E and folate/folic acid. The declaration of vitamin E and folate/folic acid is not mandatory unless a health or nutrient content claim is being made or these nutrients are directly added to the food for enrichment purposes.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
101.3, 101.22, parts 102 and 104; statement of identity labeling requirements	25,000	1.03	25,750	0.5	12,875
101.4, 101.22, 101.100, parts 102, 104 and 105; ingredient labeling requirements	25,000	1.03	25,750	1	25,750

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
101.5; requirement to specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product	25,000	1.03	25,750	0.25	6,438
101.9, 101.13(n), 101.14(d)(3), 101.62, and part 104; labeling requirements for disclosure of nutrition information	25,000	1.03	25,750	4	103,000
101.9(g)(9) and 101.36(f)(2); alternative means of compliance permitted	12	1	12	4	48
101.10; requirements for nutrition labeling of restaurant foods	300,000	1.5	450,000	0.25	112,500
101.12(b); RACC for baking powder, baking soda, and pectin	29	2.3	67	1	67
101.12(e); adjustment to the RACC of an aerated food permitted	25	1	25	1	25
101.12(g); requirement to disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC	5,000	1	5,000	1	5,000
101.13(d)(1) and 101.67; requirements to disclose nutrition information for any food product for which a nutrient content claim is made	200	1	200	1	200
101.13(j)(2) and (k), 101.54, 101.56, 101.60, 101.61, and 101.62; additional disclosure required if the nutrient content claim compares the level of a nutrient in one food with the level of the same nutrient in another food	5,000	1	5,000	1	5,000
101.13(q)(5); requirement that restaurants disclose the basis for nutrient content claims made for their food	300,000	1.5	450,000	0.75	337,500
101.14(d)(2); general requirements for disclosure of nutrition information related to health claims for food products	300,000	1.5	450,000	0.75	337,500
101.15; requirements pertaining to prominence of required statements and use of foreign language	160	10	1,600	8	12,800
101.22(i)(4); supplier certifications for flavors designated as containing no artificial flavors	25	1	25	1	25
101.30 and 102.33; labeling requirements for fruit or vegetable juice beverages	1,500	5	7,500	1	7,500
101.36; nutrition labeling of dietary supplements	300	40	12,000	4.025	48,300
101.42 and 101.45; nutrition labeling of raw fruits, vegetables, and fish	1,000	1	1,000	0.5	500
101.45(c); databases of nutrient values for raw fruits, vegetables, and fish	5	4	20	4	80
101.79(c)(2)(i)(D); disclosure requirements for food labels that contain a folate/neural tube defect health claim	1,000	1	1,000	0.25	250
101.79(c)(2)(iv); disclosure of amount of folate for food labels that contain a folate/neural tube defect health claim	100	1	100	0.25	25
101.100(d); disclosure of agreements that form the basis for exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the FD&C Act	1,000	1	1,000	1	1,000
101.7 and 101.100(h); disclosure requirements for food not accurately labeled for quantity of contents and for claiming certain labeling exemptions	25,000	1.03	25,750	0.5	12,875
Nutritional labeling for new products	500	1	500	2	1,000
Total			1,513,799		1,030,258

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Because of the consolidation of OMB control number 0910–0813, our estimate reflects an annual increase of 188,442 responses and 188,282 hours. These estimates are based on our experience with food labeling, related submissions of petitions, and informal communications with industry.

Dated: January 29, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02253 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1427]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Hazard Analysis and Critical Control Point Procedures for the Safe and Sanitary Processing and Importing of Juice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 6, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0466. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Hazard Analysis and Critical Control Point (HACCP) Procedures for the Safe and Sanitary Processing and Importing of Juice—21 CFR Part 120

OMB Control Number 0910–0466—Extension

FDA's regulations in part 120 (21 CFR part 120) mandate the application of HACCP procedures to the processing of fruit and vegetable juices. HACCP is a preventative system of hazard control designed to help ensure the safety of foods. The regulations were issued under FDA's statutory authority to regulate food safety under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 342(a)(4)). Under section 402(a)(4) of the FD&C Act, a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. The Agency also has authority under section 361 of the Public Health Service Act (42 U.S.C. 264) to issue and enforce regulations to prevent the introduction, transmission, or spread of communicable diseases from one State, territory, or possession to another, or from outside the United States into this country. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

Under HACCP, processors of fruit and vegetable juices establish and follow a preplanned sequence of operations and observations (the HACCP plan) designed to avoid or eliminate one or more specific food hazards, and thereby ensure that their products are safe, wholesome, and not adulterated, in compliance with section 402 of the FD&C Act. Information development and recordkeeping are essential parts of any HACCP system. The information collection requirements are narrowly tailored to focus on the development of appropriate controls and document those aspects of processing that are critical to food safety.

In the **Federal Register** of September 26, 2019 (84 FR 50852), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received in response to the notice.

We estimate the burden of this collection of information as follows:

21 CFR Section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
120.6(c) and 120.12(a)(1) and (b); require written monitoring and correction records for sanitation standard operating procedures.	1,875	365	684,375	0.1 (6 minutes)	68,438
120.7; 120.10(a); and 120.12(a)(2), (b) and (c); require written hazard analysis of food hazards.	2,300	1.1	2,530	20	50,600
120.8(b)(7) and 120.12(a)(4)(i) and (b); require a recordkeeping system that documents monitoring of the critical control points and other measurements as prescribed in the HACCP plan.	1,450	14,600	21,170,000	0.01 (1 minute)	211,700
120.10(c) and 120.12(a)(4)(ii) and (b); require that all corrective actions taken in response to a deviation from a critical limit be documented.	1,840	12	22,080	0.1 (6 minutes)	2,208
120.11(a)(1)(iv) and (a)(2) and 120.12 (a)(5) and (b); require records showing that process monitoring instruments are properly calibrated and that end-product or in-process testing is performed in accordance with written procedures.	1,840	52	95,680	0.1 (6 minutes)	9,568

21 CFR Section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
120.11(b) and (c); and 120.12(a)(5) and (b); require that every processor record the validation that the HACCP plan is adequate to control food hazards that are likely to occur.	1,840	1	1,840	4	7,360
120.11(c) and 120.12(a)(5) and (b); require documentation of revalidation of the hazard analysis upon any changes that might affect the original hazard analysis (applies when a firm does not have a HACCP plan because the original hazard analysis did not reveal hazards likely to occur).	1,840	1	1,840	4	7,360
120.14(a)(2), (c), and (d) and 120.12(b); require that importers of fruit or vegetable juices, or their products used as ingredients in beverages, have written procedures to ensure that the food is processed in accordance with our regulations in part 120.	308	1	308	4	1,232
120.8(a) and (b), and 120.12(a)(3), (b), and (c); require written HACCP plan.	1,560	1.1	1,716	60	102,960
Total			21,980,369		461,426

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 1 provides our estimate of the total annual recordkeeping burden of our regulations in part 120. Our estimate remains unchanged since last review of the information collection. We base our estimate of the average burden per recordkeeping on our experience with the application of HACCP principles in food processing. We base our estimate of the number of recordkeepers on our estimate of the total number of juice manufacturing plants affected by the regulations (plants identified in our official establishment inventory plus very small apple juice and very small orange juice manufacturers). These estimates assume that every processor will prepare sanitary standard operating procedures and an HACCP plan and maintain the associated monitoring records, and that every importer will require product safety specifications. In fact, there are likely to be some small number of juice processors that, based upon their hazard analysis, determine that they are not required to have an HACCP plan under these regulations

Dated: January 29, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02243 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0144]

Agency Information Collection Activities; Proposed Collection; Comment Request; Voluntary Qualified Importer Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA's Voluntary Qualified Importer Program (VQIP).

DATES: Submit either electronic or written comments on the collection of information by April 6, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–N–0144 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; FDA's Voluntary Qualified Importer Program.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agency Information Collection Activities; Proposed Collection; Comment Request; FDA's Voluntary Qualified Importer Program OMB Control Number 0910–0840—Extension.

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353) enables FDA to better protect public health by helping to ensure the safety and security of the food supply. It enables FDA to focus more on preventing food safety problems rather than relying primarily on reacting to problems after they occur. FSMA recognizes the important role industry plays in ensuring the safety of the food supply, including the adoption of modern systems of preventive controls in food production. Under FSMA, those that import food have a responsibility to ensure that their suppliers produce food that meets U.S. safety standards.

FSMA also requires FDA to establish a voluntary, fee-based program for the expedited review and importation of foods by importers who achieve and maintain a high level of control over the safety and security of their supply chains. This control includes importation of food from facilities that have been certified under FDA's accredited third-party certification program, as well as other measures that support a high level of confidence in the safety and security of the food they import. Expedited entry incentivizes importers to adopt a robust system of supply chain management and further benefits public health by allowing FDA to focus its resources on food entries that pose a higher risk to public health.

Section 302 of FSMA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding new section 806, Voluntary Qualified Importer Program (21 U.S.C. 384b). Section 806(a)(1) of the FD&C Act directs FDA to establish this voluntary program for the expedited review and importation of food, and to establish a process for the issuance of a facility certification to accompany food offered for importation by importers participating in VQIP. Section 806(a)(2) directs FDA to issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with VQIP. Accordingly, in the **Federal Register** of November 14, 2016 (81 FR 79502), FDA published a notice announcing the availability of a final guidance for industry entitled ''FDA's Voluntary Qualified Importer Program.'' The guidance is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-fdas-voluntary-qualified-importer-program.*

FDA estimates the burden of this collection of information as follows:

TABLE 1—ONE-TIME RECORDKEEPING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Quality Assurance Program (QAP) preparation	200	1	200	160	32,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our one-time recordkeeping burden estimate. On average, the preparation of a QAP by a VQIP applicant is estimated at approximately 160 hours (110 + 40 + 10). In estimation of the one-time recordkeeping burden to prepare a QAP manual, we assume that VQIP importers do not already have a similar manual in place (*e.g.,* food safety plan under the Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food regulation (21 CFR part 117); food defense plan under the Focused Mitigation Strategies to Protect Food Against Intentional Adulteration regulation (IA regulation) (21 CFR part 121)). We continue to use the recordkeeping burden of preparing a food safety plan under part 117, 110 hours, as a proxy for the burden to prepare QAP Food Safety Policies and Procedures. We continue to estimate that, on average, it would take 40 hours for an applicant to prepare the food defense portion of the VQIP QAP, similar to the estimated burden for preparing a food defense plan under the IA regulation. We also continue to estimate it will take a VQIP applicant no longer than 10 hours to develop the portion of its QAP that includes compiling its company profile, organizational structure, corporate quality policy statement, documentation of contracts, and procedures for record retention. Therefore, the one-time recordkeeping burden for 200 VQIP applicants to prepare QAPs is estimated at 32,000 hours (200 applicants × 160 hours/applicant) (see table 1). To the extent that some importers do have QAP manuals in place, the burden would be overestimated.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
QAP Modification	200	1	200	16	3,200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

A VQIP importer is expected to update its QAP on an ongoing basis. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our annual recordkeeping burden estimate. We estimate it would take 10 percent of the effort to prepare the QAP, or 16 hours, to update the QAP each year. Therefore, we estimate the annual recordkeeping burden of modification of the QAP for 200 VQIP importers at 3,200 hours (200 importers × 16 hours/importer).

TABLE 3—ESTIMATED ONE-TIME REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Initial VQIP application	100	1	100	80	8,000
Initial VQIP application w/additional information	100	1	100	100	10,000
Total					18,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The guidance informs food importers of application procedures for VQIP. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our one-time reporting burden estimate. As we are still in the process of implementing this program, we continue to estimate that up to 200 qualified importers will be accepted in the upcoming year of VQIP. We estimate that it will take 80 person-hours to compile all the relevant information and complete the application for the VQIP program. For the purpose of this analysis, we assume that 50 percent of all applications received will require additional information and it would take an additional 20 person-hours by the importer to provide that information. Therefore, we estimate that 100 importers will spend 8,000 hours (80 hours/importer × 100 importers) and 100 importers will spend 10,000 hours (100 hours/importer × 100 importers) to submit their initial VQIP applications for a total one-time reporting burden of 18,000 hours (see table 3).

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN [1]

Information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Subsequent Year VQIP Application	200	1	200	20	4,000
Request to Reinstate Participation	2	1	2	10	20
Total					4,020

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The guidance states that each VQIP participant will submit to FDA a notice of intent to participate in VQIP on an annual basis. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our annual reporting burden estimate. We expect that each of the expected 200 importers in VQIP would apply in the subsequent year to participate in VQIP. We expect that an application to participate in VQIP in a subsequent year will take significantly less time to prepare than the initial application. We use 25 percent of the amount of effort to prepare and submit the initial application for acceptance in VQIP. Therefore, it is expected that, on average, each VQIP importer will spend 20 hours to complete and submit a VQIP application for each subsequent year. The annual burden of completing a subsequent year application to participate in VQIP status by 200 importers is estimated at 4,000 hours (200 applications × 20 hours/application) (see table 4).

Finally, we have added to the VQIP estimated annual reporting burden an estimate of the burden associated with importers' requests to reinstate participation in VQIP after their participation is revoked. We believe most participants will not need to use this provision, and we have included an estimate that reflects this. Upon implementation of the VQIP, we will reevaluate our estimate for future OMB submission and revise it accordingly.

Dated: January 29, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02248 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0257]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Drug Administration Rapid Response Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the use of rapid response surveys to obtain data on safety information to support quick turnaround decision making about potential safety problems or risk management solutions from healthcare professionals, hospitals, and other user facilities (*i.e.,* nursing homes, etc.); consumers; manufacturers of biologics, drugs, food, dietary supplements, cosmetics, animal food and feed, and medical devices; distributors; and importers, when FDA must quickly determine whether or not a problem with a biologic, drug, food, cosmetic, dietary supplement, animal food and feed, or medical device impacts the public health.

DATES: Submit either electronic or written comments on the collection of information by April 6, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and

identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–N–0257 for ''Agency Information Collection Actitivites; Proposed Collection; Comment Request; Food and Drug Administration Rapid Response Surveys.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FDA Rapid Response Surveys OMB Control Number 0910–0500—Extension

Section 505 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355) requires that important safety information relating to all human prescription drug products be made available to FDA so that the Agency can take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the FD&C Act. Under section 519 of the FD&C Act (21 U.S.C. 360i), FDA is authorized to require manufacturers to report medical device-related deaths, serious injuries, and malfunctions to FDA; to require user facilities to report device-related deaths directly to FDA and to manufacturers; and to report serious injuries to the manufacturer. Section 522 of the FD&C Act (21 U.S.C. 360l) authorizes FDA to require manufacturers to conduct postmarket surveillance of medical devices. Section 705(b) of the FD&C Act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health or gross deception of the consumer. Section 1003(d)(2) of the FD&C Act (21 U.S.C. 393(d)(2)) authorizes the Commissioner of Food and Drugs to implement general powers (including conducting research) to carry out effectively the mission of FDA. These sections of the FD&C Act enable FDA to enhance consumer protection from risks associated with medical products usage that are not foreseen or apparent during the premarket notification and review process. FDA's regulations governing application for Agency approval to market a new drug (21 CFR part 314) and regulations governing biological products (21 CFR part 600) implement these statutory provisions. FDA's regulations governing Agency oversight of Foods, Cosmetics, Dietary Supplements, and Animal Food and Feed (21 CFR parts 70 through 199) also implement these statutory provisions. Currently, FDA monitors medical product related postmarket adverse events via both the mandatory and voluntary MedWatch reporting systems using Forms FDA 3500 and 3500A (OMB control number 0910–0291), electronic Safety Reporting Portal (OMB control number 0910–0645), and the vaccine adverse event reporting system.

FDA is seeking extension of OMB approval to collect vital information via a series of rapid response surveys. Participation in these surveys will be voluntary. This request covers rapid response surveys for community-based healthcare professionals, general type medical facilities, specialized medical facilities (those known for cardiac surgery, obstetrics/gynecology services, pediatric services, etc.), other healthcare professionals, patients, consumers, and risk managers working in facilities containing products related to or regulated by FDA. FDA will use the information gathered from these surveys to quickly obtain vital information about medical product risks and interventions to reduce risks so the Agency may take appropriate public health or regulatory action including dissemination of this information as necessary and appropriate.

FDA projects six emergency risk related surveys per year with a sample

of between 50 and 10,000 respondents per survey. FDA also projects a response time of 0.5 hours per response. These estimates are based on the maximum sample size per questionnaire that FDA may be able to obtain by working with healthcare professional organizations. The annual number of surveys was determined by the maximum past number of surveys per year FDA has conducted under this collection.

Respondents to this collection of information will be identified when additional surveillance data will address a potential public health hazard. For example, respondents could include facilities or professionals that have the most experience in the use of certain FDA-regulated products, foods, cosmetics, dietary supplements, animal food and feed, drugs, tobacco products, etc. Once FDA identifies the need for additional surveillance data to address a potential public health hazard, the appropriate respondents will be identified either through FDA's lists or through the appropriate professional organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FDA Rapid Response Survey	10,000	6	60,000	0.5 (30 minutes)	30,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: January 28, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02240 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–5404]

Mucopolysaccharidosis Type III (Sanfilippo Syndrome): Developing Drugs for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Mucopolysaccharidosis Type III (Sanfilippo Syndrome): Developing Drugs for Treatment.'' The purpose of this draft guidance is to foster greater efficiency in drug development in this rare disease with the goal of enhancing clinical trial data quality and supporting the development of treatments for mucopolysaccharidosis type III. Specifically, the draft guidance provides the Agency's current recommendations regarding eligibility criteria, trial design considerations, and efficacy endpoints for use in clinical development programs of investigational drugs to treat mucopolysaccharidosis type III.

DATES: Submit either electronic or written comments on the draft guidance by May 5, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–5404 for ''Mucopolysaccharidosis Type III (Sanfilippo Syndrome): Developing Drugs for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you

must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Patroula Smpokou, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5328, Silver Spring, MD 20993, 240–402–9651; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Mucopolysaccharidosis Type III (Sanfilippo Syndrome): Developing Drugs for Treatment.'' This draft guidance provides the Agency's recommendations regarding the structure of clinical development programs for investigational drugs intended to treat mucopolysaccharidosis type III. This draft guidance is intended to facilitate greater consistency in approaches among development programs and to ensure that sponsors receive clear and specific guidance to foster greater efficiency of drug development in this rare disease. The draft guidance describes specific considerations relating to eligibility criteria and trial design and discusses the Agency's current recommendations for efficacy endpoints to support approval of drugs for mucopolysaccharidosis type III.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Mucopolysaccharidosis Type III (Sanfilippo Syndrome): Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved FDA collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 (Investigational New Drug Application) have been approved under OMB control number 0910–0014, and the collections of information in 21 CFR part 314 (Applications for FDA Approval to Market a New Drug) have been approved under OMB control number 0910–0001, including 21 CFR 312.30, 314.50(d)(5), and 314.126(b)(6).

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: January 30, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02220 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–5973]

Agency Information Collection Activities; Proposed Collection; Comment Request; Health Care Providers' Understanding of Opioid Analgesic Abuse Deterrent Formulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on research entitled ''Health Care Providers' Understanding of Opioid Analgesic Abuse Deterrent Formulations.'' This research consists of a survey examining the health care providers' current perceptions, understanding, and behaviors related to opioid analgesic abuse deterrent formulations (ADFs) and a study exploring the effectiveness of different terminology and descriptions for these products.

DATES: Submit either electronic or written comments on the collection of information by April 6, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 6, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 6, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://*

www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–5973 for ''Agency Information on Collection Activities; Proposed Collection; Comment Request; Health Care Providers' Understanding of Opioid Analgesic Abuse Deterrent Formulations.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

For copies of the questionnaire contact: Office of Communications (OCOMM) Research Team, *CDEROCOMMResearch@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Health Care Providers' Understanding of Opioid Analgesic Abuse Deterrent Formulations

OMB Control Number 0910–NEW

I. Background

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. Section 1003(d)(2)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(C)) authorizes FDA to conduct research relating to drugs and other FDA-regulated products in carrying out the provisions of the FD&C Act.

Prescription opioids play a significant role in the opioid misuse and abuse epidemic in the United States. Opioid analgesics with properties designed to deter abuse, commonly known as ADFs, may play a role in helping to curb this epidemic. Currently available ADFs have been demonstrated to deter some forms of abuse (injection, snorting, or, in some cases, chewing and swallowing). FDA's own research and other evidence suggests considerable variability in health care providers' (HCPs) knowledge of and attitudes toward prescription opioid products and practices (Ref. 1), including understanding of ADFs. ADF prescription practices may present opportunities for HCPs to reduce opioid abuse. Conducting a comprehensive evaluation of opioid prescribers' knowledge, attitudes, perceptions, experiences, and behaviors related to ADFs will help to inform FDA's approaches to ADFs.

Given the significance and far-reaching nature of the opioid crisis, along with FDA concerns about potential misunderstanding among HCPs about ADF terminology and capabilities, FDA determined that systematic research was necessary to provide the detailed and comprehensive

evidence on which to base the Agency's ADF-related policy, regulatory, and communication decisions, including potential alternative language that may be necessary to describe and explain these products. This work aligns with Priority 1 of the FDA's Strategic Policy Roadmap (*https://www.fda.gov/about-fda/reports/healthy-innovation-safer-families-fdas-2018-strategic-policy-roadmap*), and the Department of Health and Human Services (HHS) and the White House have similarly placed high priorities on addressing the epidemic of misuse and abuse of opioid drugs harming U.S. families.

The study's purpose is to explore and assess the ADF-related knowledge, attitudes, and behaviors among opioid prescribers (physicians, nurse practitioners and physician assistants) and dispensers/pharmacists, including the related terms addiction and abuse deterrence, and to explore possible alternative language for describing these products. Phase 1 consists of focus groups (OMB approval under control number 0910–0695). The research described in this notice represents Phases 2 and 3 of the overall project.

Phase 2 will consist of a survey based on the Phase 1 focus group findings related to: (1) Health care provider understanding of addiction, abuse, and abuse deterrent formulations; (2) attitudes toward, perceptions about, and experiences with abuse-deterrent opioid analgesics and abuse deterrence, including prescribing decisions and practices, potential barriers to using ADFs, the quality and understandability of the ADF nomenclature, and the underlying reasons for these perceptions; and (3) HCPs' ideas for minimizing confusion about ADFs, the kinds of ADF training needed, and suggested language/terms they believe would best convey the concept of abuse deterrence to HCPs. The objective of the survey will be to determine the prevalence of HCP knowledge, attitudes, behaviors and perceptions identified through the qualitative discussion occurring in the Phase 1 focus groups and to uncover any subgroup differences among opioid prescribers and dispensers. We will conduct one pretest, averaging not longer than 20 minutes, to pilot the main survey procedures among the target HCP populations. The main survey will also average 20 minutes.

Phase 3 will build on findings from the Phase 1 focus groups and Phase 2 survey and will consist of an experimental study examining variations in descriptive terminology for abuse deterrent formulation products. We will conduct two pretests, each averaging not longer than 20 minutes, to test the experimental manipulations and pilot the main study procedures. The main study procedure will also average 20 minutes in length. Participants will be randomly assigned to read one description of an abuse deterrent formulation prescription drug product and then complete a questionnaire that assesses their comprehension and perceptions of the information, including terminology. We will test up to four variations in wording, including the description of ADF included in FDA's guidance ''Abuse Deterrent Opioids—Evaluation and Labeling'' (Ref. 2).

For all phases of this research, we will recruit adult health care professional volunteers 18 years of age or older. We will exclude individuals who work for HHS or work in the health care, marketing, or pharmaceutical industries. The sample will consist of 10 percent pharmacists, at least half of whom dispense ADF opioids. The other 90 percent will be prescribers who, at the time they are recruited, spend at least 50 percent of their time seeing patients and who have prescribed opioids to at least five different patients in the last 30 days, with at least half of the opioids they prescribe being for chronic non-cancer pain. The prescriber sample will be segmented to include 70 percent primary care providers (*i.e.,* those practicing in family practice, or internal or general medicine) and 30 percent a mix of specialists practicing in a variety of fields such as rheumatology, neurology, anesthesiology, pain management, emergency medicine, surgery, orthopedics, and physical medicine and rehabilitation. In each of these groups, 60 to 70 percent will consist of physicians, 15 percent nurse practitioners, and 15 percent physician assistants. A minimum of 30 percent must have experience prescribing an ADF opioid.

We will use soft quotas to ensure that our sample includes a diversity of participants, including related to age, race/ethnicity, gender, years and location of practice, and opioid prescribing levels. We will also exclude pretest participants from the main studies, and participants will not be able to participate in more than one phase of the project. With the sample sizes described below, we will have sufficient power to detect primarily small-sized effects for Phases 2 and 3.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1 2 4]

Activity	Number of respondents [3]	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Phase 2					
Pretest screener	470	1	470	0.17 (10 minutes)	79.90
Pretest	235	1	235	0.33 (20 minutes)	77.55
Survey screener	2,120	1	2,120	0.17 (10 minutes)	360.40
Survey	1,060	1	1,060	0.33 (20 minutes)	349.80
Phase 3					
Pretests screener	732	1	732	0.17 (10 minutes)	124.44
Pretests	366	1	366	0.33 (20 minutes)	120.78
Main study screener	2,120	1	2,120	0.17 (10 minutes)	360.40
Main study	1,060	1	1,060	0.33 (20 minutes)	349.80
Total					1,823.07

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Includes total burden for project phases 2 and 3.
[3] Includes 10 percent overage.

[4] With online surveys, several participants may be in the process of completing the survey at the time that the total target sample is reached. Those participants will be allowed to complete the survey, which can result in the number of valid completes exceeding the target number. With this in mind, we have included an additional 10 percent over our target number of valid completes to account for some overage.

II. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Hwang, C.S., L.W. Turner, S.P. Kruszewski, et al. ''Primary Care Physicians' Knowledge and Attitudes Regarding Prescription Opioid Abuse and Diversion.'' *The Clinical Journal of Pain, 32*(4), 279–284, 2016.

2. * FDA (2015). ''Abuse Deterrent Opioids—Evaluation and Labeling: Guidance for Industry.'' Available from *https://www.fda.gov/downloads/Drugs/Guidances/UCM334743.pdf.*

Dated: January 27, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02236 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0418]

Nonprescription 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) announces a forthcoming public advisory committee meeting of the Nonprescription Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on 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 March 11, 2020, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For security information, please refer to *https://www.fda.gov/about-fda/white-oak-campus-information/public-meetings-fda-white-oak-campus.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2020–N–0418. The docket will close on March 10, 2020. Submit either electronic or written comments on this public meeting by March 10, 2020. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 10, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 10, 2020. 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.

Comments received on or before March 3, 2020, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information and consider any comments submitted to the docket, as appropriate.

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):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–N–0418 for ''Nonprescription 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 Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information 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 the 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.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Moon Hee V. Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *NDAC@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 FDA's website 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:

Agenda: In the Agency's document entitled ''Food Handler Antiseptic Drug Products for Over-the-Counter Human Use; Request for Data and Information'' (December 7, 2018, 83 FR 63168) (Docket No. FDA–2018–N–3458), FDA sought input on the current use of over-the-counter antiseptics in the food handler setting and the recommended testing criteria to establish the safety and effectiveness of these products. Now that the comment period has closed, FDA plans to hold an advisory committee meeting to review the information submitted and discuss its key points.

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 website 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 website 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 **ADDRESSES**) on or before March 3, 2020, 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 February 24, 2020. 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 February 25, 2020.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

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 Moon Hee V. Choi (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website 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: January 31, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–02244 Filed 2–4–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: February 27, 2020.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: Report from the Office of AIDS Research (OAR) Director, EHE Leadership discussion; Current Burdens of HIV; Optimizing viral Load testing access for the last mile; Cost Effectiveness of Preventing AIDS complications.

Place: National Institutes of Health, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Room 1D13, Rockville, MD 20892.

Contact Person: Mary T. Glenshaw, Ph.D., MPH Senior Science Advisor Office of the Director, DPCPSI, Office of AIDS Research, 5601 Fishers Lane, Room 2E40, Rockville, MD 20850, 301–761–7689, *mary.glenshaw@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has stringent procedures for entrance into NIH federal property. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.oar.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: January 30, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02196 Filed 2–4–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motor Function, Speech and Rehabilitation.

Date: February 28, 2020.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830 *unja.hayes@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Genes, Genomes and Genetics.

Date: March 3–4, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.

Contact Person: Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4809, *lystranne.maynard-smith@nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV Comorbidities and Clinical Studies Study Section.

Date: March 3–4, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Le Meridien Delfina Santa Monica, 530 Pico Blvd., Santa Monica, CA 90405.

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, *dimitrios.vatakis@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; R15 NIH Research Enhancement Award (AREA and REAP).

Date: March 3, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7814, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neuroscience, Cognition and Perception.

Date: March 5–6, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW, Washington, DC 20037.

Contact Person: Cibu P. Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20894, 301–435–1042, *thomascp@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.

Date: March 5–6, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, Bethesda, MD 20892, 301–435–1047, *kkrishna@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV Coinfections and HIV Associated Cancers Study Section.

Date: March 5–6, 2020.

Time: 8:00 a.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: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: CounterACT—Countermeasures against Chemical Threats.

Date: March 5, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Monaco in Baltimore, 2 N. Charles Street, Baltimore, MD 21201.

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Epidemiology and Population Sciences.

Date: March 5–6, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Gianina Ramona Dumitrescu, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193–C, Bethesda, MD 28092, 301–827–0696, *dumitrescurg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biochemistry and Biophysics of Biological Macromolecules.

Date: March 5–6, 2020.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1504, *sudha.veeraraghavan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Urology and Urogynecology.

Date: March 5, 2020.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Julia Spencer Barthold, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–3073, *julia.barthold@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: March 5, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–451–2796, *bdey@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 30, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02195 Filed 2–4–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities Special Emphasis Panel for Review of Conference Grant (R13) Applications.

Date: March 24, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Division of Scientific Programs, NIMHD, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–1366, *ismonddr@mail.nih.gov.*

Dated: January 30, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–02188 Filed 2–4–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Project: ''Talk. They Hear You.'' Campaign Evaluation: Case Study (OMB No. 0930–0373)—Extension

The SAMHSA Center for Substance Abuse Prevention (CSAP) is requesting approval from the Office of Management and Budget (OMB) for a replicated data collection, ''*Talk. They Hear You.*'' *Campaign Evaluation: Case Study* (the ''case study''). This collection includes three instruments:

1. Parent/Caregiver Pre-test/Post-test Survey
2. Youth Pre-test and Post-test Survey
3. Parent/Caregiver Interview Guide

The case study collection is part of a larger effort to evaluate the impact of the ''*Talk. They Hear You.*'' *campaign*. This evaluation will help determine the extent to which the campaign has been successful in educating parents and caregivers nationwide about effective methods for reducing underage drinking. The campaign is designed to educate and empower parents and caregivers to talk with their children about alcohol and other substances. To prevent initiation of underage drinking and substance use, the campaign targets parents and caregivers of children aged 9–20, with the following specific aims:

1. Increasing parents' awareness of the prevalence and risk of underage drinking and substance use;

2. Equipping parents with the knowledge, skills, and confidence to prevent underage drinking and substance use; and

3. Increasing parents' actions to prevent underage drinking and substance use.

For this evaluation, SAMHSA intends to measure knowledge and attitudes before and after a focused campaign outreach effort in areas that have not previously had significant exposure to the campaign. Participants in the evaluation will be recruited from a middle school community and will include parents/caregivers and students. School administrators and partnering organization(s), such as parent/caregiver organizations and/or local educational partner organizations, will assist in the dissemination of campaign materials and data collection efforts. There will be two sites selected for the case study—one site will serve as the experimental group and the other site will serve as the control group. The experimental group will be exposed to the ''Talk. They Hear You.'' messages using standard campaign materials and dissemination strategies, which will be coordinated through the school and potentially a local partner organization. The control group will not be intentionally exposed to the campaign materials. The case study will include baseline surveys of parents/caregivers and children of middle school age in both the experimental and control communities, followed by exposure to campaign materials in the experimental community, and post-exposure surveys of parents/caregivers and children in both communities. Additionally, SAMHSA will conduct 30 interviews with parents and caregivers following the post-exposure surveys at the experimental site to obtain more detailed information about the specific impact of the campaign.

Instrument	Total number of respondents	Total responses/ respondent	Total responses	Hours per response	Total hour burden
Pre-test survey for middle school youth	1,093	1	1,093	0.17	185.8
Post-test survey for middle school youth	1,093	1	1,093	0.17	185.8
Pre-test survey for parents and caregivers	690	1	690	0.17	117.3
Post-test survey for parents and caregivers	690	1	690	0.17	117.3
Individual interviews with parents and caregivers	30	1	30	1	30
Total	1,783		3,596		636.2

Written comments and recommendations concerning the proposed information collection should be sent by March 6, 2020 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to *OIRA_Submission@omb.eop.gov*. Although commenters are encouraged to send their comments via email, commenters may also fax their comments to (202) 395–7285. Commenters may also mail them to the following address: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Jennifer Wilson,
Budget Analyst.

[FR Doc. 2020–02156 Filed 2–4–20; 8:45 am]
BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting for the Interdepartmental Substance Use Disorders Coordinating Committee

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services (Secretary) announces a meeting of the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

The ISUDCC is open to the public and members of the public can attend the meeting via telephone or webcast only, and not in person. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include information on support for the mission and work of the Committee, federal advances to address challenges in substance use disorders (SUD); non-federal advances to address challenges in SUD.

Committee Name: Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

Date/Time/Type: February 28, 2020/ 9:30 a.m.—TBD (ET)/OPEN.

ADDRESSES: The meeting will be held at SAMHSA Headquarters, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting can be accessed via webcast at: *https://www.mymeetings.com/nc/join.php?i=PWXW9890374&p=5772950&t=c* or by joining the teleconference at the toll-free, dial-in number at 1–888–603–6976; passcode 5772950.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Interdepartmental Substance Use Disorders Coordinating Committee is required under Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act, Pub. L. 115–271) to accomplish the following duties: (1) Identify areas for improved coordination of activities, if any, related to substance use disorders, including research, services, supports, and prevention activities across all relevant federal agencies; (2) identify and provide to the Secretary recommendations for improving federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment, and recovery services; (3) analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which federal substance use disorder prevention and treatment strategies are aligned with State and local substance use disorder prevention and treatment strategies; (4) make recommendations to the Secretary regarding any appropriate changes with respect to the activities and strategies described in items (1) through (3) above; (5) make recommendations to the Secretary regarding public participation in decisions relating to substance use disorders and the process by which public feedback can be better integrated into such decisions; and (6) make recommendations to ensure that substance use disorder research, services, supports, and prevention activities of the Department of Health and Human Services and other federal agencies are not unnecessarily duplicative.

Not later than one year after the date of the enactment of this Act, and annually thereafter for the life of the Committee, the Committee shall publish on the internet website of the Department of Health and Human Services, which may include the public information dashboard established under section 1711 of the Public Health Service Act, as added by section 7021, a report summarizing the activities carried out by the Committee pursuant to subsection (e), including any findings resulting from such activities.

II. Membership

This ISUDCC consists of federal members listed below or their designees, and non-federal public members.

Federal Membership: Members include, The Secretary of Health and Human Services; The Attorney General of the United States; The Secretary of Labor; The Secretary of Housing and Urban Development; The Secretary of Education; The Secretary of Veterans Affairs; The Commissioner of Social Security; The Assistant Secretary for Mental Health and Substance Use; The Director of National Drug Control Policy; representatives of other Federal agencies that support or conduct activities or programs related to substance use disorders, as determined appropriate by the Secretary.

Non-federal Membership: Members include, 19 non-federal public members appointed by the Secretary, representing individuals who have received

treatment for a diagnosis of a substance use disorder; directors of a State substance abuse agencies; representatives of a leading research, advocacy, or service organizations for adults with substance use disorder; physicians, licensed mental health professionals, advance practice registered nurses, and physician assistants, who have experience in treating individuals with substance use disorders; substance use disorder treatment professionals who provide treatment services at a certified opioid treatment program; substance use disorder treatment professionals who have research or clinical experience in working with racial and ethnic minority populations; substance use disorder treatment professionals who have research or clinical mental health experience in working with medically underserved populations; state-certified substance use disorder peer support specialists; drug court judge or a judge with experience in adjudicating cases related to substance use disorder; public safety officers with extensive experience in interacting with adults with a substance use disorder; and individuals with experiences providing services for homeless individuals with a substance use disorder.

The ISUDCC is required to meet at least twice per year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Tracy Goss. Individuals can also register on-line at: *https://snacregister.samhsa.gov/MeetingList.aspx.*

The public comment section will be scheduled at the conclusion of the meeting. Individuals interested in submitting a comment, must notify Tracy Goss on or before February 21, 2020 via email to: *Tracy.Goss@samhsa.hhs.gov.*

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

FOR FURTHER INFORMATION CONTACT: Tracy Goss, ISUDCC Designated Federal Officer, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, 13E37B, Rockville, MD 20857; telephone: 240–276–0759; email: *Tracy.Goss@samhsa.hhs.gov.*

Dated: January 31, 2020.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2020–02235 Filed 2–4–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0749]

National Boating Safety Advisory Committee; Initial Solicitation for Members

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The Coast Guard is requesting applications from persons interested in serving as a member of the National Boating Safety Advisory Committee (''Committee''). This recently established Committee will advise the Secretary of the Department of Homeland Security on matters relating to national boating safety. Please read this notice for a description of the 21 Committee positions we are seeking to fill.

DATES: Your completed application should reach the Coast Guard on or before April 6, 2020.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the National Boating Safety Advisory Committee and a resume detailing the applicant's experience. We will not accept a biography. Applications should be submitted via one of the following methods:

- *By Email: NBSAC@uscg.mil* (preferred).
- *By Mail:* Commandant (CG–BSX–2), Attn: NBSAC ADFO, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593–7501.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Decker, Alternate Designated Federal Officer of the National Boating Safety Advisory Committee; Telephone 202–372–1507 or Email at *NBSAC@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Committee is a federal advisory committee. It will operate under the provisions of the *Federal Advisory Committee Act,* 5 U.S.C. Appendix, and the administrative provisions in Section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (specifically, 46 U.S.C. 15109).

The Committee was established on December 4, 2018, by the *Frank LoBiondo Coast Guard Authorization Act of 2018,* which added section 15105, National Boating Safety Advisory Committee, to Title 46 of the U.S. Code (46 U.S.C. 15105). The Committee will advise the Secretary of Homeland Security on matters relating to national boating safety.

We expect the Committee will hold meetings at least twice a year, but it may meet even more frequently. The Committee is required to meet at least once a year in accordance with 46 U.S.C. 15109(a). The meetings are held at a location selected by the U.S. Coast Guard.

All members serve at their own expense and receive no salary or other compensation from the Federal Government. Members may be reimbursed, however, for travel and per diem in accordance with Federal Travel Regulations.

Under provisions in 46 U.S.C. 15109(f)(6), if you are appointed as a member of the Committee, your membership term will expire on December 31 of the third full year after the effective date of your appointment. The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee, 46 U.S.C. 15109(f)(4). In this initial solicitation for Committee members, we will consider applications for all 21 positions:

- Seven members shall represent State officials responsible for State boating safety programs;
- Seven members shall represent recreational boat and associated equipment manufacturers;
- Seven members shall represent the general public or national recreational boating organizations and, of the seven, at least five shall represent national recreational boating organizations.

Each member of the Committee must have particular expertise, knowledge, and experience in matters relating to the function of the Committee, which is to advise the Secretary of Homeland Security on matters related to national boating safety.

If you are selected as a member drawn from the general public, you will be appointed and serve as a Special Government Employee as defined in Title 18, U.S.C section 202(a). Applicants for appointment as a Special Government Employee are required to complete a Confidential Financial Disclosure Report (OGE Form 450) for new entrants and if appointed as a member must submit Form 450 annually. The Coast Guard may not

release the reports or the information in them to the public except under an order issued by a Federal Court or as otherwise provided under the Privacy Act (5 U.S.C 552a). Only the Designated U.S. Coast Guard Ethics Official or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the website of the Office of Government Ethics (*www.oge.gov*), or by calling or emailing the individual listed above in the **FOR FURTHER INFORMATION CONTACT** section. Applications for member drawn from the general public must be accompanied by a completed OGE Form 450.

Registered lobbyists are not eligible to serve on Federal Advisory Committees in an individual capacity. See ''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). Registered lobbyists are ''lobbyists,'' as defined in 2 U.S.C. 1602, who are required by 2 U.S.C. 1603 to register with the Secretary of the Senate and the Clerk of the House of Representatives.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment selections.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Mr. Jeff Decker, Alternate Designated Federal Officer of the National Boating Safety Advisory Committee via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice.

If you send your application to us via email, we will send you an email confirming receipt of your application.

Dated: January 31, 2020.

David C. Barata,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2020–02237 Filed 2–4–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000. L51040000.FI0000. 16XL5017AR]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW180585, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As provided for under the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement of competitive oil and gas lease WYW180585 from Bondero, LLC and Wave Petroleum, LLC for land in Converse County, Wyoming. The lessees filed the petition on time, along with all rentals due since the lease terminated under the law. No leases affecting this land were issued before the petition was filed.

FOR FURTHER INFORMATION CONTACT: Chris Hite, Branch Chief for Fluid Minerals Adjudication, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; phone 307–775–6176; email *chite@blm.gov.*

Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Hite during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. A reply will be sent during normal business hours.

SUPPLEMENTARY INFORMATION: Termination of a lease is automatic and statutorily imposed by Congress when rental fees are not paid in a timely manner. Reinstatement terms are also set by Congress. Oil and gas lease WYW180585 terminated effective August 25, 2016, for failure to pay rental timely. The lessees petitioned for reinstatement of the lease and met all filing requirements for a Class II reinstatement.

The lessees agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessees paid the required $500 administrative fee and the $159 cost of publishing this notice. The lessees met the requirements for reinstatement of the lease per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). Reinstatement of this lease conforms to the terms and conditions of all applicable land use plans, including the 2015 Approved Resource Management Plan Amendments for the Rocky Mountain Region, and other applicable National Environmental Policy Act documents.

The BLM proposes to reinstate the lease effective August 25, 2016, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The lease will be reinstated 30 days after publication of the proposed reinstatement notice in the **Federal Register**.

Authority: 30 U.S.C. 188 (e)(4) and 43 CFR 3108.2–3 (b)(2)(v).

Chris Hite,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2020–02250 Filed 2–4–20; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW00000.L7122000.EX0000. LVTFF1906890.19X.MO#4500142522]

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Proposed Lithium Nevada Corp., Thacker Pass Project Proposed Plan of Operations and Reclamation Plan Permit Application, Humboldt County, Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent; correction.

SUMMARY: The Bureau of Land Management (BLM) published a document in the **Federal Register** on January 21, 2020, concerning a request for scoping comments on a draft Environmental Impact Statement (EIS) for the proposed Lithium Nevada Corp., Thacker Pass Project Proposed Plan of Operations and Reclamation Plan Permit Application, Humboldt County, Nevada. The document contained an incorrect website address for the public to submit comments. This notice corrects the website address.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Ken Loda, telephone: (775) 623–1500, address: 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 21, 2020, in FR Doc. 2020–00851, on page 3414, in the first column: Correct the **ADDRESSES** captions to read:

You may submit comments related to the Project by any of the following methods:

- *Website: https://bit.ly/2Npgf9l.*

- *Email: wfoweb@blm.gov,* Include Thacker Pass Project EIS Comments in the subject line.
- *Fax:* (775) 623–1503.
- *Mail:* 5100 East Winnemucca Boulevard, Winnemucca, NV 89445.

David Kampwerth,

Field Manager, Humboldt River Field Office.

[FR Doc. 2020–02247 Filed 2–4–20; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0029602; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: University of Louisville, Louisville, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Louisville, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the University of Louisville. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the University of Louisville at the address in this notice by March 6, 2020.

ADDRESSES: Dr. Thomas Jennings, University of Louisville, Department of Anthropology, Lutz Hall Room 228, Louisville, KY 40292, telephone (502) 852–2421, email *thomas.jennings@louisville.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the University of Louisville, Louisville, KY, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In 1969, 1971, and 1972, one lot of lithics and one lot of ochre were excavated from the Lawrence site (15Tr33) in Trigg County, KY.

The Lawrence site has yielded Early Archaic human remains and associated funerary objects described elsewhere in a Notice of Inventory Completion published in the **Federal Register** on July 15, 2019. The site report also describes the two lots of items listed above as coming from burial contexts and clear (to the excavators) burial features. However, no human remains were collected at the time due to poor organic preservation.

Determinations Made by the University of Louisville

Officials of the University of Louisville have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Cherokee Nation; Eastern Band of Cherokee Indians; The Chickasaw Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Thomas Jennings, University of Louisville, Department of Anthropology, Lutz Hall 228, Louisville, KY 40292, telephone (502) 852–2421, email *thomas.jennings@louisville.edu,* by March 6, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The University of Louisville is responsible for notifying The Tribes that this notice has been published.

Dated: January 9, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–02242 Filed 2–4–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1140]

Certain Multi-Stage Fuel Vapor Canister Systems and Activated Carbon Components Thereof; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a recommended determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended limited exclusion order against certain multi-stage fuel vapor canister systems and activated carbon components thereof imported or sold for importation by respondents MAHLE Filter Systems North America, Inc.; MAHLE Filter Systems Japan Corp.; MAHLE Sistemas de Filtración de Mexico S.A. de C.V.; MAHLE Filter Systems Canada, ULC; Kuraray Co., Ltd.; Calgon Carbon Corporation (referred to herein together with Kuraray Co., Ltd. as ''Kuraray''); and Nagamine Manufacturing Co., Ltd. The Commission is also soliciting submissions on public interest issues raised by the cease and desist order recommended to be issued against Kuraray. This notice is soliciting comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (''EDIS'') (*https://edis.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 (''Section 337'') provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's recommended determination on remedy and bonding issued in this investigation on January 28, 2020. Comments should address whether issuance of the recommended remedial orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended remedial orders;

(iii) identify like or directly competitive articles that complainants, their licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainants, complainants' licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended remedial orders within a commercially reasonable time; and

(v) explain how the recommended remedial orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on March 2, 2020. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1140'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary (202–205–2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 30, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02168 Filed 2–4–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1120]

Certain Human Milk Oligosaccharides and Methods of Producing the Same; Commission Decision To Review in Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination (''FID'') of the presiding administrative law judge (''ALJ'') finding a violation of section 337 of the Tariff Act of 1930, as amended. The Commission requests briefing from the parties on certain issues under review, as set forth in this notice. The Commission also requests briefing from the parties, interested persons, and government agencies on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by

contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 21, 2018, based on a complaint, as amended and supplemented, filed on behalf of Glycosyn LLC of Waltham, Massachusetts (''Glycosyn''). *See* 83 FR 28865 (June 21, 2018). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain human milk oligosaccharides by reason of infringement of claims 1–40 of U.S. Patent No. 9,453,230 (''the '230 patent'') and claims 1–28 of U.S. Patent No. 9,970,018 (''the '018 patent''). *See id.* The notice of investigation named Jennewein Biotechnologie GmbH (''Jennewein'') of Rheinbreitbach, Germany as a respondent in this investigation. *See id.* The Office of Unfair Import Investigations (''OUII'') is also named as a party to the investigation. *See id.*

On August 9, 2018, the ALJ partially terminated the investigation as to claims 4–7, 9–12, 14, 23–26, 28–31, 33, and 39–40 of the '230 patent and claims 6, 7, 9, 11, 13–17, 19, and 22 of the '018 patent based on the withdrawal of the allegations pertaining to those claims. *See* Order No. 5 (Aug. 9, 2018), *unreviewed,* Comm'n Notice (Aug. 29, 2018). On October 30, 2018, the ALJ partially terminated the investigation as to claims 1–3, 8, 13, and 15–20 of the '230 patent based on the withdrawal of the allegations pertaining to those claims. *See* Order No. 15 (Oct. 30, 2018), *unreviewed,* Comm'n Notice (Nov. 29, 2018). On November 19, 2018, the ALJ partially terminated the investigation as to claim 27 of the '230 patent and claims 4, 20, and 21 of the '018 patent based on the withdrawal of the allegations pertaining to those claims. *See* Order No. 17 (Nov. 19, 2018), *unreviewed,* Comm'n Notice (Dec. 12, 2018). On February 8, 2018, the ALJ partially terminated the investigation as to claims 21, 22, 32, and 34–38 of the '230 patent based on the withdrawal of the allegations pertaining to those claims. *See* Order No. 25 (Feb. 8, 2019), *unreviewed,* Comm'n Notice (Feb. 28, 2019). Claims 1–3, 5, 8, 10, 12, 18, and 23–28 of the '018 patent remain pending in this investigation.

The ALJ conducted an evidentiary hearing on May 14–17, 2019, and on September 9, 2019, issued the FID finding a violation of section 337 based on the infringement of claims 1–3, 5, 8, 10, 12, 18, and 24–28 of the '018 patent. In addition, the FID finds that the asserted claims are neither invalid under 35 U.S.C. 103 and 112, nor unenforceable for inequitable conduct. Furthermore, the FID finds that the domestic industry requirement is satisfied. The FID also contains a recommended determination (''RD'') recommending that the Commission issue a limited exclusion order (''LEO'') barring entry of articles that infringe the '018 patent. The RD also recommends that the Commission impose a 5% bond during the period of Presidential review. Furthermore, as directed by the Commission, the RD provides findings with respect to the public interest and recommends that the Commission determine that the public interest factors do not preclude entry of the LEO.

On September 23, 2019, Jennewein and OUII filed petitions for review of the FID. On October 1, 2019, Glycosyn and OUII filed responses to Jennewein's and the IA's petitions.

Having examined the record of this investigation, including the FID, the RD, and the parties' submissions, the Commission has determined to review the FID in part. Specifically, the Commission has determined to review the FID's infringement findings with respect to Jennewein's bacterial strains adjudicated in this investigation. In addition, the Commission has determined to review the FID's decision not to adjudicate infringement as to Jennewein's alternative bacterial strain, the TTFL12 strain. The Commission has determined not to review the remainder of the FID.

In connection with its review, the Commission requests written responses regarding the following inquiries:

1. Assuming that the Commission determines to adjudicate infringement with respect to Jennewein's TTFL12 bacterial strain, please provide your position, with support from the evidentiary record, as to whether the TTFL12 strain infringes or does not infringe the asserted patent claims.

2. Should the Commission adjudicate infringement with respect to Jennwein's alternative strain? Is the Commission's determination of whether to adjudicate an alternative or redesigned product a legal question, a factual question, a mixed question of law or fact, an exercise of discretion, or something else?

3. Is the TTFL12 strain within the scope of the investigation? What criteria and evidence normally informs this analysis?

4. Does a respondent need to import an alternative or redesigned product for the product to be adjudicated?

5. What evidence corroborates Jennewein's assertion that the products listed in the shipping documents (RX–278C and RX–280C) were produced with the TTFL12 strain? Please provide your answers in a table with citations in one column and a brief explanation in a second column.

6. What is the effect of Jennewein's responses to Glycosyn's request for admission? Why has Jennewein failed to amend its responses if they are incorrect or misleading?

7. Is the TTFL12 strain sufficiently fixed in design? What criteria and evidence normally informs this analysis? Is there any declaratory judgment precedent that is relevant? Which party bears the burden of showing that an alternative or redesigned product is fixed in design?

8. Has the TTFL12 strain been subject to sufficient discovery? What criteria and evidence normally informs the ''sufficient discovery'' analysis?

9. Should the Commission issue remedial orders that are directed to the adjudicated strains (the #1540 and #1540 derivative) at this juncture?

Responses to the above questions should not exceed 40 pages, and replies should not exceed 20 pages.

In addition, in connection with the final disposition of this investigation, the statute authorizes issuance of (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public

health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions limited to the briefing questions above. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such initial written submissions should include views on the recommended determination by the ALJ on remedy, the public interest, and bonding. Complainant and the Commission Investigative Attorney are also requested to identify the form of remedy sought and to submit proposed remedial orders for the Commission's consideration in their initial written submissions. Complainant is further requested to state the date that the asserted patent expires and the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation.

Initial written submissions and proposed remedial orders must be filed no later than close of business on February 18, 2020. Reply submissions must be filed no later than the close of business on February 25, 2020 and must be limited to issues raised in the initial written submissions. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1120'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: January 30, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–02178 Filed 2–4–20; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on January 14, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), TeleManagement Forum (''The Forum'') 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, the following entities have become members of the Forum: Adad, Sophia Antipolis, FRANCE; Beijing Qcubic Technology Co. Limited Company, Beijing, PEOPLE'S REPUBLIC OF CHINA; BMC Software, Inc., Houston, TX; Cartesian Inc., Overland Park, KS; Cellwize Wireless Technologies Pte. Ltd., Tel Aviv, ISRAEL; Cloudlite, Moscow, RUSSIA; Colt Technology Services Group Limited, London, UNITED KINGDOM; DNA Plc, Kuopio, FINLAND; Equinix, Inc, Tampa, FL; IoT Lab, Geneva, SWITZERLAND; M1 Limited, Singapore, SINGAPORE; Multichoice Support Services (Pty) Ltd, Randburg, SOUTH AFRICA; ProximaX, Singapore, SINGAPORE; TDS Telecommunications LLC, Madison, WI; Telecom Namibia Limited, Windhoek, NAMIBIA; Telenor Myanmar Limited, Yangon, MYANMAR; The Libyan International Telecommunication Company, Tripoli, LIBYA; Total Access Communication Public Company Limited, Bangkok, THAILAND; Universitas Multimedia Nusantara, Tangerang, INDONESIA; Unryo Inc., Laval, CANADA; Veschatel LLC, Perm, RUSSIA; Webcircles BV, Oosterbeek, NETHERLANDS; WorkSpan, Foster City, CA; ZDSL.com, Kuala Lumpur, MALAYSIA.

Also, the following members have changed their names: ArchiTelco to EA-Workings B.V., Winchester, UNITED KINGDOM; Black Tangent Pte. Ltd. to Telecta Pte. Ltd., Singapore, SINGAPORE; GDi GISDATA LLC to GDi LLC, Zagreb, CROATIA; SigScale Global Inc. to SigScale, Toronto, CANADA; Telenor Myanmar to Telenor Myanmar Limited, Yangon, MYANMAR; T-Mobile Austria GmbH to Magenta Telekom, Vienna, AUSTRIA; WeDo Technologies to Mobileum Inc., Cupertino, CA.

In addition, the following parties have withdrawn as parties to this venture: ABITEL Consulting GmbH, Düsseldorf, GERMANY; Agama Technologies, Linköping, SWEDEN; ALTIMA d.o.o., Zagreb, CROATIA; Apigate Sdn Bhd, Kuala Lumpur Sentral, SRI LANKA; Axiros GmbH, Munich Hoehenkirchen, GERMANY; City of Utrecht, Utrecht, NETHERLANDS; Ekinno Lab Sp. Z o.o., Gliwice, POLAND; GeoSpock Ltd., Cambridge, UNITED KINGDOM; Guangzhou Sunrise Technology Co., Ltd., Guangzhou, PEOPLE'S REPUBLIC OF CHINA; HCL Hong Kong SAR Limited, Wan Chai, HONG KONG–CHINA; ITS Telco Services GmbH, Köln, GERMANY; John P. Reilly Sole Trader, Plano, TX; Minim Inc., Manchester, NH; NEtComp, Lima, PERU; NetScout Systems, Westford, MA; NetworkedAssets GmbH, Berlin, GERMANY; NTS Retail KG, Wilhering, AUSTRIA; Open Systems S.A., Quito, ECUADOR; OS Group, St.Petersburg, RUSSIA; Pinplay, Seoul, SOUTH KOREA; Skylogic S.p.A., Torino, ITALY; Steward Bank, Harare, ZIMBABWE; The OpenNMS Group, Inc., Apex, NC; TV–7, Seversk, RUSSIA; VF Consulting SAC, Lima, PERU.

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 The Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, The Forum 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 December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on November 25, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 20, 2019 (84 FR 70210).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–02221 Filed 2–4–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on January 16, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Countering Weapons of Mass Destruction (''CWMD'') 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, Apogee Group, LLC, Kennewick, WA; Blackthorne Services Group, Hanover, MA; eSpin Technologies, Inc., Chattanooga, TN; Lufburrow & Company, Inc., Havre De Grace, MD; Polestar Technologies, Inc., Needham Heights, MA; Proportional Technologies, Inc., Houston, TX; RingIR, Inc., Albuquerque, NM; Shipcom Federal Solutions, Balcamp, MD; Signalscape, Inc., Cary, NC; Systems Planning and Analysis, Inc. (SPA), Alexandria, VA; The Arizona Board of Regents, University of Arizona, Tuscon, AZ; University of Michigan, Ann Arbor, MI; Xilectric, Inc., Fall River, MA; and Xtallized Intelligence, Inc., Nashville, TN; have been added as parties to this venture.

Also, CogniTech Corporation, Salt Lake City, UT; CritiTech Particle Engineering Solutions, LLC, Lawrence, KS; Forge AI, Cambridge, MA; Interclypse, Inc., Annapolis Junction, MD; Management Services Group, Inc., dba Global Technical Systems, Virginia Beach, VA; Offset Strategic Serivices, Fayetteville, TN; and Strategic Alliances Group, Inc., Havre de Grace, MD; 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 CWMD intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD 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 March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on October 23, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 18, 2019 (83 FR 63678).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–02222 Filed 2–4–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Partial Consent Decree Under the Clean Air Act

On January 30, 2020, the Department of Justice lodged a partial consent decree (''Partial Consent Decree'') with the United States District Court for the Northern District of California in the lawsuit entitled *United States et al.* v. *Kohler Co.,* Civil Action No. C 20–00683.

The complaint in this case was filed against Defendant Kohler Co. (''Kohler'') concurrently with the lodging of the Partial Consent Decree and a separate consent decree to which Kohler and the People of the State of California, ex rel. California Air Resources Board (''CARB'') are parties (''State CD''). The complaint alleges that Kohler is liable for violations of Section 203 of the Clean Air Act (''Act''), 42 U.S.C. 7522. The People of the State of California, ex rel. CARB also alleges in the complaint that Kohler is liable for violations of California law.

Together, the Partial Consent Decree and the State CD would fully address Kohler's alleged manufacture and sale of millions of small, nonroad, nonhandheld, spark-ignition engines that did not conform to the certification applications Kohler submitted covering the engines. Some of these engines were also equipped with a fueling strategy that is alleged to have significantly reduced emissions of oxides of nitrogen (''NO_X'') during certification testing when compared to real-world operation (commonly referred to as a ''defeat device''). The United States and California seek civil penalties and injunctive relief for the violations jointly alleged in the complaint. Separately, the People of the State of California, ex rel. CARB seeks civil penalties and injunctive relief for alleged violations of California's evaporative emissions standards.

The Partial Consent Decree is entered into by the United States, the People of the State of California, ex rel. CARB and Kohler. It would require Kohler to pay

a $20 million civil penalty for all violations alleged in the complaint except for the California evaporative emissions standards violations. The Partial Consent Decree would require Kohler to forfeit over three million kilograms of hydrocarbon plus nitrogen oxide (''HC + NO_X'') emission credits, implement an emissions testing validation plan that includes third-party observation and emissions verification testing, conduct annual audits, implement corporate governance reforms, and conduct compliance training of its employees.

The publication of this notice opens a period for public comment on the proposed Partial Consent Decree. Comments on the Partial Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Kohler Co.,* D.J. Ref. No. 90–5–2–1–11892. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Partial Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Partial Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Lori Jonas,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–02249 Filed 2–4–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act; Comprehensive Environmental Response, Compensation, and Liability Act; and Emergency Planning and Community Right-To-Know Act

On *January 29, 2020,* the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States and the State of Ohio* v. *BP Products North America Inc. and BP-Husky Refining LLC,* Civil Action No. 3:20–cv–190.

The proposed Consent Decree resolves claims that the Defendants violated the Clean Air Act; Comprehensive Emergency Response, Compensation, and Liability Act; and Emergency Planning and Community Right-to-Know Act at their petroleum refinery located in Oregon, Ohio (the ''Toledo Refinery''). The Consent Decree also resolves claims for stipulated penalties for the Toledo Refinery's alleged violations of a consent decree entered in 2001 in *U.S. et al.* v. *BP Exploration & Oil Co. et al.* Civ. No. 2:96–cv–095 (N.D. Ind.) (the ''2001 Consent Decree'').

Under the proposed Consent Decree, the Defendants will pay a total of $2.6 million in civil and stipulated penalties. The Defendants will pay $1.7 million in civil penalties, $200,000 of which will be paid to the State of Ohio, and the remainder to the United States. The Defendants will also pay $900,000 in stipulated penalties to the United States to resolve their alleged violations of the 2001 Consent Decree at the Toledo Refinery. The Defendants will also perform a $1.2 million supplemental environmental project to reduce childhood exposure to lead-based paint hazards.

The Consent Decree also requires injunctive relief related to the Toledo Refinery's continuous emissions monitoring systems, leak detection and repair program, wastewater collection systems, and hazardous substance release reporting procedures. The Defendants will also perform a mitigation project involving the refinery's sulfur recovery plant.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to: *United States and the State of Ohio* v. *BP Products North America Inc. and BP-Husky Refining LLC,* D.J. Ref. No. 90–5–2–1–09244/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.*

We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $32.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices and signature pages, the cost is $19.50.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–02182 Filed 2–4–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1773]

Meeting of the Federal Advisory Committee on Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention has scheduled a meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ).

DATES: Friday March 6th, 2020 at 9 a.m.–4:30 p.m. EST.

ADDRESSES: The meeting will take place in the third floor video conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the website for the FACJJ at *www.facjj.ojp.gov* or contact Elizabeth Wolfe, Designated Federal Official

(DFO), OJJDP, by telephone at (202) 598–9310, email at *elizabeth.wolfe@ojp.usdoj.gov;* or Maegen Barnes, Senior Program Manager/Federal Contractor, by telephone (732) 948–8862, email at *maegen.barnes@bixal.com,* or fax at (866) 854–6619. Please note that the above phone/fax numbers are not toll free.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of representatives from the states and territories. FACJJ member duties include: Reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information on the FACJJ may be found at *www.facjj.ojp.gov.*

FACJJ meeting agendas are available on *www.facjj.ojp.gov.* Agendas will generally include: (a) Opening remarks and introductions; (b) Presentations and discussion; and (c) member announcements.

For security purposes and because space is limited, members of the public who wish to attend must register in advance of the meeting online at FACJJ Registration Site, no later than Wednesday March 4th, 2020. Should issues arise with online registration, or to register by fax or email, the public should contact Maegen Currie, Senior Program Manager/Federal Contractor (see above for contact information). If submitting registrations via fax or email, attendees should include all of the following: Name, Title, Organization/Affiliation, Full Address, Phone Number, Fax and Email. The meeting will also be available to join online via Webex, a video conferencing platform. Registration for this is also found online at *www.facjj.ojp.gov.*

Note: Photo identification will be required to attend the meeting at the OJP 810 7th Street Building.

Interested parties may submit written comments and questions in advance to Elizabeth Wolfe (DFO) for the FACJJ, at the contact information above. If faxing, please follow up with Maegen Currie, Senior Program Manager/Federal Contractor (see above for contact information) in order to assure receipt of submissions. All comments and questions should be submitted no later than 5 p.m. EST on Wednesday March 4th, 2020.

The FACJJ will limit public statements if they are found to be duplicative. Written questions submitted by the public while in attendance will also be considered by the FACJJ.

Elizabeth Wolfe,

Training and Outreach Coordinator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2020–02183 Filed 2–4–20; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Job Corps Enrollee Allotment Determination

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled ''Job Corps Enrollee Allotment Determination.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by April 6, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Lawrence Lyford by telephone at 202–693–3121 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Lyford.Lawrence@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Job Corps, 200 Constitution Avenue NW, Room N–4507, Washington, DC 20210; by email: *Lyford.Lawrence@dol.gov;* or by Fax 202–693–3113.

FOR FURTHER INFORMATION CONTACT: Lawrence Lyford by telephone at 202–693–3121 (this is not a toll free number) or by email at *Lyford.Lawrence@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Job Corps is the nation's largest residential, educational, and career technical training program for young Americans. The Economic Opportunity Act established Job Corps in 1964 and it currently operates under the authority of the Workforce Innovation and Opportunity Act (WIOA) of 2014. For over 55 years, Job Corps has helped prepare over 3 million at-risk young people between the ages of 16 and 24 for success in our nation's workforce. With 121 centers in 50 states, Puerto Rico, and the District of Columbia, Job Corps assists students across the nation in attaining academic credentials, including High School Diplomas (HSD) and/or High School Equivalency (HSE), and career technical training credentials, including industry-recognized certifications, state licensures, and pre-apprenticeship credentials.

Job Corps is a national program administered by DOL through the Office of Job Corps and six regional offices. DOL awards and administers contracts for the recruiting and screening of new students, center operations, and the placement and transitional support of graduates and former enrollees. Large and small corporations manage and operate 95 Job Corps centers under contractual agreements with DOL. These contract center operators are selected through a competitive procurement process that evaluates potential operators' technical expertise, proposed costs, past performance, and other factors, in accordance with the Competition in Contracting Act and the Federal Acquisition Regulations. Two centers are operated under

demonstration grant arrangements. The remaining 24 Job Corps centers, called Civilian Conservation Centers, are operated by the U.S. Department of Agriculture Forest Service via an interagency agreement. DOL has a direct role in the operation of Job Corps, and does not serve as a pass-through agency for this program.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0030.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Job Corps Enrollee Allotment Determination.

Forms: ETA Form 658.

OMB Control Number: 1205–0030.

Affected Public: Job Corps records staff and career transition specialists.

Estimated Number of Respondents: 1,749.

Frequency: Once per respondent.

Total Estimated Annual Responses: 1,749.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 87.

Total Estimated Annual Other Cost Burden: $631.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–02180 Filed 2–4–20; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Overpayment Detection and Recovery Activities

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Overpayment Detection and Recovery Activities.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by April 6, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Ericka Parker by telephone at 202–693–3208 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *parker.ericka@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW, Frances Perkins Bldg. Room S–4519, Washington, DC 20210; by email at *parker.ericka@dol.gov;* or by fax at 202–693–3975.

FOR FURTHER INFORMATION CONTACT: Corey Pitts by telephone at 202–693–3357 (this is not a toll-free number) or by email at *pitts.corey@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Section 303(a)(1) of the Social Security Act (SSA) requires a state's unemployment insurance (UI) law to include provision for ''[s]uch methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due. . . .'' Section 303(a)(5) of the SSA further requires a state's UI law to include provision for ''[e]xpenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation. . . .'' Section 3304(a)(4) of the Internal Revenue Code (IRC) of 1954 provides that ''all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation. . . .''

ETA has interpreted these sections of federal law in Section 7511, Part V, of the Employment Security Manual to require a state's UI law to include provisions for such methods of administration as are, within reason, calculated to: (1) Detect benefits paid through error by the State Workforce Agency (SWA) or through willful misrepresentation or error by the claimant or others; (2) deter claimants from obtaining benefits through willful misrepresentation; and (3) recover benefits overpaid. ETA uses the Overpayment Detection and Recovery Activities report, referred to as the ETA 227, to determine whether SWAs meet these requirements. Section 303(a)(6) of

the SSA requires a state's UI law to include provision for making such reports as the Secretary of Labor may require.

The ETA 227 contains data on the number and amounts of fraud and non-fraud overpayments established, the methods by which states detected overpayments, the amounts and methods by which states collected overpayments, the amounts of overpayments waived and written off, the accounts receivable for outstanding overpayments, and data on criminal/civil actions to collect overpayments. Each of the 53 SWAs gather this data and report it to DOL following the end of each calendar quarter. The overall effectiveness of SWAs' UI integrity efforts can be determined by examining and analyzing the data. SWA's also use these data as a management tool for effective UI program administration.

Section 303(a)(1), SSA, Section 303(a)(5), SSA, Section 303 (a)(6), SSA, and Section 3304(a)(4), IRC authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention Overpayment Detection and Recovery Activities, OMB control number 1205–0187.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Overpayment Detection and Recovery Activities.

Form: ETA 227.

OMB Control Number: 1205–0187.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Quarterly.

Total Estimated Annual Responses: 212.

Estimated Average Time per Response: 14 hours.

Estimated Total Annual Burden Hours: 2,968 hours.

Total Estimated Annual Other Cost Burden: $0.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–02181 Filed 2–4–20; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0043]

Access to Employee Exposure and Medical Records; 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 the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Access to Employee Exposure and Medical Records Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by April 6, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0043, 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 OSHA Docket Office's normal business hours, 10 a.m. to 3 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2009–0043) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, 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 above address. 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 website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at (202) 693–2222 to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process 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 information is in the desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (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 (see 29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (29 U.S.C. 657).

Under the authority granted by the OSH Act, OSHA published a health regulation governing access to employee exposure monitoring data and medical records. This regulation does not require employers to collect any information or to establish any new systems of records. Rather, it requires that employers provide workers, their designated representatives, and OSHA with access to employee exposure monitoring and medical records, and any analyses resulting from these records that employers must maintain under OSHA's toxic chemical and harmful physical agent standards. In this regard, the regulation specifies requirements for record access, record retention, worker information, trade secret management, and record transfer. Accordingly, the agency attributes the burden hours and costs associated with exposure monitoring and measurement, medical surveillance, and the other activities required to generate the data governed by the regulation to the standards that specify these activities; therefore, OSHA did not include these burden hours and costs in this ICR.

Access to exposure and medical information enables employees and their designated representatives to become directly involved in identifying and controlling occupational health hazards, as well as managing and preventing occupationally-related health impairment and disease. Providing the agency with access to the records permits the agency to ascertain whether or not employers are complying with the regulation, as well as with the recordkeeping requirements of OSHA's other health standards; therefore, OSHA access provides additional assurance that workers and their designated representatives are able to obtain the data they need to conduct their analyses.

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

The agency is requesting a burden hour adjustment increase of 38,254 burden hours from 717,221 to 755,475 hours. This is the result of an adjustment of the number of establishments used in this analysis based on updated data. The total estimated number of establishments affected by the regulation increased from 739,432 to 766,684, a total adjustment increase of 27,252 establishments.

Type of Review: Extension of a currently approved collection.

Title: Access to Employee Exposure and Medical Records (29 CFR 1910.1020).

OMB Control Number: 1218–0065.

Affected Public: Business or other for-profits.

Number of Respondents: 766,684.

Frequency: Initially; Annually; On occasion.

Average Time per Response: Various.

Estimated Number of Responses: 6,688,963.

Estimated Total Burden Hours: 755,475.

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 (Docket No. OSHA–2009–0043) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that 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 through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal 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 January 30, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–02179 Filed 2–4–20; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (20–010)]

NASA Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee. This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, March 5, 2020, 9 a.m.–5 p.m., and Friday, March 6, 2020, 8 a.m.–5 p.m., Eastern Time.

ADDRESSES: NASA Headquarters, Room 5H41, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll- free conference call number 1–877–922–4779 or toll number 1–312–470–7379, passcode 5276208, to participate in this meeting by telephone on both days. The WebEx link is *https://nasaenterprise.webex.com/;* the meeting number on March 5 is 903 962 989, password is ApAC356#; and the meeting number on March 6 is 908 705 648, password is ApAC356#.

The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Updates on Specific Astrophysics Missions
—Reports from the Program Analysis Groups
—Reports from Specific Research and Analysis Programs

The agenda will be posted on the Astrophysics Advisory committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizens and Permanent Residents (green card holders) may provide full name and citizenship status no less than 3 working days in advance by contacting Ms. KarShelia Henderson via email at *khenderson@nasa.gov* or by fax at (202) 358–2779.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–02184 Filed 2–4–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–009)]

Notice of Release of the 2020 NASA Technology Taxonomy

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of release of the 2020 NASA Technology Taxonomy.

SUMMARY: NASA has officially released the 2020 NASA Technology Taxonomy via the NASA Office of the Chief Technologist website. The Technology Taxonomy provides a structure for articulating the technology development disciplines needed to enable future NASA missions. This update to the previous structure uses a technology discipline-based approach that aligns like-technologies independent of their application within the NASA mission portfolio. The Taxonomy serves as a common technology communication tool across the Agency and with its partners in other government agencies, academia, industry, and around the world.

FOR FURTHER INFORMATION CONTACT: To obtain additional information on the 2020 NASA Technology Taxonomy, including downloading a copy of this document, please visit: *https://www.nasa.gov/offices/oct/taxonomy.*

For general information on the NASA Office of the Chief Technologist please visit: *https://www.nasa.gov/offices/oct.*

Requests for additional information should be directed to Al Conde, Strategic Integration Lead, Office of the Chief Technologist, NASA Headquarters, 300 E Street SW, Washington, DC 20546, at 202–358–1068, *Al.Conde-1@nasa.gov.*

SUPPLEMENTARY INFORMATION:

Summary

In 2010, NASA developed the initial draft edition of the Agency's Technology Area Breakdown Structure (TABS) as part of its original Space Technology Roadmaps. TABS served as a valuable tool across the Agency and among NASA's partners in industry, academia, and international space agencies to describe the areas where NASA had conducted technology development activities. Following the release of the final initial version in 2012, the Agency released a second update to TABS in 2015 that, among other updates, expanded its scope to also include NASA's aeronautics technology areas.

In continuation of this evolution, NASA's Office of the Chief Technologist has led the development of the 2020 update that builds upon the lessons learned from past editions. The updated 2020 NASA Technology Taxonomy, or ''technology dictionary,'' uses a technology discipline-based approach that realigns like-technologies independent of their application within the NASA mission portfolio. The 2020 NASA Technology Taxonomy is designed to serve as a common technology discipline based communication tool across the Agency and with its partners in other government agencies, academia, industry, and around the world.

The full breadth of NASA's technology development activities is vast, with ever increasing technical goals. As NASA moves out on the Artemis missions and the critical

technology research and development work needed to return Americans to the moon, a common language is more important than ever. The Taxonomy provides a structure for articulating NASA's technology portfolio and will be key to NASA's ability to manage and communicate its technology development efforts for years to come.

To see the Taxonomy in its entirety please visit: *https://www.nasa.gov/offices/oct/home/taxonomy* and *https://techport.nasa.gov/view/taxonomy*.

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2020–02228 Filed 2–4–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2020–018]

National Industrial Security Program Policy Advisory Committee (NISPPAC); Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: We are announcing an upcoming National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting in accordance with the Federal Advisory Committee Act and implementing regulations.

DATES: The meeting will be on March 26, 2020, from 10:00 a.m. to 12:30 p.m. EST.

ADDRESSES: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW; William G. McGowan Theater; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert Tringali, ISOO Program Analyst, by mail at National Archives and Records Administration; Information Security Oversight Office (ISOO); 700 Pennsylvania Avenue NW; Washington, DC 20408, by telephone at 202.357.5335, or by email at *robert.tringali@nara.gov.* Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov.*

SUPPLEMENTARY INFORMATION: We are holding this meeting in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations at 41 CFR 101–6. The Committee will discuss National Industrial Security Program policy matters.

Procedures: This meeting is open to the public. However, due to space limitations and building access procedures, you must submit your name and telephone number to ISOO no later than Friday, March 20, if you wish to attend. (Contact information listed above.) ISOO will provide additional access information for those who register. *Note:* Please enter through the Constitution Avenue special events entrance.

Miranda J. Andreacchio,

Committee Management Officer.

[FR Doc. 2020–02169 Filed 2–4–20; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection Requests: Assessment of the IMLS African American History and Culture (AAHC) Grant Program

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before March 6, 2020.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew Birnbaum, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Birnbaum can be reached by Telephone: 202–653–4760, Fax: 202–653–4608, or by email at *mbirnbaum@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

Current Actions: The Museum Grants for African American History and Culture (AAHC) program is one of these six OIMLS Office of Museum Services (OMS) grant programs, and it was created by an Act of Congress in 2003—the same act that created the Smithsonian National Museum of African American History and Culture. This legislation directed IMLS to create a grant program to improve operations, care of collections, and development of professional management at African American museums. Now in its 13th year of funding grants, AAHC funds projects that nurture museum professionals; builds institutional capacity; and increases access to museum and archival collections at African American museums and Historically Black Colleges and

Universities (HBCUs). Museums of all sizes and geographic areas whose primary purpose, as reflected in their mission is African American art, life, history, and culture, are eligible to apply for an AAHC grant.

The agency now seeks to undertake a systematic assessment to evaluate the performance of the AAHC grant program. The proposed evaluation approach is intended to provide a reasonable balance between scientific considerations for valid and reliable evidence with stakeholder utilization of the acquired knowledge. This investigation is tended to inform IMLS decision-making for current and future grant-making in this grant program, as well as for practices in this segment of the museum sector.

This action is to create the survey forms and instructions for the assessment for the next three years. The 60-day notice for the Assessment of the IMLS African American History and Culture (AAHC) Grant Program, was published in the **Federal Register** on August 27, 2019 (84 FR 44942–43). No comments were received.

Agency: Institute of Museum and Library Services.

Title: Assessment of the IMLS African American History and Culture (AAHC) Grant Program.

OMB Number: 3137–TBD.

Agency Number: 3137.

Affected Public: Federal, State and local governments, State library administrative agencies, libraries, general public.

Number of Respondents: 256.

Frequency: Once.

Burden Hours per Respondent: 0.35.

Total Burden Hours: 90.20.

Total Annual Costs: $2,577.82.

Dated: January 31, 2020.

Kim Miller,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2020–02223 Filed 2–4–20; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 173 and 171 to Combined Licenses (COL), NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (Collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on January 13, 2020.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges telephone: 301–287–9127; email: *Jennifer.Borges@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 *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, 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. The request for the amendment and exemption was submitted by letter dated July 16, 2019 (ADAMS Accession No. ML19197A278), as supplemented by letters dated October 3, 2019 (ADAMS Accession No. ML19276G437), and December 12, 2019 (ADAMS Accession No. ML19346E598).
- *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: Chandu Patel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3025; email: *Chandu.Patel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 173 and 171 to COLs, NPF–91 and NPF–92, respectively, to SNC. The exemption is required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow SNC to depart from Tier 1 information. With the requested amendment, SNC proposed changes to COL Appendix C (and plant-specific DCD Tier 1) to revise Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) to incorporate design basis passive residual heat removal heat exchanger leakage to the in-containment refueling water storage tank as a radiation source.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in sections 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML19361A118.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs, NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML19361A119 and ML19361A109, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document.

The amendment documents for COLs, NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML19361A103 and ML19361A115, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated July 16, 2019, as supplemented by letters dated October 3, and December 12, 2019, Southern Nuclear Operating Company requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, appendix D, as part of license amendment request 19–003, ''Addition of In-Containment Refueling Water Storage Tank to Radiation Analyses.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML19361A118, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the request dated July 16, 2019, as supplemented by letters dated October 3, and December 12, 2019. This exemption is related to, and necessary for the granting of License Amendment No. 173 [for Unit 3, 171 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML19361A118), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated July 16, 2019 (ADAMS Accession No. ML19197A278), as supplemented by letters dated October 3, 2019 (ADAMS Accession No. ML19276G437), and December 12, 2019 (ADAMS Accession No. ML19346E598), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COLs, NPF–91 and NPF–92. The proposed amendment is described in Section I of this notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 8, 2019 (84 FR 53777). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemptions and issued the amendments that SNC requested on July 16, 2019.

The exemptions and amendments were issued on January 13, 2020, as part of a combined package to SNC (ADAMS Accession No. ML19361A114).

Dated at Rockville, Maryland, this 30th day of January 2020.

For the Nuclear Regulatory Commission.

Victor E. Hall,

Chief, Vogtle Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–02164 Filed 2–4–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0171]

Information Collection: ''Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations''

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.''

DATES: Submit comments by April 6, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0171. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0171 when contacting the NRC about the availability of information for this

action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0171. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0171 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML19305D154 and ML19311C796.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0171 in the subject line of your comment submission, to ensure that the NRC can make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 34, ''Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.''
2. *OMB approval number:* 3150–0007.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* N/A.
5. *How often the collection is required or requested:* Applications for new licenses and amendments may be submitted at any time (on occasion). Applications for renewal are submitted every 15 years. Reports are submitted as events occur.
6. *Who will be required or asked to respond:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for radiography.
7. *The estimated number of annual responses:* 3,291.
8. *The estimated number of annual respondents:* 607.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 270,760 (5,213.5 reporting + 241,448.9 recordkeeping + 24,097.9 third party disclosure).
10. *Abstract:* Part 34 of title 10 of the *Code of Federal Regulations* (10 CFR), establishes radiation safety requirements for the use of radioactive material in industrial radiography. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is following license and regulatory requirements.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 30th day of January, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–02162 Filed 2–4–20; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System Board of Actuaries Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Civil Service Retirement System Board of Actuaries plans to meet on Thursday, April 2, 2020. The meeting will start at 10 a.m. EDT and will be held at the U.S. Office of Personnel Management (OPM), 1900 E Street NW, Room 3468, Washington, DC 20415.

The purpose of the meeting is for the Board to review the actuarial methods and assumptions used in the valuations of the Civil Service Retirement and Disability Fund (CSRDF).

Agenda

1. Summary of recent legislative proposals.
2. Review of actuarial assumptions.
3. CSRDF Annual Report.

Persons desiring to attend this meeting of the Civil Service Retirement System Board of Actuaries, or to make a statement for consideration at the meeting, should contact OPM at least 5 business days in advance of the meeting date at the address shown below. Any detailed information or analysis requested for the Board to consider should be submitted at least 15 business days in advance of the meeting date. The manner and time for any material presented to or considered by the Board may be limited.

FOR FURTHER INFORMATION CONTACT: Gregory Kissel, Senior Actuary for Pension Programs, U.S. Office of Personnel Management, 1900 E Street NW, Room 4316, Washington, DC 20415. Phone (202) 606–0722 or email at *actuary@opm.gov.*

For the Board of Actuaries.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–02177 Filed 2–4–20; 8:45 am]

BILLING CODE 6325–63–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Vocational Report; OMB 3220–0141. Under Section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231a) provides for payment of disability annuities to qualified employees and widow(er)s. The establishment of permanent disability for work in the applicant's ''regular occupation'' or for work in any regular employment is prescribed in 20 CFR 220.12 and 220.13, respectively.

To enable the Railroad Retirement Board (RRB) to determine the effect of a disability on an applicant's ability to work, the RRB needs the applicant's work history. The RRB utilizes Form G–251, Vocational Report, to obtain this information.

Form G–251 is provided to all applicants for employee disability annuities and to those applicants for a widow(er)'s disability annuity who indicate that they have been employed at some time. Form G–251 is designed for use with the RRB's disability benefit application forms. Form G–251 is similar to Form SSA–3369–BK, OMB 0960–0578. The RRB proposes the no changes to the Form G–251.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–251 (with assistance)	5,730	40	3,820
G–251 (without assistance)	270	50	225
Total	6,000	.....	4,045

Additional information or comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian Foster,

Clearance Officer.

[FR Doc. 2020–02252 Filed 2–4–20; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88089; File No. SR–CboeBZX–2019–068]

Self-Regulatory Organizations; CboeBZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the iShares California Short Maturity Muni Bond ETF of the iShares U.S. ETF Trust Under Rule 14.11(i), Managed Fund Shares

January 30, 2020.

On July 19, 2019, Cboe BZX Exchange, Inc. (''BZX'') 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 allow the JPMorgan Core Plus Bond ETF of the J.P. Morgan Exchange-Traded Fund Trust to list and trade shares (''Shares'') of the iShares California Short Maturity Muni Bond ETF (''Fund'') of the iShares U.S. ETF Trust under BZX Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on August 7, 2019.[3] On September 19, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] On October 1, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced in its entirety the proposed rule change as originally submitted.[6] On October 30, 2019, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change.[8] The Commission has received no comment letters on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86546 (August 1, 2019), 84 FR 38689.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 87018, 84 FR 50501 (September 25, 2019).

[6] Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-cboebzx-2019-068/srcboebzx2019068-6362715-196411.pdf.*

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 87421, 84 FR 59669 (November 5, 2019).

Section 19(b)(2) of the Act[9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on August 7, 2019. February 3, 2020 is 180 days from that date, and April 3, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates April 3, 2020 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–CboeBZX–2019–068).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02203 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(2).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–794, OMB Control No. 3235–0737]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 22e–4.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 22(e) of the Investment Company Act of 1940 (''Investment Company Act'') provides that no registered investment company shall suspend the right of redemption or postpone the date of payment of redemption proceeds for more than seven days after tender of the security absent specified unusual circumstances. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e–4 under the Act [17 CFR 270.22e–4] requires an open-end fund and an exchange-traded fund that redeems in kind (''In-Kind ETF'') to establish a written liquidity risk management program that is reasonably designed to assess and manage the fund's or In-Kind ETF's liquidity risk. The rule also requires board approval and oversight of a fund's or In-Kind ETF's liquidity risk management program and recordkeeping. Rule 22e–4 also requires a limited liquidity review, under which a UIT's principal underwriter or depositor determines, on or before the date of the initial deposit of portfolio securities into the UIT, that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues and retains a record of such determination for the life of the UIT and for five years thereafter.

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Commission staff estimates that funds within 846 fund complexes are subject to rule 22e–4. Compliance with rule 22e–4 is mandatory for all such funds and In-Kind ETFs, with certain program elements applicable to certain funds within a fund complex based upon whether the fund is an In-Kind ETF or does not primarily hold assets that are highly liquid investments. The Commission estimates that a fund complex will incur a one time average burden of 40 hours associated with documenting the liquidity risk management programs adopted by each fund within a fund complex, in addition to a one time burden of 10 hours per fund complex associated with fund boards' review and approval of the funds' liquidity risk management programs and preparation of board materials. We estimate that the total burden for initial documentation and review of funds' written liquidity risk management program will be 42,300 hours.

Rule 22e–4 requires any fund that does not primarily hold assets that are highly liquid investments to determine a highly liquid investment minimum for the fund, which must be reviewed at least annually, and may not be changed during any period of time that a fund's assets that are highly liquid investments are below the determined minimum without approval from the fund's board of directors. We estimate that fund complexes will have at least one fund that will be subject to the highly liquid investment minimum requirement. Thus, we estimate that 846 fund complexes will be subject to this requirement under rule 22e–4 and that the total burden for preparation of the board report associated will be 11,844 hours.

Rule 22e–4 requires a fund or In-Kind ETF to maintain a written copy of the policies and procedures adopted pursuant to its liquidity risk management program for five years in an easily accessible place. The rule also requires a fund to maintain copies of materials provided to the board in connection with its initial approval of the liquidity risk management program and any written reports provided to the board, for at least five years, the first two years in an easily accessible place. If applicable, a fund must also maintain a written record of how its highly liquid investment minimum and any adjustments to the minimum were determined, as well as any reports to the board regarding a shortfall in the fund's highly liquid investment minimum, for five years, the first two years in an easily accessible place. We estimate that the total burden for recordkeeping related to the liquidity risk management program requirement of rule 22e–4 will be 3,384 hours.

We estimate that the hour burdens and time costs associated with rule 22e–4 for open-end funds, including the burden associated with (1) funds' initial documentation and review of the required written liquidity risk management program, (2) reporting to a fund's board regarding the fund's highly liquid investment minimum, and (3) recordkeeping requirements will result

in an average aggregate annual burden of 25,380 hours,

UITs may in some circumstances be subject to liquidity risk (particularly where the UIT is not a pass-through vehicle and the sponsor does not maintain an active secondary market for UIT shares). On or before the date of initial deposit of portfolio securities into a registered UIT, the UIT's principal underwriter or depositor is required to determine that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues, and maintain a record of that determination for the life of the UIT and for five years thereafter. We estimate that 1,385 newly registered UITs will be subject to the UIT liquidity determination requirement under rule 22e–4 each year. We estimate that the total burden for the initial documentation and review of UIT funds' written liquidity risk management program would be 13,850 hours. We estimate that the total burden for recordkeeping related to UIT liquidity risk management programs will be 2,770 hours.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. ''An agency'' may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 31, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02233 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88101; File No. SR–CboeBZX–2020–011]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule (''Compliance Rule'') Regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

January 30, 2020.

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 January 22, 2020, Cboe BZX Exchange, Inc. (''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

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''Cboe BZX'') proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Consolidated Audit Trail (''CAT'') Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry

Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;

- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

(1) Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[4] As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs. Rule 4.5(r) (previously Rule 4.5(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

The Exchange proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 4.5(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, the Exchange proposes to amend the definition a ''Firm Designated ID'' in proposed Rule 4.5(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 4.5(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member . . . .

(2) CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.''[6] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT will facilitate the retirement of OATS.

(A) Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members6[7] to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the CAT NMS Plan to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.''[8] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order

[4] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Nov. 20, 2019).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

[6] Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (available at *https://www.sec.gov/comments/4-698/4698-32.pdf*).

[7] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[8] FINRA Rule 5320 prohibits trading ahead of customer orders.

that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

(B) Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.[9] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for alternative trading systems (''ATSs'') in FINRA Rule 4554,[10] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of ''ATS'' to new paragraph (d) in Rule 4.5 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(a), (a)(1)(C)(x)(a), (a)(1)(D)(ix)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(xi)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(x)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(ix)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

> An Industry Member that operates an ATS must provide to the Central Repository:
> (1) A list of all of its order types twenty (20) days before such order types become effective; and
> (2) any changes to its order types twenty (20) days before such changes become effective.
> An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> (6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and
> (7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

> (1) The NBBO (or relevant reference price) in effect at the time of order execution;
> (2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and
> (3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(b) to (c), (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(a) to (b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(xi)(b) to (c) of Rule 4.7 would

[9] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[10] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(b) The National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(c) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(a) to (b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add new paragraph (a)(1)(A)(ix)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' The Exchange proposes to add new paragraph (a)(1)(B)(viii) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' The Exchange also proposes to add new paragraph (a)(1)(C)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, the Exchange proposes to add new paragraph (a)(1)(D)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Exchange proposes to add new paragraph (a)(1)(E)(viii)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the display quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new price or size.'' Proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into new paragraphs (a)(1)(A)(xi)(e) and (a)(1)(C)(x)(e) of Rule 4.7. Specifically, proposed new paragraph (a)(1)(A)(xi)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed new paragraph (a)(1)(C)(x)(e) would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

(C) Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Exchange also proposes to add new paragraph (a)(1)(C)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size

limit order be displayed, pursuant to applicable rules.''

(D) Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add new paragraph (a)(1)(C)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

(E) Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(x) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

(3) Firm Designated ID

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receive from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

(A) Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[11] Accordingly, the Exchange proposes to add new paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed new paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

(B) Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add new paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed new paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

(C) Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add new paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.

(4) Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

[11] Section 6.5(a)(ii) of the CAT NMS Plan.

(1) Its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022. The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines, described in Section F below, through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

(A) Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[12] To implement the Phased Reporting for Phase 2a, the Exchange proposes to amend paragraph (t) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of ''Phase 2a Industry Member Data'' as new paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set forth in the Industry Member Technical Specifications.[13]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS. Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(i) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the

[12] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[13] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (''Electronic Capture Time'') in milliseconds;

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[14] Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[15] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed new paragraph (c)(2)(A) of Rule 4.16 would state that

> Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: (A) a Small Industry Member that is required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed new paragraph (c)(2)(B) of Rule 4.16 would state that ''a Small Industry Member that is not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

(B) Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add new paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of ''Phase 2b Industry Member Data'' as new paragraph (t)(2) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[16] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked

[14] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[15] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[16] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section D.

as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.'' Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

(C) Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add new paragraph (t)(3) of Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of ''Phase 2c Industry Member Data'' as new paragraph (t)(3) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers [17] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date [18] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

(D) Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add new paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.1631.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of ''Phase 2d Industry Member Data'' as new paragraph (t)(4) of Rule 4.5. Specifically, the Exchange proposes to define the

[17] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan; *see also* Rule 13h–1 under the Exchange Act.

[18] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. The Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order'' [19]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; [20] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16 Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

(E) Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add new paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of ''Phase 2e Industry Member Data'' as new paragraph (t)(5) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account Information'' and ''Customer Identifying Information'' are defined in Rule 4.5 of the Compliance Rule.[21]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) a Small Industry Member to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

(F) Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 4.13(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, the Exchange proposes to (8).

Proposed new Rule 4.13(a)(1) would provide that ''Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.'' Proposed new Rule 4.13(a)(2) would provide that ''Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.'' Proposed new Rule 4.13(a)(3) would provide that ''The Industry Member test environment shall open with intrafirm linkage validations

[19] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

[20] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[21] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 4.5. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), available at *https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16-2019.pdf.* If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

to Industry Members for both Phases 2a and 2b in April 2020.'' Proposed new Rule 4.13(a)(4) would provide that ''The Industry Member test environment shall open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.'' Proposed new Rule 4.13(a)(5) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.'' Proposed new Rule 4.13(a)(6) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.'' Proposed new Rule 4.13(a)(7) would provide that ''Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.'' Finally, proposed new Rule 4.13(a)(8) would provide that ''The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.''

(5) FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, the Exchange proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add a new paragraph to (a)(2)(E) to Rule 4.7, which states that:

> (E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:
>
> (i) The Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E);

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 6.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, the Exchange proposes new paragraphs (a)(1)(E)(2) and (3) of Rule 4.7, which states that:

> (E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository: . . .
>
> (ii) the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(ii); and
>
> (iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.

(6) Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, the Exchange proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

> Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

(7) Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an

account) on the order reported to the CAT. Specifically, in this exemptive relief, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rule, its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[22]

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Specifically, the Exchange proposes to amend paragraphs (a)(1) and paragraph (m) (previously (l)) of Rule 4.5. The definition of Customer Account Information in Rule 4.5(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' The Exchange proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, the Exchange proposes to revise paragraph (m)(1) (previously (l)(1)) of Rule 4.5 to state the following:

> (1) In those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) Provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship'' . . .

Similarly, the Exchange proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 4.5(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, the Exchange proposes to revise the introductory paragraph of subparagraph(a)(1) of Rule 4.5 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual . . . .''

(8) CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[23] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Exchange Rule 4.7(a)(2)(C) states that

> [s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member Data'' and collectively with the information referred to in Rule 4.7(a)(1) ''Industry Member Data'')) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 4.8, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 4.5(n)(1) (previously Rule 4.5(m)(1)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'') . . .'' In addition, Rule 4.5(m)(1) (previously Rule 4.5(l)(1)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, the Exchange proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 4.5(n)(1) (previously Rule 4.5(m)(1)) and to delete account numbers for individuals from the definition of ''Customer Account Information'' in Rule 4.5(m)(1) (previously Rule 4.5(l)(1)). The Exchange proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 4.5(a)(2)(C).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section

[22] 2016 Exemptive Order at 11861–11862.

[23] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[24] 15 U.S.C. 78f(b).

6(b)(5)[25] requirements that the rules of an 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the Commission 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.''[27] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, 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.

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 Exchange notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–CboeBZX–2020–011 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–CboeBZX–2020–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2020–011 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02204 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] Approval Order at 84697.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88105; File No. SR–CBOE–2020–004]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Amend Chapter 7, Section B of the Rules, Which Contains the Exchange's Compliance Rule (''Compliance Rule'') Regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''), to be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

January 30, 2020.

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 January 17, 2020, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') 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

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Chapter 7, Section B of the Rules, which contains the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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 this proposed rule change is to amend the Consolidated Audit Trail (''CAT'') Compliance Rule[4] in Chapter 7, Section B of the Rules to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;
- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

(1) Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[5] As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 7.20 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs. Rule 7.20(r) (previously Rule 7.20(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

The Exchange proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 7.20(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, the Exchange proposes to amend the definition a ''Firm Designated ID'' in proposed Rule 7.20(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[6] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 7.20(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] The proposed rule change also amends the heading in Chapter 7, Section B to define the section as the CAT Compliance Rule.

[5] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Nov. 20, 2019).

[6] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

A unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member.

(2) CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.'' [7] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT will facilitate the retirement of OATS.

(A) Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members6 [8] to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the CAT NMS Plan to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.'' [9] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of Rule 7.22 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(vii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

(B) Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.[10] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for alternative trading systems (''ATSs'') in FINRA Rule 4554,[11] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of ''ATS'' to new paragraph

[7] Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (available at *https://www.sec.gov/comments/4-698/4698-32.pdf*).

[8] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[9] FINRA Rule 5320 prohibits trading ahead of customer orders.

[10] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[11] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

(d) in Rule 7.20 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(a), (a)(1)(C)(x)(a), (a)(1)(D)(ix)(a) and (a)(2)(D) of Rule 7.22.

Proposed paragraph (a)(1)(A)(xi)(a) of Rule 7.22 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(x)(a) of Rule 7.22 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(ix)(a) of Rule 7.22 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 7.22 would state that:

An Industry Member that operates an ATS must provide to the Central Repository:

(i) A list of all of its order types twenty (20) days before such order types become effective; and

(ii) any changes to its order types twenty (20) days before such changes become effective.

An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(b) to (c), (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(b) to (c) of Rule 7.22.

Specifically, proposed paragraph (a)(1)(A)(xi)(b) to (c) of Rule 7.22 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(b) The National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(c) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(a) to (b) of Rule 7.22 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add new paragraph (a)(1)(A)(xi)(d) to Rule 7.22, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' The Exchange proposes to add new paragraph (a)(1)(B)(viii) to Rule 7.22, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' The Exchange also proposes to add new paragraph (a)(1)(C)(x)(d) to Rule 7.22, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, the Exchange proposes to add new paragraph (a)(1)(D)(x)(d) to Rule 7.22, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Exchange proposes to add new paragraph (a)(1)(E)(viii)(c) to Rule 7.22, which would require an Industry

Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(e) to Rule 7.22. Specifically, proposed new paragraph (a)(1)(D)(ix)(e) of Rule 7.22 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the display quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new price or size.'' Proposed new paragraph (a)(1)(D)(ix)(e) of Rule 7.22 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into new paragraphs (a)(1)(A)(xi)(e) and (a)(1)(C)(x)(e) of Rule 7.22. Specifically, proposed new paragraph (a)(1)(A)(xi)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

> whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed new paragraph (a)(1)(C)(x)(e) would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

(C) Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(viii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Exchange also proposes to add new paragraph (a)(1)(C)(ix) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(viii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

(D) Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(ix) to Rule 7.22, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add new paragraph (a)(1)(C)(viii) to Rule 7.22, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

(E) Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(x) to Rule 7.22, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

(3) Firm Designated ID

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receive from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the

CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

(A) Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[12] Accordingly, the Exchange proposes to add new paragraph (f)(1) to Rule 7.22 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed new paragraph (f)(1) of Rule 7.22 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

(B) Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add new paragraph (f)(2) to Rule 7.22 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed new paragraph (f)(2) of Rule 7.22 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

[12] Section 6.5(a)(ii) of the CAT NMS Plan.

(C) Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add new paragraph (f)(3) to Rule 7.22, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.

(4) Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines, described in Section F below, through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

(A) Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[13] To implement the Phased Reporting for Phase 2a, the Exchange proposes to amend paragraph (t) of Rule 7.20 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 7.31.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of ''Phase 2a Industry Member Data'' as new paragraph (t)(1) of Rule 7.20. Specifically, the Exchange proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set forth in the Industry Member Technical Specifications.[14]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS. Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(i), and (a)(2)(C) of Rule 7.22. Paragraph (a)(1)(A)(i) of Rule 7.22 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 7.22 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 7.22, Industry Members would be required to provide a timestamp pursuant to Rule 7.25. Rule 7.25(b)(1) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Members shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (*i.e.* ''electronic capture time'') in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[15] Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[16] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 7.31, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange

[13] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[14] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

[15] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[16] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

proposes to replace paragraph (c)(1) of Rule 7.31 with new paragraph (c)(1)(A) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 7.31, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 7.31 with new paragraphs (c)(2)(A) and (B) of Rule 7.31. Proposed new paragraph (c)(2)(A) of Rule 7.31 would state that

> Each Industry Member that is a Small Industry Member shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: (A) A Small Industry Member that is required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed new paragraph (c)(2)(B) of Rule 7.31 would state that ''a Small Industry Member that is not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

(B) Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add new paragraph (t)(2) to Rule 7.20 and amend paragraphs (c)(1) and (2) of Rule 7.31.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of ''Phase 2b Industry Member Data'' as new paragraph (t)(2) of Rule 7.20. Specifically, the Exchange proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[17] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 7.31, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 7.31 with new paragraph (c)(1)(B) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.'' Pursuant to paragraph (c)(2) of Rule 7.31, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 7.31 with new paragraph (c)(2)(C) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

(C) Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add new paragraph (t)(3) of Rule 7.20 and amend paragraphs (c)(1) and (2) of Rule 7.31.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of ''Phase 2c Industry Member Data'' as new paragraph (t)(3) of Rule 7.20. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for

[17] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section [__] [sic].

Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers [18] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date [19] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 7.31, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 7.31 with new paragraph (c)(1)(C) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 7.31, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 7.31 with new paragraph (c)(2)(C) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository, as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

(D) Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add new paragraph (t)(4) to Rule 7.20 and amend paragraphs (c)(1) and (2) of Rule 7.31.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of ''Phase 2d Industry Member Data'' as new paragraph (t)(4) of Rule 7.20. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order'' [20]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; [21] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 7.31 Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 7.31 with new paragraph (c)(1)(D) of Rule 7.31, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

[18] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan; *see also* Rule 13h–1 under the Exchange Act.

[19] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. The Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 7.20 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 7.20 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[20] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

[21] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 7.20 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 7.20 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

Pursuant to paragraph (c)(2) of Rule 7.31, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 7.31 with new paragraph (c)(2)(C) of Rule 7.31, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

(E) Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add new paragraph (t)(5) to Rule 7.20 and amend paragraphs (c)(1) and (2) of Rule 7.31.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of ''Phase 2e Industry Member Data'' as new paragraph (t)(5) of Rule 7.20. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account Information'' and ''Customer Identifying Information'' are defined in Rule 7.20 of the Compliance Rule.[22]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 7.31, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 7.31 with new paragraph (c)(1)(E) of Rule 7.31, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 7.31, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 7.31 with new paragraph (c)(2)(D) of Rule 7.31, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall comply with the Rules regarding recording and reporting the Industry Member Data to the Central Repository as follows: . . . (E) a Small Industry Member to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

(F) Industry Member Testing Requirements

Rule 7.28(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 7.28(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, the Exchange proposes to (8).

Proposed new Rule 7.28(a)(1) would provide that ''Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.'' Proposed new Rule 7.28(a)(2) would provide that ''Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.'' Proposed new Rule 7.28(a)(3) would provide that ''The Industry Member test environment shall open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.'' Proposed new Rule 7.28(a)(4) would provide that ''The Industry Member test environment shall open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.'' Proposed new Rule 7.28(a)(5) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.'' Proposed new Rule 7.28(a)(6) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.'' Proposed new Rule 7.28(a)(7) would provide that ''Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.'' Finally, proposed new Rule 7.28(a)(8) would provide that ''The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.''

(5) FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their

[22] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 7.20. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), available at *https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16–2019.pdf.* If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, the Exchange proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add a new paragraph to (a)(2)(E) to Rule 7.22, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:

(i) The Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 7.22(a)(1)(E);

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 6.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, the Exchange proposes new paragraphs (a)(1)(E)(ii) and (iii) of Rule 7.22, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository: . . .

(ii) The Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 7.22(a)(2)(A)(ii); and

(iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 7.22(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.

(6) Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, the Exchange proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 7.25. Rule 7.25(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

The Exchange proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

(7) Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT. Specifically, in this exemptive relief, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rule, its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[23]

As a result, the Exchange proposes to amend its Compliance Rule to reflect

[23] 2016 Exemptive Order at 11861–11862.

the exemptive relief request. Specifically, the Exchange proposes to amend paragraphs (a)(1) and paragraph (m) (previously (l)) of Rule 7.20. The definition of Customer Account Information in Rule 7.20(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' The Exchange proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, the Exchange proposes to revise paragraph (m)(1) (previously (l)(1)) of Rule 7.20 to state the following:

(1) In those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship'' . . .

Similarly, the Exchange proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 7.20(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, the Exchange proposes to revise the introductory paragraph of subparagraph(a)(1) of Rule 7.20 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual . . . .''

(8) CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[24] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Exchange Rule 7.22(a)(2)(C) states that

[s]ubject to subparagraph (a)(3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member Data'' and, collectively with the information referred to in subparagraph (a)(1), ''Industry Member Data'')), in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order . . . and in accordance with Rule 7.23, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 7.20(n)(1) (previously Rule 7.20(m)(1)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'') . . .'' In addition, Rule 7.20(m)(1) (previously Rule 7.20(l)(1)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, the Exchange proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 7.20(n)(1) (previously Rule 7.20(m)(1)) and to delete account numbers for individuals from the definition of ''Customer Account Information'' in Rule 7.20(m)(1) (previously Rule 7.20(l)(1)). The Exchange proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 7.22(a)(2)(C).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[25] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] requirements that the rules of an 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the Commission 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.''[28] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, 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.

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 Exchange notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also

[24] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] *Id.*

[28] Approval Order at 84697.

notes that the amendments to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–CBOE–2020–004 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–CBOE–2020–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–004 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02190 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–506, OMB Control No. 3235–0564]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 17a–6.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 17(a) of the Investment Company Act of 1940 (the ''Act'') generally prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls.[1] Rule 17a–6 (17 CFR 270.17a–6) permits a fund and a ''portfolio affiliate'' (a company that is an affiliated person of the fund because the fund controls the company, or holds five percent or more of the company's outstanding voting securities) to engage in principal transactions that would otherwise be prohibited under section 17(a) of the Act under certain conditions. A fund may not rely on the exemption in the rule to enter into a principal transaction with a portfolio affiliate if certain prohibited participants (*e.g.,* directors, officers, employees, or investment advisers of the fund) have a financial interest in a party to the transaction. Rule 17a–6 specifies certain interests that are not ''financial interests,'' including any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. A board making this finding is required to record the basis for the finding in its meeting minutes. This recordkeeping requirement is a collection of information under the Paperwork Reduction Act of 1995 (''PRA'').[2]

The rule is designed to permit transactions between funds and their portfolio affiliates in circumstances in which it is unlikely that the affiliate would be in a position to take advantage of the fund. In determining whether a financial interest is ''material,'' the board of the fund should consider whether the nature and extent of the interest in the transaction is sufficiently small that a reasonable person would not believe that the interest affected the determination of whether to enter into the transaction or arrangement or the terms of the transaction or arrangement. The information collection requirements in rule 17a–6 are intended to ensure that Commission staff can review, in the course of its compliance and examination functions, the basis for a board of director's finding that the financial interest of an otherwise prohibited participant in a party to a transaction with a portfolio affiliate is not material.

Based on staff discussions with fund representatives, we estimate that funds currently do not rely on the exemption

[1] 15 U.S.C. 80a–17(a).

[2] 44 U.S.C. 3501.

from the term ''financial interest'' with respect to any interest that the fund's board of directors (including a majority of the directors who are not interested persons of the fund) finds to be not material. Accordingly, we estimate that annually there will be no principal transactions under rule 17a–6 that will result in a collection of information.

The Commission requests authorization to maintain an inventory of one burden hour to ease future renewals of rule 17a–6's collection of information analysis should funds rely on this exemption to the term ''financial interest'' as defined in rule 17a–6.

The estimate of burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–6. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 31, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02231 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88096; File No. SR–MIAX–2020–02]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change To Amend MIAX Chapter XVII, Consolidated Audit Trail Compliance Rule

January 30, 2020.

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 January 24, 2020, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Chapter XVII, MIAX's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') [3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Chapter XVII, the Compliance Rule regarding the CAT NMS Plan to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds.
- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (August 1, 2012) (''Adopting Release''). Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

i. Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[4] As a result, MIAX proposes to amend the definition of ''Firm Designated ID'' in Rule 1701 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs.

Rule 1701(r) (previously Rule 6810(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

MIAX proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 1701(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, MIAX proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 1701(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, MIAX proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 1701(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

''a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member.''

ii. CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.''[6] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, MIAX proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT NMS Plan will facilitate the retirement of OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members[7] to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the Compliance Rule to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.''[8] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, MIAX proposes to add new paragraph (a)(1)(A)(vii) to Rule 1703, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, MIAX proposes to revise paragraph (a)(1)(B)(vi) of Rule 1703 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, MIAX proposes to add a new paragraph (a)(1)(C)(vii) to Rule 1703, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, MIAX proposes to add a new paragraph (a)(1)(D)(vii) to Rule 1703, which would

[4] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Nov. 20, 2019).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

[6] Letter from Participants to Brent J. Fields, Secretary, SEC re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (*available at https://www.sec.gov/comments/4-698/4698-32.pdf*).

[7] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[8] FINRA Rule 5320 prohibits trading ahead of customer orders.

require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

B. Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct alternative trading system (''ATS'') order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.[9] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, MIAX proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for ATSs in FINRA Rule 4554,[10] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

MIAX proposes to add a definition of ''ATS'' to new paragraph (d) of Rule 1701 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. MIAX proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, MIAX proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 1703.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(x)(1) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(ix)(1) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 1703 would state that:

An Industry Member that operates an ATS must provide to the Central Repository:

(1) A list of all of its order types twenty (20) days before such order types become effective; and

(2) any changes to its order types twenty (20) days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, MIAX proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(2)–(3), (a)(1)(C)(x)(2)–3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 1703.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(2) The National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(3) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph

[9] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[10] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

(xi)(2). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, MIAX proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, MIAX proposes to add proposed paragraph (a)(1)(A)(xi)(4) to Rule 1703 which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' MIAX proposes to add proposed paragraph (a)(1)(B)(viii) to Rule 1703, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' MIAX also proposes to add proposed paragraph (a)(1)(C)(x)(4) to Rule 1703, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, MIAX proposes to add proposed paragraph (a)(1)(D)(ix)(4) to Rule 1703, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Participants propose to add proposed paragraph (a)(1)(E)(viii)(3) to Rule 1703, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' MIAX proposes adding a comparable requirement into new paragraph (a)(1)(D)(ix)(5) to Rule 1703. Specifically, proposed paragraph (a)(1)(D)(ix)(5) of Rule 1703 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new display price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 1703 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. MIAX proposes to add comparable requirements into new paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 1703. Specifically, proposed paragraph (a)(1)(A)(xi)(5) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed paragraph (a)(1)(C)(x)(5) of Rule 1703 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

C. Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, MIAX proposes to add new paragraph (a)(1)(A)(viii) to Rule 1703, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' MIAX also proposes to add a new paragraph (a)(1)(C)(ix) to Rule 1703, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, MIAX proposes to add new paragraph (a)(1)(D)(viii) to Rule 1703, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

D. Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is

originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, MIAX proposes to add a new paragraph (a)(1)(A)(ix) to Rule 1703, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, MIAX proposes to add new paragraph (a)(1)(C)(viii) to Rule 1703, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

E. Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, MIAX proposes to add new paragraph (a)(1)(A)(x) to Rule 1703, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

iii. OTC Equity Securities

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, MIAX proposes to amend its Compliance Rule to include these data elements.

A. Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[11] Accordingly, MIAX proposes to add paragraph (f)(1) to Rule 1703 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed paragraph (f)(1) of Rule 1703 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

B. Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, MIAX proposes to add paragraph (f)(2) to Rule 1703 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 1703 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

[11] Section 6.5(a)(ii) of the CAT NMS Plan.

C. Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, MIAX proposes to add paragraph (f)(3) to Rule 1703, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.''

iv. Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small

Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022. The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines described in Section F below through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, MIAX proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

A. Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[12] To implement the Phased Reporting for Phase 2a, MIAX proposes to add paragraph (t)(1) of Rule 1701 (previously paragraph (s)) and amend paragraph (c)(1) and (2) of Rule 1712.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, MIAX proposes to add a definition of ''Phase 2a Industry Member Data'' as paragraph (t)(1) of Rule 1703. Specifically, MIAX proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set forth in the Industry Member Technical Specifications.[13]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS.

Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(i), and (a)(2)(C) of Rule 1703. Paragraph (a)(1)(A)(i) of Rule 1703 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 1703 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 1703, Industry

[12] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[13] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

Members would be required to provide a timestamp pursuant to Rule 1703. Rule 1706(b)(i) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Members shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (''Electronic Capture Time'') in milliseconds.

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[14]

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[15] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 1712, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, MIAX proposes to replace paragraph (c)(1) of Rule 1712 with new paragraph (c)(1)(A) of Rule 1712, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 1712, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, MIAX proposes to replace paragraph (c)(2) of Rule 1712 with new paragraphs (c)(2)(A) and (B) of Rule 1712. Proposed paragraph (c)(2)(A) of Rule 1712 would state that:

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: (A) Small Industry Members that are required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed paragraph (c)(2)(B) of Rule 1712 would state that ''Small Industry Members that are not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

A. Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, MIAX proposes to add paragraph (t)(2) of Rule 1701 and amend paragraphs (c)(1) and (2) of Rule 1712.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, MIAX proposes to add a definition of ''Phase 2b Industry Member Data'' as paragraph (t)(2) of Rule 1701. Specifically, MIAX proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[16] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by MIAX rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 1712, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement

[14] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[15] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[16] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section A.4.

the Phased Reporting for Phase 2b for Large Industry Members, MIAX proposes to replace paragraph (c)(1) of Rule 1712 with new paragraph (c)(1)(B) of Rule 1712, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.''

Pursuant to paragraph (c)(2) of Rule 1712, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, MIAX proposes to replace paragraph (c)(2) of Rule 1712 with new paragraph (c)(2)(C) of Rule 1712, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

C. Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, MIAX proposes to add paragraph (t)(3) of Rule 1701 and amend paragraphs (c)(1) and (2) of Rule 1712.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, MIAX proposes to add a definition of ''Phase 2c Industry Member Data'' as paragraph (t)(3) of Rule 1701. Specifically, MIAX proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's ADF; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers [17] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date [18] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 1712, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, MIAX proposes to replace paragraph (c)(1) of Rule 1712 with new paragraph (c)(1)(C) of Rule 1712, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 1712, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, MIAX proposes to replace paragraph (c)(2) of Rule 1712 with new paragraph (c)(2)(C) of Rule 1712, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

D. Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, MIAX proposes to add paragraph (t)(4) of Rule 1701 and amend paragraphs (c)(1) and (2) of Rule 1712.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, MIAX proposes to add a definition of ''Phase 2d Industry Member Data'' as paragraph (t)(4) of Rule 1701. Specifically, MIAX proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification

[17] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[18] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that MIAX also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, MIAX proposes to amend paragraph (m)(2) of Rule 1701 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. MIAX also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

or cancellation of an internal route of an order.[19]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship;[20] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 1712, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, MIAX proposes to replace paragraph (c)(1) of Rule 1712 with new paragraph (c)(1)(D) of Rule 1712, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

Pursuant to paragraph (c)(2) of Rule 1712, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, MIAX proposes to replace paragraph (c)(2) of Rule 1712 with new paragraph (c)(2)(C) of Rule 1712, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Small Industry Members to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

E. Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, MIAX proposes to add paragraph (t)(5) to Rule 1701 and amend paragraphs (c)(1) and (2) of Rule 1712.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, MIAX proposes to add a definition of ''Phase 2e Industry Member Data'' as paragraph (t)(5) of Rule 1701. Specifically, MIAX proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account Information'' and ''Customer Identifying Information'' are defined in Rule 1701 of the Compliance Rule.[21]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 1712, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, MIAX proposes to replace paragraph (c)(1) of Rule 1712 with new paragraph (c)(1)(E) of Rule 1712, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 1712, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, MIAX proposes to replace paragraph (c)(2) of Rule 1712 with new paragraph (c)(2)(D) of Rule 1712, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (E) Small Industry Members to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

F. Industry Member Testing Requirements

Rule 1709(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, MIAX correspondingly proposes to replace the Industry Member development testing milestones in Rule 1709(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, MIAX proposes to replace Rule 1709(a) with the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.

(3) The Industry Member test environment shall open with intra-firm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment shall open to Industry Members with inter-firm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment shall open to Industry Members with Phase 2c functionality

[19] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

[20] As noted above, MIAX also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, MIAX proposes to amend paragraph (m)(2) of Rule 1701 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. MIAX also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 1701 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[21] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 1701. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), *available at https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16-2019.pdf*. If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

(full representative order linkages) in January 2021.

(6) The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

v. FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's ADF (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Sections 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, MIAX proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, MIAX proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the ADF would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, MIAX proposes to add a new paragraph to (a)(2)(E) to Rule 1703, which states that:

> (F) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:
>
> (1) the Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 1703(a)(1)(E);

MIAX also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 1703(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, MIAX proposes new paragraphs (a)(1)(E)(2) and (3) of Rule 1703, which states that, ''if an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or ADF pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:'' ''the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 1703(a)(2)(A)(ii)'' and ''if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or ADF pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 1703(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.''

vi. Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, MIAX proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, MIAX proposes to amend paragraph (a)(2) of Rule 1706. Rule 1706(a)(2) states that

> Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment.

MIAX proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

vii. Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT. Specifically, in this exemptive request, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rules,

its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[22]

As a result, MIAX proposes to amend its Compliance Rule to reflect the exemptive relief request. Specifically, MIAX proposes to amend paragraph (a)(1) and paragraph (m) (previously (l)) of Rule 1701.

The definition of Customer Account Information in Rule 1701(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' MIAX proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, MIAX proposes to revise paragraph (m)(1) of Rule 1701 to state the following:

> (1) In those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) Provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship''.

Similarly, MIAX proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 1701(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, MIAX proposes to revise paragraph (a)(1) of Rule 1701 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual.''

viii. CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[23] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, MIAX proposes to amend its Compliance Rule to reflect the requested exemptive relief. Rule 1703(a)(2)(C) states that:

> [s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member; and collectively with the information referred to in Rule 6830(a)(1) ''Industry Member Data'' '')) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, . . . and in accordance with Rule 1704, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 1701(n) (previously Rule 1701(m)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' In addition, Rule 1701(m) (previously Rule 1701(l)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, MIAX proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 1703(a)(2)(C) and to delete account numbers for individuals from the definition of ''Customer Account Information.'' MIAX proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 1703(a)(2)(C).

2. Statutory Basis

MIAX believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[24] which requires, among other things, that the MIAX 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 Section 6(b)(8) of the Act,[25] which requires that MIAX rules not impose any burden on competition that is not necessary or appropriate.

MIAX believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist MIAX 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

[22] 2016 Exemptive Order at 11861–11862.

[23] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[24] 15 U.S.C. 78f(b)(6).

[25] 15 U.S.C. 78f(b)(8).

furtherance of the purposes of the Act.'' [26] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, and applies specific requirements to Industry Members, MIAX believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX 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. MIAX notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist MIAX in meeting its regulatory obligations pursuant to the Plan. MIAX also notes that the amendments to the Compliance Rules will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[26] Adopting Release, *supra* note 3 *at* 84697.

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–2020–02 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–2020–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2020–02 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02189 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88100; File No. SR–CboeBYX–2020–005]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule (''Compliance Rule'') Regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''), to be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

January 30, 2020.

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 January 22, 2020, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''Cboe BYX'') proposes to amend certain Rules within Rules 4.5 through 4.16, which contains the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

systems. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, 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 this proposed rule change is to amend the Consolidated Audit Trail (''CAT'') Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;
- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

(1) Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[4] As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs. Rule 4.5(r) (previously Rule 4.5(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

The Exchange proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 4.5(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, the Exchange proposes to amend the definition a ''Firm Designated ID'' in proposed Rule 4.5(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 4.5(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> A unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member . . . .

(2) CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.''[6] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT will facilitate the retirement of OATS.

(A) Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members6[7] to record the

[4] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Nov. 20, 2019).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

[6] Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (available at *https://www.sec.gov/comments/4-698/4698-32.pdf*).

[7] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the CAT NMS Plan to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.'' [8] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(6) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

(B) Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.[9] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for alternative trading systems (''ATSs'') in FINRA Rule 4554,[10] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of ''ATS'' to new paragraph (d) in Rule 4.5 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(11)(a), (a)(1)(C)(10)(a), (a)(1)(D)(9)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(11)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(10)(a) of Rule 4.7

[8] FINRA Rule 5320 prohibits trading ahead of customer orders.

[9] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[10] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(9)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository:

(1) A list of all of its order types twenty (20) days before such order types become effective; and

(2) any changes to its order types twenty (20) days before such changes become effective.

An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(11)(b) to (c), (a)(1)(C)(10)(b) to (c), (a)(1)(D)(9)(b) to (c) and (a)(1)(E)(8)(a) to (b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(11)(b) to (c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(b) The National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(c) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (11)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(10)(b) to (c), (a)(1)(D)(9)(b) to (c) and (a)(1)(E)(8)(a) to (b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add new paragraph (a)(1)(A)(9)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' The Exchange proposes to add new paragraph (a)(1)(B)(8) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' The Exchange also proposes to add new paragraph (a)(1)(C)(10)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, the Exchange proposes to add new paragraph (a)(1)(D)(10)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Exchange proposes to add new paragraph (a)(1)(E)(8)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(9)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the display quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new price or size.'' Proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside

the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into new paragraphs (a)(1)(A)(11)(e) and (a)(1)(C)(10)(e) of Rule 4.7. Specifically, proposed new paragraph (a)(1)(A)(11)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed new paragraph (a)(1)(C)(10)(e) would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

(C) Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Exchange also proposes to add new paragraph (a)(1)(C)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

(D) Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add new paragraph (a)(1)(C)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

(E) Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(10) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

(3) Firm Designated ID

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receive from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

(A) Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[11] Accordingly, the Exchange proposes to add new paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed new paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central

[11] Section 6.5(a)(ii) of the CAT NMS Plan.

Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

(B) Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add new paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed new paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

(C) Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add new paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.

(4) Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines, described in Section F below, through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

(A) Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[12] To implement the Phased Reporting for Phase 2a, the Exchange proposes to amend paragraph (t) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of ''Phase 2a Industry Member Data'' as new paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set

[12] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

forth in the Industry Member Technical Specifications.[13]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS. Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(1) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (''Electronic Capture Time'') in milliseconds;

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[14] Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[15] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed new paragraph (c)(2)(A) of Rule 4.16 would state that

> Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: (A) a Small Industry Member that is required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed new paragraph (c)(2)(B) of Rule 4.16 would state that ''a Small Industry Member that is not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

(B) Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large

[13] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

[14] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[15] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add new paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of ''Phase 2b Industry Member Data'' as new paragraph (t)(2) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[16] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.'' Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

(C) Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add new paragraph (t)(3) of Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of ''Phase 2c Industry Member Data'' as new paragraph (t)(3) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers[17] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account

[16] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section D.

[17] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan; *see also* Rule 13h–1 under the Exchange Act.

Effective Date [18] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

(D) Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add new paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.1631.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of ''Phase 2d Industry Member Data'' as new paragraph (t)(4) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order'' [19]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; [20] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16 Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

(E) Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add new paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of ''Phase 2e Industry Member Data'' as new paragraph (t)(5) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account

[18] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. The Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[19] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

[20] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

Information'' and ''Customer Identifying Information'' are defined in Rule 4.5 of the Compliance Rule.[21]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) a Small Industry Member to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

(F) Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 4.13(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, the Exchange proposes to (8).

Proposed new Rule 4.13(a)(1) would provide that ''Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.'' Proposed new Rule 4.13(a)(2) would provide that ''Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.'' Proposed new Rule 4.13(a)(3) would provide that ''The Industry Member test environment shall open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.'' Proposed new Rule 4.13(a)(4) would provide that ''The Industry Member test environment shall open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.'' Proposed new Rule 4.13(a)(5) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.'' Proposed new Rule 4.13(a)(6) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.'' Proposed new Rule 4.13(a)(7) would provide that ''Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.'' Finally, proposed new Rule 4.13(a)(8) would provide that ''The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.''

(5) FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, the Exchange proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add a new paragraph to (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required

[21] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 4.5. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), available at *https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16-2019.pdf*. If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

to report the corresponding execution to the Central Repository:

(i) the Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E);

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 6.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, the Exchange proposes new paragraphs (a)(1)(E)(2) and (3) of Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository: . . .

(ii) the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(2); and

(iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.

(6) Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, the Exchange proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment

The Exchange proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

(7) Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT. Specifically, in this exemptive relief, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rule, its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[22]

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Specifically, the Exchange proposes to amend paragraphs (a)(1) and paragraph (m) (previously (l)) of Rule 4.5. The definition of Customer Account Information in Rule 4.5(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' The Exchange proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, the Exchange proposes to revise paragraph (m)(1) (previously (l)(1)) of Rule 4.5 to state the following:

(1) in those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship'' . . .

Similarly, the Exchange proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 4.5(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, the Exchange proposes to revise the introductory paragraph of subparagraph(a)(1) of Rule 4.5 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual . . . .''

[22] 2016 Exemptive Order at 11861–11862.

(8) CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[23] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Exchange Rule 4.7(a)(2)(C) states that

> [s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member Data'' and collectively with the information referred to in Rule 4.7(a)(1) ''Industry Member Data'')) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 4.8, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 4.5(n)(1) (previously Rule 4.5(m)(1)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'') . . .'' In addition, Rule 4.5(m)(1) (previously Rule 4.5(l)(1)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, the Exchange proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 4.5(n)(1) (previously Rule 4.5(m)(1)) and to delete account numbers for individuals from the definition of ''Customer Account Information'' in Rule 4.5(m)(1) (previously Rule 4.5(l)(1)). The Exchange proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 4.5(a)(2)(C).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] requirements that the rules of an 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the Commission 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.''[27] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, 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.

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 Exchange notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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:

[23] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] Approval Order at 84697.

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–CboeBYX–2020–005 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–CboeBYX–2020–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2020–005 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02193 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88091; File No. SR–BOX–2020–02]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 10070, Anti-Money Laundering Compliance Program, To Reflect the Financial Crimes Enforcement Network's Adoption of a Final Rule on Customer Due Diligence Requirements for Financial Institutions

January 30, 2020.

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 January 16, 2020, BOX Exchange LLC (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 self-regulatory organization. The Exchange files the proposed rule change as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii)[3] of the Act and Rule 19b–4(f)(6)[4] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rule 10070 (Anti-Money Laundering Compliance Program) to reflect the Financial Crimes Enforcement Network's (''FinCEN'') adoption of a final rule on Customer Due Diligence Requirements for Financial Institutions (''CDD Rule''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxoptions.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

I. Background

The Bank Secrecy Act[5] (''BSA''), among other things, requires financial institutions,[6] including broker-dealers, to develop and implement AML programs that, at a minimum, meet the statutorily enumerated ''four pillars.''[7] These four pillars currently require broker-dealers to have written AML programs that include, at a minimum:

- The establishment and implementation of policies, procedures and internal controls reasonably designed to achieve compliance with the applicable provisions of the BSA and implementing regulations;
- Independent testing for compliance by broker-dealer personnel or a qualified outside party;
- Designation of an individual or individuals responsible for implementing and monitoring the operations and internal controls of the AML program; and
- Ongoing training for appropriate persons.[8]

In addition to meeting the BSA's requirements with respect to AML programs, Participants must also comply with Exchange Rule 10070, which incorporates the BSA's four pillars, as well as requires Participants' AML programs to establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious transactions.[9]

On May 11, 2016, FinCEN, the bureau of the Department of the Treasury

[5] 31 U.S.C. 5311, *et seq.*

[6] *See* U.S.C. 5312(a)(2) (defining ''financial institution'').

[7] 31 U.S.C. 5318(h)(1).

[8] 31 CFR 1023.210(b).

[9] BOX Rule 10070(a)(1).

responsible for administering the BSA and its implementing regulations, issued the CDD Rule [10] to clarify and strengthen customer due diligence for covered financial institutions,[11] including broker-dealers. In its CDD Rule, FinCEN identifies four components of customer due diligence: (1) Customer identification and verification; (2) beneficial ownership identification and verification; (3) understanding the nature and purpose of customer relationships; and (4) ongoing monitoring for reporting suspicious transactions and, on a risk basis, maintaining and updating customer information.[12] As the first component is already required to be part of a broker-dealers AML program under the BSA, the CDD Rule focuses on the other three components.

Specifically, the CDD Rule focuses particularly on the second component by adding a new requirement that covered financial institutions identify and verify the identity of the beneficial owners of all legal entity customers at the time a new account is opened, subject to certain exclusions and exemptions.[13] The CDD Rule also addresses the third and fourth components, which FinCEN states ''are already implicitly required for covered financial institutions to comply with their suspicious activity reporting requirements,'' by amending the existing AML program rules for covered financial institutions to explicitly require these components to be included in AML programs as a new ''fifth pillar.''

On November 21, 2017, FINRA published Regulatory Notice 17–40 to provide guidance to member firms regarding their obligations under FINRA Rule 3310 in light of the adoption of FinCEN's CDD Rule. In addition, the Notice summarized the CDD Rule's impact on member firms, including the addition of the new fifth pillar required for member firms' AML programs. FINRA also amended FINRA Rule 3310 to explicitly incorporate the fifth pillar.[14] This proposed rule change amends BOX Rule 10070 to harmonize it with the FINRA rule and incorporate the fifth pillar.

II. Exchange Rule 10070 and Amendment to Minimum Requirements for Participants' AML Programs

Section 352 of the USA PATRIOT Act of 2001 [15] amended the BSA to require broker-dealers to develop and implement AML programs that include the four pillars mentioned above. Consistent with Section 352 of the PATRIOT Act, and incorporating the four pillars, Exchange Rule 10070 requires each Participant to develop and implement a written AML program reasonably designed to achieve and monitor the Participant's compliance with the BSA and implementing regulations. Among other requirements, Exchange Rule 10070 requires that each Participant, at a minimum: (1) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious transactions; (2) establish and implement policies and internal controls reasonably designed to achieve compliance with the BSA and implementing regulations; (3) provide independent testing for compliance to be conducted by Participant personnel or a qualified outside party; (4) designate and identify to the Exchange a person or persons (*i.e.,* AML compliance person(s)) who will be responsible for implementing and monitoring the day-to-day operations and internal controls of the AML program and provide prompt notification to the Exchange of any changes to the designation; and (5) provide ongoing training for appropriate persons.

FinCEN's CDD Rule does not change the requirements of Exchange Rule 10070, and Participants must continue to comply with its requirements.[16] However, FinCEN's CDD Rule amends the minimum regulatory requirements for broker-dealers' AML programs by explicitly requiring such programs to include risk-based procedures for conducting ongoing customer due diligence.[17] Accordingly, the Exchange is proposing to amend Exchange Rule 10070 to incorporate this ongoing customer due diligence element, or ''fifth pillar'' required for AML programs. Thus, proposed Rule 10070(a)(6) would provide that the AML programs required by this Rule shall, at a minimum include appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to: (1) Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and (2) conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

As stated in the CDD Rule, these provisions are not new and merely codify existing expectations for Participants to adequately identify and report suspicious transactions as required under the BSA and encapsulate practices generally already undertaken by securities firms to know and understand their customers.[18] The proposed rule change simply incorporates into Exchange Rule 10070 the ongoing customer due diligence element, or ''fifth pillar,'' required for AML programs by the CDD Rule to aid Participants in complying with the CDD Rule's requirements. However, to the extent that these elements, which are briefly summarized below, are not already included in Participants' AML programs, the CDD Rule requires Participants to update their AML programs to explicitly incorporate them.

III. Summary of Fifth Pillar's Requirements

Understanding the Nature and Purpose of Customer Relationships

FinCEN states in the CDD Rule that firms must necessarily have an understanding of the nature and purpose of the customer relationship in order to determine whether a transaction is potentially suspicious and, in turn, to fulfill their SAR obligations.[19] To that end, the CDD Rule requires that firms understand the nature and purpose of the customer relationship in order to develop a customer risk profile. The customer risk profile refers to information gathered about a customer to form the baseline against which customer activity is

[10] FinCEN Customer Due Diligence Requirements for Financial Institutions; CDD Rule, 81 FR 29397 (May 11, 2016) (CDD Rule Release); 82 FR 45182 (September 28, 2017) (making technical correcting amendments to the final CDD Rule published on May 11,2016). FinCEN is authorized to impose AML program requirements on financial institutions and to require financial institutions to maintain procedures to ensure compliance with the BSA and associated regulations. 31 U.S.C. 5318(h)(2) and (a)(2).The CDD Rule is the result of the rulemaking process FinCEN initiated in March 2012.See 77 FR 13046 (March 5, 2012) (Advance Notice of Proposed Rulemaking) and 79 FR 45151 (Aug. 4, 2014) (Notice of Proposed Rulemaking).

[11] *See* 31 CFR 1010.230(f) (defining ''covered financial institution'').

[12] *See* CDD Rule Release at 29398.

[13] *See* 31 CFR 1010.230(d) (defining ''beneficial owner'') and 31 CFR 1010.230(e) (defining ''legal entity customer'').

[14] See Securities Exchange Act Release No. 83154 (May 2, 2018), 83 FR 20906 (May 8, 2018) (File No. SR–FINRA–2018–016).

[15] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56, 115 Stat. 272 (2001).

[16] FinCEN notes that broker-dealers must continue to comply with FINRA Rules, notwithstanding differences between the CDD Rule and FINRA Rule 3310, which is substantially identical to Exchange Rule 10070. See CDD Rule Release 29421, n. 85.

[17] *See* CDD Rule Release at 29420; 31 CFR 1023.210.

[18] *Id.* at 29419.

[19] *Id.* at 29421.

assessed for suspicious transaction reporting.[20] Information relevant to understanding the nature and purpose of the customer relationship may be self-evident and, depending on the facts and circumstances, may include such information as the type of customer, account or service offered, and the customer's income, net worth, domicile, or principal occupation or business, as well as, in the case of existing customers, the customer's history of activity.[21] The CDD Rule also does not prescribe a particular form of the customer risk profile.[22] Instead, the CDD Rule states that depending on the firm and the nature of its business, a customer risk profile may consist of individualized risk scoring, placement of customers into risk categories or another means of assessing customer risk that allows firms to understand the risk posed by the customer and to demonstrate that understanding.[23]

The CDD Rule also addresses the interplay of understanding the nature and purpose of customer relationships with the ongoing monitoring obligation discussed below. The CDD Rule explains that firms are not necessarily required or expected to integrate customer information or the customer risk profile into existing transaction monitoring systems (for example, to serve as the baseline for identifying and assessing suspicious transactions on a contemporaneous basis).[24] Rather, FinCEN expects firms to use the customer information and customer risk profile as appropriate during the course of complying with their obligations under the BSA in order to determine whether a particular flagged transaction is suspicious.[25]

Conduct Ongoing Monitoring

As with the requirement to understand the nature and purpose of the customer relationship, the requirement to conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information, merely adopts existing supervisory and regulatory expectations as explicit minimum standards of customer due diligence required for firms' AML programs.[26] If, in the course of its normal monitoring for suspicious activity, the Participant detects information that is relevant to assessing the customer's risk profile, the Participant must update the customer information, including the information regarding the beneficial owners of legal entity customers.[27] However, there is no expectation that the Participant update customer information, including beneficial ownership information, on an ongoing or continuous basis.[28]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[29] in general, and Section 6(b)(5) of the Act,[30] 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 mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest because it will aid Participants in complying with the CDD Rule's requirement that Participants' AML programs include risk-based procedures for conducting ongoing customer due diligence by also incorporating the requirement into Exchange Rule 10070.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply incorporates into Exchange Rule 10070 the ongoing customer due diligence element, or ''fifth pillar,'' required for AML programs by the CDD Rule. Regardless of the proposed rule change, to the extent that the elements of the fifth pillar are not already included in Participants' AML programs, the CDD Rule requires Participants to update their AML programs to explicitly incorporate them. In addition, as stated in the CDD Rule, these elements are already implicitly required for covered financial institutions to comply with their suspicious activity reporting requirements. Further, all Exchange Participants that have customers are required to be members of FINRA pursuant to Rule 15b9–1 under the Exchange Act,[31] and are therefore already subject to the requirements of FINRA Rule 3310. Additionally, the proposed rule change is virtually identical[32] to FINRA Rule 3310. The Exchange is not imposing any additional direct or indirect burdens on Participants or their customers through this proposal, and as such, the proposal imposes no new burdens on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act[33] and Rule 19b–4(f)(6)[34] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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:

[20] *Id.* at 29422.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.* at 29402.

[27] *Id.* at 29420–21. *See also* FINRA Regulatory Notice 17–40 (discussing identifying and verifying the identity of beneficial owners of legal entity customers).

[28] *Id.*

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] 17 CFR 240.15b9–1.

[32] The Exchange notes that changes between the proposed Rule and FINRA Rule 3310 are non-substantive and relate to cross references.

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2020–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2020–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2020–02 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02191 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–470, OMB Control No. 3235–0529]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 17f–7.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Rule 17f–7 (17 CFR 270.17f–7) permits a fund under certain conditions to maintain its foreign assets with an eligible securities depository, which has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information provided by the fund's primary custodian (a bank that acts as global custodian). The depository custody arrangement also must meet certain conditions. The fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise at least reasonable care, prudence, and diligence.

The collection of information requirements in rule 17f–7 are intended to provide workable standards that protect funds from the risks of using foreign securities depositories while assigning appropriate responsibilities to the fund's primary custodian and investment adviser based on their capabilities. The requirement that the foreign securities depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and that the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks, is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care.

The staff estimates that each of approximately 960 investment advisers [1] will make an average of 8 responses annually under the rule to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications. The staff estimates each response will take 6 hours, requiring a total of approximately 48 hours for each adviser.[2] Thus the total annual burden associated with these requirements of the rule is approximately 46,080 hours.[3] The staff further estimates that during each year, each of approximately 40 global custodians will make an average of 4 responses to analyze custody risks and provide notice of any material changes to custody risk under the rule. The staff estimates that each response will take 260 hours, requiring approximately 1,040 hours annually per global custodian.[4] Thus the total annual burden associated with these requirements is approximately 41,600 hours.[5] The staff estimates that the total annual hour burden associated with all collection of information requirements of the rule is therefore 87,680 hours.[6]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians. The information provided

[1] In October 2019, Commission staff estimated that 960 investment advisers managed or sponsored open-end registered funds (including exchange-traded funds) and closed-end registered funds.

[2] 8 responses per adviser × 6 hours per response = 48 hours per adviser.

[3] 960 advisers × 48 hours per adviser = 46,080 hours.

[4] 260 hours per response × 4 responses per global custodian = 1,040 hours per global custodian.

[5] 40 global custodians × 1,040 hours per global custodian = 41,600 hours.

[6] 46,080 hours + 41,600 hours = 87,680 hours.

under rule 17f–7 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov*; and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 31, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02234 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88103; File No. SR–CboeEDGX–2020–005]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule (''Compliance Rule'') Regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

January 30, 2020.

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 January 22, 2020, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''Cboe EDGX'') proposes to amend certain Rules within Rules 4.5 through 4.16, which contains the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, 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 this proposed rule change is to amend the Consolidated Audit Trail (''CAT'') Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;
- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

(1) Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[4] As a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan

result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs. Rule 4.5(r) (previously Rule 4.5(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

The Exchange proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 4.5(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, the Exchange proposes to amend the definition a ''Firm Designated ID'' in proposed Rule 4.5(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 4.5(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

A unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member. . . .

(2) CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.''[6] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT will facilitate the retirement of OATS.

(A) Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members6[7] to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the CAT NMS Plan to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.''[8] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(6) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(7) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

(B) Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance,

Governing the Consolidated Audit Trail (Nov. 20, 2019).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

[6] Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (available at *https://www.sec.gov/comments/4-698/4698-32.pdf*).

[7] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[8] FINRA Rule 5320 prohibits trading ahead of customer orders.

including layering, spoofing, and mid-point pricing manipulation surveillance.[9] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for alternative trading systems (''ATSs'') in FINRA Rule 4554,[10] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of ''ATS'' to new paragraph (d) in Rule 4.5 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: paragraphs (a)(1)(A)(11)(a), (a)(1)(C)(10)(a), (a)(1)(D)(9)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(11)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(10)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(9)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository:

(1) a list of all of its order types twenty (20) days before such order types become effective; and

(2) any changes to its order types twenty (20) days before such changes become effective.

An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(11)(b) to (c), (a)(1)(C)(10)(b) to (c), (a)(1)(D)(9)(b) to (c) and (a)(1)(E)(8)(a) to (b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(11)(b) to (c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(b) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(c) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (11)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(10)(b) to (c), (a)(1)(D)(9)(b) to (c) and (a)(1)(E)(8)(a) to (b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

[9] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[10] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add new paragraph (a)(1)(A)(9)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' The Exchange proposes to add new paragraph (a)(1)(B)(8) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' The Exchange also proposes to add new paragraph (a)(1)(C)(10)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, the Exchange proposes to add new paragraph (a)(1)(D)(10)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Exchange proposes to add new paragraph (a)(1)(E)(8)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' The Exchange proposes adding a comparable requirement into new paragraph (a)(1)(D)(9)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the display quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new price or size.'' Proposed new paragraph (a)(1)(D)(9)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> Whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into new paragraphs (a)(1)(A)(11)(e) and (a)(1)(C)(10)(e) of Rule 4.7. Specifically, proposed new paragraph (a)(1)(A)(11)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

> whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed new paragraph (a)(1)(C)(10)(e) would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

(C) Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Exchange also proposes to add new paragraph (a)(1)(C)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

(D) Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(9) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the

information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add new paragraph (a)(1)(C)(8) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

(E) Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(10) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

(3) Firm Designated ID

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receive from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

(A) Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[11] Accordingly, the Exchange proposes to add new paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed new paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

(B) Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add new paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed new paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

(C) Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add new paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.

(4) Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

[11] Section 6.5(a)(ii) of the CAT NMS Plan.

The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines, described in Section F below, through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

(A) Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[12] To implement the Phased Reporting for Phase 2a, the Exchange proposes to amend paragraph (t) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of ''Phase 2a Industry Member Data'' as new paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set forth in the Industry Member Technical Specifications.[13]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS. Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(1) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (''Electronic Capture Time'') in milliseconds;

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[14]

[12] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[13] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

[14] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances,

Continued

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[15] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed new paragraph (c)(2)(A) of Rule 4.16 would state that

> Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: (A) a Small Industry Member that is required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed new paragraph (c)(2)(B) of Rule 4.16 would state that ''a Small Industry Member that is not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

(B) Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add new paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of ''Phase 2b Industry Member Data'' as new paragraph (t)(2) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[16] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.'' Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry

routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[15] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[16] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section D.

Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

(C) Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add new paragraph (t)(3) of Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of ''Phase 2c Industry Member Data'' as new paragraph (t)(3) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers [17] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date [18] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

(D) Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add new paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.1631.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of ''Phase 2d Industry Member Data'' as new paragraph (t)(4) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order'' [19]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag

[17] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan; *see also* Rule 13h–1 under the Exchange Act.

[18] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. The Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[19] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

indicating the Firm Designated ID type as account or relationship;[20] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16 Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

(E) Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add new paragraph (t)(5) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of ''Phase 2e Industry Member Data'' as new paragraph (t)(5) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account Information'' and ''Customer Identifying Information'' are defined in Rule 4.5 of the Compliance Rule.[21]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) a Small Industry Member to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

(F) Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 4.13(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, the Exchange proposes to (8).

Proposed new Rule 4.13(a)(1) would provide that ''Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.'' Proposed new Rule 4.13(a)(2) would provide that ''Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.'' Proposed new Rule 4.13(a)(3) would provide that ''The Industry Member test environment shall open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.'' Proposed new Rule 4.13(a)(4) would provide that ''The Industry Member test environment shall open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.'' Proposed new Rule 4.13(a)(5) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.'' Proposed new Rule 4.13(a)(6) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.'' Proposed new Rule 4.13(a)(7) would provide that ''Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.'' Finally, proposed new Rule 4.13(a)(8) would provide that ''The Industry Member test environment (customer and account information) will

[20] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[21] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 4.5. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), available at *https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16-2019.pdf.* If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

be open to Industry Members in January 2022.''

(5) FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, the Exchange proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would be the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add a new paragraph to (a)(2)(E) to Rule 4.7, which states that:

> (E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:
>
> (i) The Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E);

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 6.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, the Exchange proposes new paragraphs (a)(1)(E)(2) and (3) of Rule 4.7, which states that:

> (E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository: . . .
>
> (ii) The Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(2); and
>
> (iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.

(6) Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, the Exchange proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

> Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment

The Exchange proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

(7) Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT. Specifically, in this exemptive relief, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rule, its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry

Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[22]

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Specifically, the Exchange proposes to amend paragraphs (a)(1) and paragraph (m) (previously (l)) of Rule 4.5. The definition of Customer Account Information in Rule 4.5(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' The Exchange proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, the Exchange proposes to revise paragraph (m)(1) (previously (l)(1)) of Rule 4.5 to state the following:

(1) In those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) Provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship'' . . .

Similarly, the Exchange proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 4.5(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, the Exchange proposes to revise the introductory paragraph of subparagraph(a)(1) of Rule 4.5 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual . . . .''

(8) CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[23] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Exchange Rule 4.7(a)(2)(C) states that

[s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member Data'' and collectively with the information referred to in Rule 4.7(a)(1) ''Industry Member Data'')) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 4.8, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 4.5(n)(1) (previously Rule 4.5(m)(1)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'') . . .'' In addition, Rule 4.5(m)(1) (previously Rule 4.5(l)(1)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, the Exchange proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 4.5(n)(1) (previously Rule 4.5(m)(1)) and to delete account numbers for individuals from the definition of ''Customer Account Information'' in Rule 4.5(m)(1) (previously Rule 4.5(l)(1)). The Exchange proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 4.5(a)(2)(C).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] requirements that the rules of an 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting

[22] 2016 Exemptive Order at 11861–11862.

[23] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

regulatory obligations pursuant to the Plan. In approving the Plan, the Commission 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.'' [27] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, 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.

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 Exchange notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–CboeEDGX–2020–005 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–CboeEDGX–2020–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–005 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02194 Filed 2–4–20; 8:45 am]

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[27] Approval Order at 84697.

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88098; File No. SR–NYSENAT–2020–02]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Certain Grammatical or Non-Substantive Changes to the NYSE National Rule 10.8000 and Rule 10.9000

January 30, 2020.

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 January 22, 2020, NYSE National, Inc. (''NYSE National'' or the ''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 certain grammatical or non-substantive changes to the NYSE National Rule 10.8000 and Rule 10.9000 Series to conform to the Rule 10.8000 and Rule 10.9000 Series of the Exchange's affiliate NYSE Arca, Inc. (''NYSE Arca''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes certain grammatical or non-substantive changes to the NYSE National Rule 10.8000 (Investigations and Sanctions) and Rule 10.9000 (Code of Procedure) Series to conform to the Rule 10.8000 and Rule 10.9000 Series of the Exchange's affiliate NYSE Arca. The proposed rule change will further harmonize the Exchange's disciplinary rules with the rules of the Exchange's affiliates.

Proposed Rule Change

In 2018, the Exchange adopted the Rule 10.8000 and Rule 10.9000 Series, which set forth the Exchange's rules relating to investigation, discipline, sanction, and other procedural rules. Rule 10 was modeled on the rules of the Exchange's affiliate NYSE American, Inc., which in turn was modeled on the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'').[3] In 2019, the Exchange's affiliate NYSE Arca adopted the Rule 10.8000 and Rule 10.9000 Series.[4] As part of that filing, NYSE Arca incorporated certain grammatical or other non-substantive changes that the Exchange proposes to adopt in order to further harmonize the Exchange's disciplinary rules with the rules of its affiliates.

Specifically, the Exchange proposes the following changes:

- Rule 10.8211 (Automated Submission of Trading Data Requested by the Exchange) sets forth the procedures for electronic blue sheets. In subsection (a), the Exchange proposes to delete the ''s'' following ''transaction'' and add the phrase ''or transactions'' and to replace ''is'' with ''are'' in order to conform to NYSE Arca Rule 10.8211(a).
- Rule 10.8313 (Release of Disciplinary Complaints, Decisions and Other Information) provides, in part, for the Exchange to publish all final disciplinary decisions issued under the Rule 10.9000 Series, other than minor rule violations, on its website. In Rule 10.8313(a)(3), the Exchange proposes to add ''and'' between ''10.9558'' and ''10.9560.'' In subsection (c)(1), the Exchange proposes to add ''information that contains'' prior to ''confidential customer information.'' Both changes would conform to NYSE Arca Rule 10.8313(a)(3) and (c)(1).
- Rule 10.8320 (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay) governs payment of fines and other monetary sanctions or costs by ETP[5] Holders. In order to conform to NYSE Arca Rule 10.8320(b), Rule 10.8320(b) would be amended to add an apostrophe after ''days'' and the phrase ''from membership'' following ''expel.''
- Rule 10.9110 (Application) sets forth the types of proceedings to which the Rule 10.9000 Series applies. In order to conform to NYSE Arca Rule 10.9110(a), the Exchange would add the following sentence to the end of the subsection: ''No member of the Board of Directors or non-Regulatory Staff may interfere with or attempt to influence the process or resolution of any pending investigation or disciplinary proceeding.''
- Rule 10.9120 (Definitions) sets forth the definitions applicable to the Rule 10.9000 Series. Under the definition of ''Interested Staff'' in Rule 10.9120(B)(iii), the Exchange would add parentheses around the ''s'' in ''supervises'' to conform to NYSE Arca Rule 10.9120(B)(iii).
- Rule 10.9310 governs review by the Exchange's board of directors. In order to conform with NYSE Arca Rule 10.9310(a)(B)(i) and (ii), Rule 10.9310(a)(B)(i) and (ii) would both be amended to define the term ''affiliate'' as used therein. Specifically, the phrase ''of the Exchange as such term is defined in Rule 12b–2 under the Exchange Act'' would be added before ''affiliate'' in both subsections and the phrases ''ETP Holder that is an'' and ''Exchange ETP Holder that is an'' before ''affiliate'' in subsections (a)(i) and (a)(ii), respectively, would be deleted. Further, in order to conform to NYSE Arca Rule 10.9310(b), the Exchange would add ''Securities'' before, and ''of 1934'' after, ''Exchange Act'' in the last sentence.
- Rule 10.9524 (Exchange Board of Directors Consideration) governs requests for review by the applicant to the Exchange board of directors. To conform with NYSE Arca Rule 10.9524, the Exchange would add ''Securities'' before, and ''of 1934'' after, ''Exchange Act'' in the last sentence.
- Rule 10.9559 (Hearing Procedures for Expedited Proceedings Under the Rule 10.9550 Series) sets forth uniform hearing procedures for all expedited proceedings under the Rule 10.9550 Series. In order to conform to NYSE Arca Rule 10.9559, the Exchange proposes the following changes to Rule 10.9559:
  - Replacing the incorrect reference to Rule 10.9552 with Rule 10.9551 in subsection (c)(1);
  - adding two references to Rule 10.9551 in subsection (d)(2);
  - deleting ''the'' before ''Hearing Officer'' in the next to last sentence of Rule 10.9559(e);
  - replacing the incorrect reference to Rule 10.9552 with Rule 10.9551 in Rule 10.9559(g)(4); and
  - adding a reference to Rule 10.9551 in Rule 10.9559(o)(3).
- Finally, Rule 10.9560 (Expedited Suspension Proceeding) sets forth procedures for expedited suspension hearings. In order to conform to NYSE Arca Rule 10.9560, the Exchange proposes the following changes to Rule 10.9560:
  - Adding ''or Panelist'' after ''Hearing Officer'' in three places in subsection (b)(2); and
  - adding ''or Panelist'' after ''Hearing Officer'' in two places in subsection (c)(1).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[6] in general, and furthers the objectives of Section 6(b)(5),[7] in particular, because 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 mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove

[3] *See* Securities Exchange Act Release No. 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR–NYSENat–2018–02).

[4] *See* Securities Exchange Act Release No. 85639 (April 12, 2019), 84 FR 16346 (April 18, 2019) (SR–NYSEArca–2019–15). As part of that filing, NYSE Arca incorporated certain grammatical or other non-substantive changes that had been earlier made to the Exchange's disciplinary rules. *See id.,* 84 FR at 16346, n. 4.

[5] The term ''ETP'' refers to an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange. An ''ETP Holder'' means the Exchange-approved holder of an ETP. *See* Rules 1.1(h) and (i).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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 because the proposed conforming grammatical or non-substantive changes would add clarity, transparency and consistency to the Exchange's disciplinary rules. The Exchange believes that market participants would benefit from the increased clarity, thereby reducing potential confusion. Similarly, the Exchange believes that the proposed changes would also make the Exchange's disciplinary rules more consistent with the rules of NYSE Arca, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules.

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 is not intended to address competitive issues but rather is concerned solely with amending the disciplinary rules to make conforming grammatical or non-substantive changes based on the disciplinary rules of the Exchange's affiliate NYSE Arca.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

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) [10] 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–NYSENAT–2020–02 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–NYSENAT–2020–02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2020–02, and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02192 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–197, OMB Control No. 3235–0200]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 15c3–1.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c3–1 (17 CFR 240.15c3–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c3–1 requires brokers-dealers to have at all times sufficient liquid assets to meet their current liabilities, particularly the claims of customers. The rule facilitates the monitoring of the financial condition of broker-dealers by the Commission and the various self-regulatory organizations. It is estimated that broker-dealer respondents registered with the Commission and subject to the collection of information requirements of Rule 15c3–1 incur an aggregate annual time burden of approximately 76,981 hours to comply

with this rule and an aggregate annual external cost of approximately $299,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 31, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02230 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–312, OMB Control No. 3235–0354]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 19b–1.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 19(b) of the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–19(b)) authorizes the Commission to regulate registered investment company (''fund'') distributions of long-term capital gains made more frequently than once every twelve months. Accordingly, rule 19b–1 under the Act (17 CFR 270.19b–1) regulates the frequency of fund distributions of capital gains. Rule 19b–1(c) states that the rule does not apply to a unit investment trust (''UIT'') if it is engaged exclusively in the business of investing in certain eligible securities (generally, fixed-income securities), provided that: (i) The capital gains distribution falls within one of five categories specified in the rule [1] and (ii) the distribution is accompanied by a report to the unitholder that clearly describes the distribution as a capital gains distribution (the ''notice requirement'').[2] Rule 19b–1(e) permits a fund to apply to the Commission for permission to distribute long-term capital gains that would otherwise be prohibited by the rule if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution.[3] An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application.

Commission staff estimates that three funds will file an application under rule 19b–1(e) each year.[4] The staff understands that if a fund files an application it generally uses outside counsel to prepare the application. The cost burden of using outside counsel is discussed in Item 13 below. The staff estimates that, on average, a fund's investment adviser would spend approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of $466 per hour and 0.5 hours by an administrative assistant at a cost of $81 per hour, and the fund's board of directors would spend an additional 1 hour at a cost of $4,465 per hour, for a total of 5 hours.[5] Thus, the staff estimates that the annual hour burden of the collection of information imposed by rule 19b–1(e) would be approximately five hours per fund, at a cost of $6,136.50.[6] Because the staff estimates that, each year, three funds will file an application pursuant to rule 19b–1(e), the total burden for the information collection is 15 hours at a cost of $18,409.50.[7]

Commission staff estimates that there is no hour burden associated with complying with the collection of information component of rule 19b–1(c).

As noted above, Commission staff understands that funds that file an application under rule 19b–1(e) generally use outside counsel to prepare the application.[8] The staff estimates that, on average, outside counsel spends 10 hours preparing a rule 19b–1(e) application, including eight hours by an associate and two hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as $400 per hour, based on information received from funds, intermediaries, and their counsel. The staff therefore estimates that the average cost of outside counsel preparation of the rule 19b–1(e) exemptive application is $4,000.[9] Because the staff estimates that, each year, five funds will file an application pursuant to rule 19b–1(e), the total annual cost burden imposed by the exemptive application requirements of

[1] 17 CFR 270.19b–1(c)(1).

[2] The notice requirement in rule 19b–1(c)(2) supplements the notice requirement of section 19(a) [15 U.S.C. 80a–19(a)], which requires any distribution in the nature of a dividend payment to be accompanied by a notice disclosing the source of the distribution.

[3] Rule 19b–1(e) also requires that the application comply with rule 0–2 [17 CFR 270.02] under the Act, which sets forth the general requirements for papers and applications filed with the Commission pursuant to the Act and rules thereunder.

[4] This estimate is based on the average number of applications filed with the Commission pursuant to rule 19b–1(e) in the prior three-year period.

[5] The estimate for assistant general counsels is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The estimate for administrative assistants is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff previously estimated in 2009 that the average cost of board of director time was $4,000 per hour for the board as a whole, based on information received from funds and their counsel. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately $4,465.

[6] This estimate is based on the following calculations: $1,631 (3.5 hours × $466 = $1,631) plus $40.5 (0.5 hours × $81 = $40.5) plus $4,465 equals $6,136.50 (cost of one application).

[7] This estimate is based on the following calculation: $6,136.50 (cost of one application) multiplied by 3 applications = $18,409.50 total cost.

[8] This understanding is based on conversations with representatives from the fund industry.

[9] This estimate is based on the following calculation: 10 hours multiplied by $400 per hour equals $4,000.

rule 19b–1(e) is estimated to be $12,000.[10]

The Commission staff estimates that there are approximately 2,230 UITs [11] that may rely on rule 19b–1(c) to make capital gains distributions. The staff estimates that, on average, these UITs rely on rule 19b–1(c) once a year to make a capital gains distribution.[12] In most cases, the trustee of the UIT is responsible for preparing and sending the notices that must accompany a capital gains distribution under rule 19b–1(c)(2). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. The staff believes that as a matter of good business practice, and for tax preparation reasons, UITs would collect and distribute the capital gains information required to be sent to unitholders under rule 19b–1(c) even in the absence of the rule. The staff estimates that the cost of preparing a notice for a capital gains distribution under rule 19b–1(c)(2) is approximately $50. There is no separate cost to mail the notices because they are mailed with the capital gains distribution. Thus, the staff estimates that the capital gains distribution notice requirement imposes an annual cost on UITs of approximately $111,500.[13] The staff therefore estimates that the total cost imposed by rule 19b–1 is $123,500.[14]

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: January 31, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02232 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[10] This estimate is based on the following calculation: $4,000 multiplied by 3 funds equals $12,000.

[11] *See* 2019 Investment Company Fact Book, Investment Company Institute, *available at https://www.ici.org/pdf/2019_factbook.pdf.*

[12] The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years and UITs. UITs may distribute capital gains biannually, annually, quarterly, or at other intervals. Additionally, a number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b–1(c), or may not rely on rule 19b–1(c) as they do not meet the rule's requirements.

[13] This estimate is based on the following calculation: 2,230 UITs multiplied by $50 equals $111,500.

[14] $111,500 (total cost associated with rule 19b–1(c)) + $12,000 (total cost associated with rule 19b–1(e)) = $123,500.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88090; File No. SR-Nasdaq-2019–089]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 5815 To Preclude Stay During Hearing Panel Review of Staff Delisting Determinations in Certain Circumstances

January 30, 2020.

On November 27, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 5815 regarding review of Nasdaq Staff Delisting Determinations by Hearings Panels to preclude the stay of a Nasdaq Staff Delisting Determination during the review period in specified circumstances. The proposed rule change was published for comment in the **Federal Register** on December 17, 2019.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is January 31, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 16, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–Nasdaq–2019–089).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02186 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87716 (Dec. 11, 2019), 84 FR 69007.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88092; File No. SR–NSCC–2020–001]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Enhance National Securities Clearing Corporation's Automated Customer Account Transfer Service (ACATS) Transfer Processes and Make Certain Clarifications in Rule 50

January 30, 2020.

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 January 24, 2020, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to NSCC's Rules & Procedures (''Rules'') in order to (i) make proposed enhancements to NSCC's Automated Customer Account Transfer Service (''ACATS'') transfer processes relating to acceleration, Reclaims, Residual Credits and Partial Accounts and (ii) make certain clarifications to the Rules, as described in greater detail below.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The proposed rule change consists of modifications to NSCC's Rules in order to (i) make proposed enhancements to ACATS transfer processes relating to acceleration, Reclaims, Residual Credits and Partial Accounts and (ii) make certain clarifications to the Rules, as described in greater detail below.

(a) Background—ACATS

ACATS is a non-guaranteed service that enables Members to effect automated transfers of customer accounts among themselves.[6] Pursuant to Rule 50, an NSCC Member to whom a customer's full account will be transferred (the ''Receiving Member'') will initiate the transfer by submitting a transfer initiation request to NSCC, which contains the customer detail information that the NSCC Member who currently has the account (the ''Delivering Member'') requires to transfer the account. Delivering Members that have not rejected the account transfer request or requested corrections to the request within the allotted time must submit to NSCC certain detailed customer account asset data.

Generally, under current practice, a full account transfer through ACATS completes in five business days or, if ''accelerated'', four business days, as follows:

- Day 1—Receiving Member sends request for transfer of a customer account [7]
- Day 2—Delivering Member submits customer account asset data list to NSCC [8]
- Day 3—Receiving Member has one business day to review the customer account asset data list [9]
- Day 4—NSCC prepares to settle [10]
- Day 5—NSCC settles the transfer through ACATS and generates reports[11]

Except as noted with respect to the Receiving Member's review day on Day 3 above, which specifies one business day to review, the five-day timing set forth above reflects NSCC's and the Members' current practice and is not specifically set forth in the Rules. The timing and procedures with respect to customer account transfers is intended to be consistent with the timing set forth in FINRA Rule 11870. While the five-day timing is illustrative of typical timing, variations may occur if the Members that are party to the transfer agree. For instance, the Delivering Member may deliver the asset list on Day 1 rather than Day 2, or, as discussed below, the Receiving Member may accept the assets on Day 2 rather than Day 3.

Under current practice, a Receiving Member may accept all or a portion of the assets prior to the end of the review period and forego its right to review the asset list for the remaining review period, which is referred to as ''accelerating the transfer''. For instance, in the above five-day example, if a Receiving Member accepts all or a portion of the assets in Day 2, when it receives the asset data list, it is choosing not to review the assets on Day 3 and removing a day from the overall timing of a customer account transfer process. This acceleration process is not explicitly stated in the Rules, except for a reference to an ''acceleration instruction'' in Section 8 of Rule 50 which is referring to an instruction by the Receiving Member that the Receiving Member accepts all or a portion of the assets and wishes to accelerate the transfer.[12]

During the Receiving Member's review period, the Delivering Member can add, delete or change an item on the asset list which, in each case, adds another business day to the transfer cycle by giving the Receiving Member one additional business day to review.[13]

During the transfer period, an investor's assets will remain invested in the market but trading may be restricted.[14] The inability to trade may expose the investor to additional market risk. Currently there is an industry initiative underway to shorten the ACATS settlement cycle and create a more streamlined ACATS process.[15] In conjunction with the industry initiative, NSCC is proposing to modify the Rules to formalize the acceleration process by explicitly stating the right of the Receiving Member to accelerate a transfer, and to restrict the ability of Members to adjust accounts that are being transferred once an ACATS transfer in accelerated status in order to reduce delays in transfers in accelerated status. In addition, NSCC is proposing to modify the Rules relating to transfers upon Reclaims,[16] Residual Credits [17]

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[6] ACATS complements Financial Industry Regulatory Authority (''FINRA'') Rule 11870 (''FINRA Rule 11870'') regarding customer account transfers, which requires FINRA members to use automated clearing agency customer account transfer services and to effect customer account transfers within specified time frames. *See* FINRA Rule 11870, *available at https://www.finra.org/rules-guidance/rulebooks/finra-rules/11870.*

[7] *See* Section 2 of Rule 50, *supra* note 5.

[8] *See* Section 5 of Rule 50, *supra* note 5.

[9] *See* Section 8 of Rule 50, *supra* note 5.

[10] *See* Section 9 of Rule 50, *supra* note 5.

[11] *See* Sections 9(ii) and 10 of Rule 50, *supra* note 5.

[12] Section 8 of Rule 50, *supra* note 5.

[13] *Id.*

[14] During the period when an account transfer is pending, some firms will freeze trading on the client account until the account transfer is complete. Firms regulated by FINRA are required to freeze the account, by cancelling all open orders with the exception of option positions that expire within seven (7) business days, upon validation of an instruction to transfer securities account assets in whole. *See* FINRA Rule 11870(d), *supra* note 6.

[15] The industry initiative to shorten the ACATS settlement cycle and streamline the ACATS process is being led by the Customer Account Transfer forum (''SIFMA CAT Forum'') of the Securities Industry and Financial Markets Association, an industry trade group representing securities firms, banks, and asset management companies.

[16] A Reclaim is a non-standard transfer initiated by a Delivering Member requesting the transfer of assets that were mistakenly delivered as part of ACATS. *See* Section 12(iv) of Rule 50, *supra* note 5.

[17] Residual Credits are residual credit positions which are received for the benefit of a customer's

and Partial Accounts [18] to provide for a more efficient process for ACATS account transfers. NSCC is also proposing to modify the Rules to make some clarifications to improve readability of the Rules.

(b) Proposed Rule Change

NSCC is proposing to modify the Rules to add a provision providing for the right of the Receiving Member to accelerate the transfer by either (a) providing an acceleration instruction to NSCC upon receipt of the customer account asset data list from NSCC and accepting all assets or (b) deleting MF/IPS Products [19] and accepting the remaining assets. NSCC is proposing to add that the transfer that has been accelerated will be in accelerated status. NSCC is also proposing to modify the Rules to (i) reduce the adjustments that Delivering Members can make during an ACATS transfer in accelerated status, (ii) provide that Reclaims may be initiated with respect to transfers where a non-Member ACATS participant is a party to the delivery, (iii) add a provision allowing Receiving Members to delete Fund/Serv Eligible Fund [20] assets upon transfer requests for Residual Credits and Partial Accounts and (iv) make certain clarifications described below.

(i) Acceleration

Acceleration is a current practice pursuant to which a Receiving Member will accept all or a portion of the assets in a transfer and choose not to use its right to review during the remaining review period. When a Receiving Member accelerates on the same day that a Delivering Member loads the asset list with respect to a transfer request, the transfer cycle is reduced by one day. Currently, after a Receiving Member accelerates the transfer, ACATS allows a Delivering Member to adjust the asset list, which results in the extension of the review period for an additional day.[21] For example, if a Delivering Member adjusts assets after acceleration by a Receiving Member, ACATS adds back a review day to the transfer timeline. To restore the acceleration and maintain the same timeline, the Receiving Member must accelerate again on that same day.

NSCC is proposing to formalize the current acceleration process by providing a right of the Receiving Member to accelerate the transfer which will place the transfer in accelerated status. A Receiving Member would accelerate a transfer of a customer account by either (i) providing an acceleration instruction to NSCC upon receipt of the customer account asset data list from NSCC and accepting all assets or (ii) deleting MF/IPS Products and accepting the remaining assets.

In addition, NSCC is proposing to change the adjustment process for transfers such that once a transfer is in accelerated status, no additional adjustments would be allowed to be made by either the Delivering Member or the Receiving Member, except for deletions of MF/IPS Products [22] by the Receiving Member. The proposed change has been requested by SIFMA CAT Forum, on behalf of the industry, which believes the change would make the acceleration process more certain by preventing adjustments during the accelerated status by a Delivering Member. Preventing adjustments for account transfers in accelerated status would put the onus on Delivering Members to ensure that the asset list they are initially providing is accurate. If an asset list is incorrect, and a Receiving Member accelerates, a Delivering Member would be able to initiate a Reclaim (discussed below) to retrieve any assets that were mistakenly added to the initial asset list and transferred to the Receiving Member.

NSCC is proposing to effect the proposed change by (i) adding in a right of the Receiving Member to accelerate in Section 8 of Rule 50 and to place a transfer in accelerated status and (ii) modifying three provisions of Section 8 of Rule 50 to restrict the Delivering Member from making additional modifications once a transfer is in accelerated status.

(ii) Reclaims

A Reclaim is a non-standard transfer initiated by a Delivering Member requesting the transfer of assets that were mistakenly delivered as part of ACATS.[23] Reclaims provide a process through ACATS by which Delivering Members can retrieve assets that were incorrectly sent to the Receiving Firm through ACATS. The Rules currently provide that a Reclaim may only be initiated to the extent that the delivery is between a Member and another Member.[24] NSCC is proposing to modify the Rules to provide that a Reclaim may be initiated even if a party to the delivery is not a Member but is a participant of The Depository Trust Company (''DTC'').

In 1998, NSCC modified ACATS to allow DTC participants that are not Members to participate in ACATS.[25] As a result of the 1998 change, entities that are not Members, but that are DTC participants, can participate in ACATS through the use of DTC's services; however, DTC participants were precluded from using certain non-standard processes, such as Fail Reversals and Reclaims during its initial implementation. As usage by DTC participants has increased and matured, the industry has provided feedback indicating the desire to allow additional capabilities such as Reclaims to be used for DTC participants.

In response to client requests, NSCC is proposing to modify Section 12(iv) of Rule 50 to remove the requirement that Reclaims may only be initiated to the extent the delivery is between a Member and another Member. This proposed change would provide that Reclaims could be made for assets being delivered to or from DTC participants that participate in ACATS as well as deliveries to or from Members. Based on industry feedback, it is believed that allowing Reclaims for deliveries where a DTC participant is a party to the delivery would improve the efficiency of the account transfer process by allowing such parties requesting such Reclaims to use the already established automated ACATS process currently available for Reclaims between Members and Members.

(iii) Deletion of Fund/Serv Eligible Fund Assets Upon Residual Credits/Partial Accounts Transfer Request

ACATS allows the Delivering Member to initiate a transfer of, among other

account by the Delivering Member after the ACAT process is completed or which, due to a restriction, were not included in the original asset transfer. *See* Section 12 of Rule 50, *supra* note 5.

[18] Partial Accounts are partial accounts held by a Delivering Member (in the form of cash or securities). *Id.* For instance, if a Delivering Member held four asset classes on behalf of a client, a Partial Account could be a transfer of one of the asset classes.

[19] Section 8 of Rule 50 provides that the Receiving Member may delete ''MF/IPS Products'' upon receipt of an asset list. *See* Section 8 of Rule 50, *supra* note 5. MF/IPS Products are defined as Fund/Serv Eligible Fund assets and/or IPS Eligible Products. *Id.* IPS Eligible Products are defined as an insurance product or a retirement or other benefit plan or program included in the list for which provision is made in Section 1.(d) of Rule 3. *See* definition of ''IPS Eligible Products'' in Rule 1, *supra* note 5.

[20] A Fund/Serv Eligible Fund is a fund or other pooled investment entity included in the list for which provision is made in Section 1.(c) of Rule 3 of the Rules. *See* definition of ''Fund/Serv Eligible Fund'' in Rule 1, *supra* note 5.

[21] *See* Section 8 of Rule 50, *supra* note 5, providing that ''[e]ach business day that a Delivering Member causes an adjustment to be made to the account will give the Receiving Member an additional one (1) business day to review the account.''

[22] *See supra* note 19.

[23] *See supra* note 16.

[24] *Id.*

[25] Securities Exchange Act Release No. 40657 (November 10, 1998), 63 FR 63952 (November 17, 1998) (SR–NSCC–98–06).

things, Residual Credits and Partial Accounts. If a Delivering Member initiates a transfer of Residual Credits or Partial Accounts, the Receiving Member may either reject or accept the transfer request but may not submit corrections to the transfer request.[26] For full account transfer requests, in addition to rejecting or accepting the transfer request, Receiving Members may delete mutual fund products and insurance products from the transfer request.[27] Receiving Members may delete such assets in situations where the Receiving Member is unable to hold the assets, such as when it is in violation of its credit policy to hold such assets. NSCC is proposing to add a provision allowing Receiving Members to delete mutual fund products, or Fund/Serv Eligible Fund assets, from a transfer request for Partial Accounts and Residual Credits consistent with the ability to delete such assets from a full account transfer request.

The proposed Rule change would modify clause 2, Section 12 of Rule 50 to provide an exception allowing a Receiving Member to delete Fund/Serv Eligible Fund assets upon a transfer request for Partial Accounts and Residual Credits. The proposed change would align the transfer requests for Partial Accounts and Residual Credits with full account transfer requests with respect to deleting Fund/Serv Eligible Fund assets from the transfer requests. Allowing Receiving Members to delete Fund/Serv Eligible Fund assets would allow Receiving Members to reject specific assets that they are unable to hold rather than rejecting the entire transfer request.

Allowing a partial rejection of mutual fund products in a transfer request is consistent with full transfer requests and would increase efficiency in the account transfer process. Without the proposed change, Receiving Firms that receive a request for transfer that contains mutual fund products that cannot be held by the Receiving Firm must reject the transfer request. The Delivering Firm would then be required to send another transfer request for transfer of Partial Accounts and Residual Credits through ACATS containing only assets that can be held by the Receiving Member which would delay the process or require the transfer of assets outside of the ACATS process. Allowing the Receiving Members to delete the assets that they are unable to hold from the transfer requests would prevent unnecessary delay in the transfer process for Partial Accounts and Residual Credits.

(iv) Clarifications

NSCC is also proposing to make the following clarifications to the Rules. NSCC is proposing to change the defined term ''ACAT Service'' to ''ACATS'' and replace the phrase ''the ACAT Service'' with ''ACATS'' in several places to reflect current conventional use of the name of the service. NSCC is proposing to add ''Receiving'' in the first sentence of Section 8 of Rule 50 in order to clarify that the Member referenced in that clause is a Receiving Member. NSCC is proposing to delete ''(as defined below)'' after MF/IPS Products in Section 8 of Rule 50 because the new proposed language relating to a Receiving Member's ability to accelerate a transfer would first reference that the defined term MF/IPS Products is defined below. NSCC is proposing to move the defined term ''Reclaims'' in Section 12(iv) of Rule 50 to make it clear that Reclaims refer to transfers of ''cash or securities mistakenly delivered as part of ACATS.'' NSCC is proposing to replace ''Fund/SERV eligible assets'' with ''Fund/Serv Eligible Fund assets'' in Section 12(3)(ii) and Section 13 of Rule 50, and replace ''Fund/SERV Eligible Fund asset'' with ''Fund/Serv Eligible Fund asset'' in footnote 4 of Rule 50, in each case, in order to use the correct defined term for Fund/Serv Eligible Fund. NSCC is also proposing to delete ''(as defined in Section 8)'' in footnote 4 of Rule 50 as the definition of Fund/Serv Eligible Fund asset is not contained in Section 8.

(c) Implementation Timeframe

NSCC expects to implement the proposed rule changes on February 21, 2020. As proposed, a legend would be added to Rule 50 stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include February 21, 2020, as the date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from Rule 50.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[28] NSCC believes that each of the proposed rule changes set forth above are consistent with this provision.

First, providing for a right of a Receiving Member to accelerate a transfer and to shorten its review period after it has agreed to accept assets and no longer needs to review would reduce delays in the transfer cycle by removing unnecessary review time from the process. In addition, reducing the adjustments that Delivering Members can make during an ACATS transfer in accelerated status would further reduce delays caused by such adjustments in a transfer that is in accelerated status. Reducing delays in the transfer cycle is consistent with the industry initiative to reduce the ACATS settlement cycle and to streamline the ACATS process and would bring greater efficiencies to the account transfer process.

Second, providing that Reclaims of assets may be initiated for transfers where a non-Member participant is a party to the delivery would allow ACATS participants to initiate Reclaims using ACATS for deliveries where a DTC participant is a party. Allowing such Reclaims to be processed through the automated ACATS system would be a more streamlined method of processing the delivery of such assets as opposed to manually delivering such assets not using ACATS and as such would bring greater efficiencies to the account transfer process.

Third, adding a provision allowing Receiving Members to delete Fund/Serv Eligible Fund assets upon transfer requests for Residual Credits and Partial Accounts would align such rights with the rights Receiving Members have to delete such assets in full account transfers. In addition, the ability to delete such assets would make the process more efficient by allowing Receiving Members to make such deletions in the ACATS system rather than having to reject such transfer requests, requiring the Delivering Member to either resend another transfer request through ACATS or to manually transfer assets without such mutual fund products not using ACATS. As such, allowing Receiving Members to delete Fund/Serv Eligible Fund assets upon transfer requests for Residual Credits and Partial Accounts would bring greater efficiencies to the account transfer process.

Therefore, by bringing greater efficiencies to the account transfer process as set forth above, NSCC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the

[26] Clause 2, Section 12 of Rule 50, *supra* note 5.

[27] *See supra* note 19.

[28] 15 U.S.C. 78q–1(b)(3)(F).

requirements of the Act, in particular Section 17A(b)(3)(F) of the Act.[29]

The clarification changes set forth in II(A)(i)(b)(iv) above are also consistent with this provision because the proposed clarification changes would enhance clarity and transparency for participants with respect to services offered by NSCC allowing ACATS participants to have a better understanding of the Rules relating to ACATS and the customer account transfer process. Having clear and accurate Rules would help Members to better understand their rights and obligations regarding NSCC's clearance and settlement services. NSCC believes that when Members better understand their rights and obligations regarding NSCC's services, they can act in accordance with the Rules. NSCC believes that better enabling Members to comply with the Rules would promote the prompt and accurate clearance and settlement of securities transactions by NSCC consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act.[30]

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have any adverse impact, or impose any burden, on competition. NSCC believes that the proposed changes set forth in II(A)(1)(b)(i)–(iii) above would bring greater efficiencies to the account transfer process as discussed above consistent with the industry initiatives to streamline ACATS and would promote competition by allowing ACATS participants to process account transfers in a faster, more efficient manner. Allowing ACATS participants to process account transfers in a more efficient manner would result in client assets being transferred to the appropriate Members and DTC participants more quickly. NSCC believes that reducing the time it takes to transfer account assets to the appropriate Member or DTC participant using ACATS would allow the Members' or DTC participants' respective clients to transfer securities in their transferred accounts more quickly, promoting the ability to trade such securities and therefore promoting competition in the marketplace.

NSCC does not believe that the proposed clarification changes set forth in II(A)(1)(b)(iv) above would have any impact on competition because such changes are clarifications of the Rules which would improve the Member's understanding of the Rules and would not otherwise affect the rights or obligations of NSCC Members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

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)[31] of the Act and paragraph (f)[32] of Rule 19b 4 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.

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–NSCC–2020–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2020–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2020–001 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02185 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88102; File No. SR–CboeEDGA–2020–003]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change Relating To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contain the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

January 30, 2020.

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 January 22, 2020, Cboe EDGA Exchange, Inc.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''Cboe EDGA'') proposes to amend certain Rules within Rules 4.5 through 4.16, which contain the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, 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 this proposed rule change is to amend the Consolidated Audit Trail (''CAT'') Compliance Rule in Rules 4.5 through 4.16 to be consistent with certain proposed amendments to and exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Revise data reporting requirements for the Firm Designated ID;
- Add additional data elements to the CAT reporting requirements for Industry Members to facilitate the retirement of the Financial Industry Regulatory Authority, Inc.'s (''FINRA'') Order Audit Trail System (''OATS'');
- Add additional data elements related to OTC Equity Securities that FINRA currently receives from ATSs that trade OTC Equity Securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members;
- Implement a phased approach for Industry Member reporting to the CAT (''Phased Reporting'');
- Revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information will be available from FINRA's trade reports submitted to the CAT;
- To the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, revise the timestamp granularity requirement to require such Industry Member to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds;
- Revise the reporting requirements to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT; and
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

(1) Firm Designated ID

The Participants filed with the Commission a proposed amendment to the CAT NMS Plan to amend the requirements for Firm Designated IDs in two ways: (1) To prohibit the use of account numbers as Firm Designated IDs for trading accounts that are not proprietary accounts; and (2) to require that the Firm Designated ID for a trading account be persistent over time for each Industry Member so that a single account may be tracked across time within a single Industry Member.[4] As a result, the Exchange proposes to amend the definition of ''Firm Designated ID'' in Rule 4.5 to reflect the changes to the CAT NMS Plan regarding the requirements for Firm Designated IDs. Rule 4.5(r) (previously Rule 4.5(q)) defines the term ''Firm Designated ID'' to mean ''a unique identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member for each business date.''

The Exchange proposes to amend the definition of a ''Firm Designated ID'' in proposed Rule 4.5(r) to provide that Industry Members may not use account numbers as the Firm Designated ID for trading accounts that are not proprietary accounts. Specifically, the Participants propose to add the following to the definition of a Firm Designated ID: ''provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account.''

In addition, the Exchange proposes to amend the definition a ''Firm Designated ID'' in proposed Rule 4.5(r) to require a Firm Designated ID assigned by an Industry Member to a trading account to be persistent over time, not for each business day.[5] To effect this change, the Exchange proposes to amend the definition of ''Firm Designated ID'' in proposed Rule 4.5(r) to add ''and persistent'' after ''unique'' and delete ''for each business date'' so that the definition of ''Firm Designated ID'' would read, in relevant part, as follows:

> a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member. . . .

(2) CAT–OATS Data Gaps

The Participants have worked to identify gaps between data reported to existing systems and data to be reported to the CAT to ''ensure that by the time Industry Members are required to report to the CAT, the CAT will include all

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (Nov. 20, 2019).

[5] If an Industry Member assigns a new account number or entity identifier to a client or customer due to a merger, acquisition or some other corporate action, then the Industry Member should create a new Firm Designated ID to identify the new account identifier/entity identifier in use at the Industry Member for the entity.

data elements necessary to facilitate the rapid retirement of duplicative systems.'' [6] As a result of this process, the Participants identified several data elements that must be included in the CAT reporting requirements before existing systems can be retired. In particular, the Participants identified certain data elements that are required by OATS, but not currently enumerated in the CAT NMS Plan. Accordingly, the Exchange proposes to amend its Compliance Rule to include these OATS data elements in the CAT. Each of such OATS data elements are discussed below. The addition of these OATS data elements to the CAT will facilitate the retirement of OATS.

(A) Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members6 [7] to record the identification of information barriers for certain order events, including when an order is received or originated, transmitted to a department within the OATS Reporting Member, and when it is modified. The Participants propose to amend the CAT NMS Plan to incorporate these requirements into the CAT.

Specifically, FINRA Rule 7440(b)(20) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.'' [8] The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member where the order was received or originated.''

In addition, FINRA Rule 7440(c)(1) states that ''[w]hen a Reporting Member transmits an order to a department within the member, the Reporting Member shall record: . . . (H) if the member is relying on the exception provided in Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted.'' The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to revise paragraph (a)(1)(B)(vi) of Rule 4.7 to require, for the routing of an order, if routed internally at the Industry Member, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member to which the order was transmitted.''

FINRA Rule 7440(c)(2)(B) and 7440(c)(4)(B) require an OATS Reporting Member that receives an order transmitted from another member to report the unique identification of any appropriate information barriers in place at the department within the member to which the order was transmitted. The Compliance Rule not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(C)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received the order.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification to the terms of an order to report the unique identification of any appropriate information barriers in place at the department within the member to which the modification was originated or received. The Compliance Rule does not require Industry Members to report such information barrier information. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(vii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''the unique identification of any appropriate information barriers in place at the department within the Industry Member which received or originated the modification.''

(B) Reporting Requirements for ATSs

Under FINRA Rule 4554, ATSs that receive orders in NMS stocks are required to report certain order information to OATS, which FINRA uses to reconstruct ATS order books and perform order-based surveillance, including layering, spoofing, and mid-point pricing manipulation surveillance.[9] The Participants believe that Industry Members operating ATSs—whether such ATS trades NMS stocks or OTC Equity Securities—should likewise be required to report this information to the CAT. Because ATSs that trade NMS stocks are already recording this information and reporting it to OATS, the Participants believe that reporting the same information to the CAT should impose little burden on these ATSs. Moreover, including this information in the CAT is also necessary for FINRA to be able to retire the OATS system. The Participants similarly believe that obtaining the same information from ATSs that trade OTC Equity Securities will be important for purposes of reconstructing ATS order books and surveillance. Accordingly, the Exchange proposes to add to the data reporting requirements in the Compliance Rule the reporting requirements for alternative trading systems (''ATSs'') in FINRA Rule 4554,[10] but to expand such requirements so that they are applicable to all ATSs rather than solely to ATSs that trade NMS stocks.

(i) New Definition

The Exchange proposes to add a definition of ''ATS'' to new paragraph (d) in Rule 4.5 to facilitate the addition to the Plan of the reporting requirements for ATSs set forth in FINRA Rule 4554. The Exchange proposes to define an ''ATS'' to mean ''an alternative trading system, as defined in Rule 300(a)(1) of Regulation ATS under the Exchange Act.''

(ii) ATS Order Type

FINRA Rule 4554(b)(5) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

[6] Letter from Participants to Brent J. Fields, Secretary, SEC, re: File Number 4–698; Notice of Filing of the National Market System Plan Governing the Consolidated Audit Trail (September 23, 2016) at 21 (''Participants' Response to Comments'') (available at *https://www.sec.gov/comments/4-698/4698-32.pdf*).

[7] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[8] FINRA Rule 5320 prohibits trading ahead of customer orders.

[9] *See* FINRA *Regulatory Notice* 16–28 (Nov. 2016).

[10] FINRA Rule 4554 was approved by the SEC on May 10, 2016, while the CAT NMS Plan was pending with the Commission. *See* Securities Exchange Act Release No. 77798 (May 10, 2016), 81 FR 30395 (May 16, 2016) (Order Approving SR–FINRA–2016–010). As noted in the Participants' Response to Comments, throughout the process of developing the Plan, the Participants worked to keep the gap analyses for OATS, electronic blue sheets, and the CAT up-to-date, which included adding data fields related to the tick size pilot and ATS order book amendments to the OATS rules. *See* Participants' Response to Comments at 21. However, due to the timing of the expiration of the tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

A unique identifier for each order type offered by the ATS. An ATS must provide FINRA with (i) a list of all of its order types 20 days before such order types become effective and (ii) any changes to its order types 20 days before such changes become effective. An identifier shall not be required for market and limit orders that have no other special handling instructions.

The Compliance Rule does not require Industry Members to report such order type information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: Paragraphs (a)(1)(A)(xi)(a), (a)(1)(C)(x)(a), (a)(1)(D)(ix)(a) and (a)(2)(D) of Rule 4.7.

Proposed paragraph (a)(1)(A)(xi)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the original receipt or origination of an order ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(C)(x)(a) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository for the receipt of an order that has been routed ''the ATS's unique identifier for the order type of the order.'' Proposed paragraph (a)(1)(D)(ix)(a) of Rule 4.7would require an Industry Member that operates an ATS to record and report to the Central Repository if the order is modified or cancelled ''the ATS's unique identifier for the order type of the order.'' Furthermore, proposed paragraph (a)(2)(D) of Rule 4.7 would state that:

An Industry Member that operates an ATS must provide to the Central Repository:

(1) A list of all of its order types twenty (20) days before such order types become effective; and

(2) any changes to its order types twenty (20) days before such changes become effective.

An identifier shall not be required for market and limit orders that have no other special handling instructions.

(iii) National Best Bid and Offer

FINRA Rules 4554(b)(6) and (7) require the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

(6) The NBBO (or relevant reference price) in effect at the time of order receipt and the timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(7) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (6). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, FINRA Rule 4554(c) requires the following information to be recorded and reported to FINRA by ATSs when reporting the execution of an order to OATS:

(1) The NBBO (or relevant reference price) in effect at the time of order execution;

(2) The timestamp of when the ATS recorded the effective NBBO (or relevant reference price); and

(3) Identification of the market data feed used by the ATS to record the NBBO (or other reference price) for purposes of subparagraph (1). If for any reason, the ATS uses an alternative feed than what was reported on its ATS data submission, the ATS must notify FINRA of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

The Compliance Rule does not require Industry Members to report such NBBO information to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate these requirements into four new provisions to the Compliance Rule: (a)(1)(A)(xi)(b) to (c), (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(a) to (b) of Rule 4.7.

Specifically, proposed paragraph (a)(1)(A)(xi)(b) to (c) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the following information when reporting the original receipt or origination of order:

(b) the National Best Bid and National Best Offer (or relevant reference price) at the time of order receipt or origination, and the date and time at which the ATS recorded such National Best Bid and National Best Offer (or relevant reference price);

(c) the identification of the market data feed used by the ATS to record the National Best Bid and National Best Offer (or relevant reference price) for purposes of subparagraph (xi)(b). If for any reason the ATS uses an alternative market data feed than what was reported on its ATS data submission, the ATS must provide notice to the Central Repository of the fact that an alternative source was used, identify the alternative source, and specify the date(s), time(s) and securities for which the alternative source was used.

Similarly, proposed paragraphs (a)(1)(C)(x)(b) to (c), (a)(1)(D)(ix)(b) to (c) and (a)(1)(E)(viii)(a) to (b) of Rule 4.7 would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed, when reporting if the order is modified or cancelled, and when an order has been executed, respectively.

(iv) Sequence Numbers

FINRA Rule 4554(d) states that ''[f]or all OATS-reportable event types, all ATSs must record and report to FINRA the sequence number assigned to the order event by the ATS's matching engine.'' The Compliance Rule does not require Industry Members to report ATS sequence numbers to the Central Repository. To address this OATS–CAT data gap, the Exchange proposes to incorporate this requirement regarding ATS sequence numbers into each of the Reportable Events for the CAT. Specifically, the Exchange proposes to add new paragraph (a)(1)(A)(ix)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt or origination of the order by the ATS's matching engine.'' The Exchange proposes to add new paragraph (a)(1)(B)(viii) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the routing of the order by the ATS's matching engine.'' The Exchange also proposes to add new paragraph (a)(1)(C)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the receipt of the order by the ATS's matching engine.'' In addition, the Exchange proposes to add new paragraph (a)(1)(D)(x)(d) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the modification or cancellation of the order by the ATS's matching engine.'' Finally, the Exchange proposes to add new paragraph (a)(1)(E)(viii)(c) to Rule 4.7, which would require an Industry Member that operates an ATS to record and report to the Central Repository ''the sequence number assigned to the execution of the order by the ATS's matching engine.''

(v) Modification or Cancellation of Orders by ATSs

FINRA Rule 4554(f) states that ''[f]or an ATS that displays subscriber orders, each time the ATS's matching engine re-prices a displayed order or changes the display quantity of a displayed order, the ATS must report to OATS the time of such modification,'' and ''the applicable new display price or size.'' The Exchange proposes adding a comparable requirement into new

paragraph (a)(1)(D)(ix)(e) to Rule 4.7. Specifically, proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would require an Industry Member that operates an ATS to report to the Central Repository, if the order is modified or cancelled, ''each time the ATS's matching engine re-prices an order or changes the display quantity of an order,'' the ATS must report to the Central Repository ''the time of such modification, and the applicable new price or size.'' Proposed new paragraph (a)(1)(D)(ix)(e) of Rule 4.7 would apply to all ATSs, not just ATSs that display orders.

(vi) Display of Subscriber Orders

FINRA Rule 4554(b)(1) requires the following information to be recorded and reported to FINRA by ATSs when reporting receipt of an order to OATS:

> whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data);

The Compliance Rule does not require Industry Members to report to the CAT such information about the displaying of subscriber orders. The Exchange proposes to add comparable requirements into new paragraphs (a)(1)(A)(xi)(e) and (a)(1)(C)(x)(e) of Rule 4.7. Specifically, proposed new paragraph (a)(1)(A)(xi)(e) would require an Industry Member that operates an ATS to report to the Central Repository, for the original receipt or origination of an order,

> whether the ATS displays subscriber orders outside the ATS (other than to alternative trading system employees). If an ATS does display subscriber orders outside the ATS (other than to alternative trading system employees), indicate whether the order is displayed to subscribers only or through publicly disseminated quotation data.

Similarly, proposed new paragraph (a)(1)(C)(x)(e) would require an Industry Member that operates an ATS to record and report to the Central Repository the same information when reporting receipt of an order that has been routed.

(C) Customer Instruction Flag

FINRA Rule 7440(b)(14) requires a FINRA OATS Reporting Member to record the following when an order is received or originated: ''any request by a customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Compliance Rule does not require Industry Members to report to the CAT such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for original receipt or origination of an order, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.'' The Exchange also proposes to add new paragraph (a)(1)(C)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, for the receipt of an order that has been routed, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

FINRA Rule 7440(d)(1) requires an OATS Reporting Member that modifies or receives a modification of an order to report the customer instruction flag. The Compliance Rule does not require Industry Members to report such a customer instruction flag. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(D)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository, if the order is modified or cancelled, ''any request by a Customer that a limit order not be displayed, or that a block size limit order be displayed, pursuant to applicable rules.''

(D) Department Type

FINRA Rules 7440(b)(4) and (5) require an OATS Reporting Member that receives or originates an order to record the following information: ''the identification of any department or the identification number of any terminal where an order is received directly from a customer'' and ''where the order is originated by a Reporting Member, the identification of the department of the member that originates the order.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the department or terminal where the order is received or originated. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(ix) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the nature of the department or desk that originated the order, or received the order from a Customer.''

Similarly, per FINRA Rules 7440(c)(2)(B) and (4)(B), when an OATS Reporting Member receives an order that has been transmitted by another Member, the receiving OATS Reporting Member is required to record the information required in 7440(b)(4) and (5) described above as applicable. The Compliance Rule does not require Industry Members to report to the CAT information regarding the department that received an order. To address this OATS–CAT data gap, the Exchange propose to add new paragraph (a)(1)(C)(viii) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the receipt of an order that has been routed ''the nature of the department or desk that received the order.''

(E) Account Holder Type

FINRA Rule 7440(b)(18) requires an OATS Reporting Member that receives or originates an order to record the following information: ''the type of account, *i.e.,* retail, wholesale, employee, proprietary, or any other type of account designated by FINRA, for which the order is submitted.'' The Compliance Rule does not require Industry Members to report to the CAT information regarding the type of account holder for which the order is submitted. To address this OATS–CAT data gap, the Exchange proposes to add new paragraph (a)(1)(A)(x) to Rule 4.7, which would require Industry Members to record and report to the Central Repository upon the original receipt or origination of an order ''the type of account holder for which the order is submitted.''

(3) Firm Designated ID

The Participants have identified several data elements related to OTC Equity Securities that FINRA currently receive from ATSs that trade OTC Equity Securities for regulatory oversight purposes, but are not currently included in CAT Data. In particular, the Participants identified three data elements that need to be added to the CAT: (1) Bids and offers for OTC Equity Securities; (2) a flag indicating whether a quote in OTC Equity Securities is solicited or unsolicited; and (3) unpriced bids and offers in OTC Equity Securities. The Participants believe that such data will continue to be important for regulators to oversee the OTC Equity Securities market when using the CAT. Moreover, the Participants do not believe that the proposed requirement would burden ATSs because they currently report this information to FINRA and thus the reporting requirement would merely shift from FINRA to the CAT. Accordingly, as discussed below, the Exchange proposes to amend its Compliance Rule to include these data elements.

(A) Bids and Offers for OTC Equity Securities

In performing its current regulatory oversight, FINRA receives a data feed of the best bids and offers in OTC Equity Securities from ATSs that trade OTC Equity Securities. These best bid and offer data feeds for OTC Equity Securities are similar to the best bid and offer SIP Data required to be collected by the Central Repository with regard to NMS Securities.[11] Accordingly, the Exchange proposes to add new paragraph (f)(1) to Rule 4.7 to require the reporting of the best bid and offer data feeds for OTC Equity Securities to the CAT. Specifically, proposed new paragraph (f)(1) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the best bid and best offer for each OTC Equity Security traded on such ATS.''

(B) Unsolicited Bid or Offer Flag

FINRA also receives from ATSs that trade OTC Equity Securities an indication whether each bid or offer in OTC Equity Securities on such ATS was solicited or unsolicited. Therefore, the Exchange proposes to add new paragraph (f)(2) to Rule 4.7 to require the reporting to the CAT of an indication as to whether a bid or offer was solicited or unsolicited. Specifically, proposed new paragraph (f)(2) of Rule 4.7 would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''an indication of whether each bid and offer for OTC Equity Securities was solicited or unsolicited.''

(C) Unpriced Bids and Offers

FINRA receives from ATSs that trade OTC Equity Securities certain unpriced bids and offers for each OTC Equity Security traded on the ATS. Therefore, the Exchange proposes to add new paragraph (f)(3) to Rule 4.7, which would require each Industry Member that operates an ATS that trades OTC Equity Securities to provide to the Central Repository ''the unpriced bids and offers for each OTC Equity Security traded on such ATS.

(4) Revised Industry Member Reporting Timeline

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of phased reporting to the CAT by Industry Members (''Phased Reporting''). Specifically, in their exemptive request, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) for each Participant, through its Compliance Rule, to require its Large Industry Members to report to the Central Repository Industry Member Data within two years of the Effective Date (that is, by November 15, 2018). In addition, the Participants request that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) for each Participant, through its Compliance Rule, to require its Small Industry Members to report to the Central Repository Industry Member Data within three years of the Effective Date (that is, by November 15, 2019). Correspondingly, the Participants request that the SEC provide an exemption from the requirement in Section 6.4 that ''[t]he requirements for Industry Members under this Section 6.4 shall become effective on the second anniversary of the Effective Date in the case of Industry Members other than Small Industry Members, or the third anniversary of the Effective Date in the case of Small Industry Members.''

As a condition to these proposed exemptions, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by April 20, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by May 18, 2020, and its Small Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by December 13, 2021;

(3) its Large Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by April 26, 2021, and its Small Industry Members to commence reporting to the Central Repository Phase 2c Industry Member Data by December 13, 2021;

(4) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2d Industry Member Data by December 13, 2021; and

(5) its Large Industry Members and Small Industry Members to commence reporting to the Central Repository Phase 2e Industry Member Data by July 11, 2022.

The full scope of CAT Data will be required to be reported when all five phases of the Phased Reporting have been implemented.

As a further condition to these exemptions, each Participant proposes to implement the testing timelines, described in Section F below, through its Compliance Rule by requiring the following:

(1) Industry Member file submission and data integrity testing for Phases 2a and 2b begins in December 2019.

(2) Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, begins in February 2020.

(3) The Industry Member test environment will be open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.

(4) The Industry Member test environment will be open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.

(5) The Industry Member test environment will be open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.

(6) The Industry Member test environment will be open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.

(7) Participant exchanges that support options market making quoting will begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.

(8) The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.

As a result, the Exchange proposes to amend its Compliance Rule to be consistent with the proposed exemptive relief to implement Phased Reporting as described below.

(A) Phase 2a

In the first phase of Phased Reporting, referred to as Phase 2a, Large Industry Members and Small Industry OATS Reporters would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by April 20, 2020.[12] To implement the Phased Reporting for Phase 2a, the Exchange

[11] Section 6.5(a)(ii) of the CAT NMS Plan.

[12] Small Industry Members that are not required to record and report information to FINRA's OATS pursuant to applicable SRO rules (''Small Industry Non-OATS Reporters'') would be required to report to the Central Repository ''Phase 2a Industry Member Data'' by December 13, 2021, which is twenty months after Large Industry Members and Small Industry OATS Reporters begin reporting.

proposes to amend paragraph (t) of Rule 4.5 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Reporting in Phase 2a

To implement the Phased Reporting with respect to Phase 2a, the Exchange proposes to add a definition of ''Phase 2a Industry Member Data'' as new paragraph (t)(1) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2a Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2a as set forth in the Technical Specifications.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. The following summarizes categories of Industry Member Data required for Phase 2a; the full requirements are set forth in the Industry Member Technical Specifications.[13]

Phase 2a Industry Member Data would include all events and scenarios covered by OATS. FINRA Rule 7440 describes the OATS requirements for recording information, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions. Large Industry Members and Small Industry OATS Reporters would be required to submit data to the CAT for these same events and scenarios during Phase 2a. The inclusion of all OATS events and scenarios in the CAT is intended to facilitate the retirement of OATS. Phase 2a Industry Member Data also would include Reportable Events for:

- Proprietary orders, including market maker orders, for Eligible Securities that are equities;
- electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF'');
- electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and
- electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member.

Phase 2a Industry Member Data would include Firm Designated IDs. During Phase 2a, Industry Members would be required to report Firm Designated IDs to the CAT, as required by paragraphs (a)(1)(A)(1), and (a)(2)(C) of Rule 4.7. Paragraph (a)(1)(A)(i) of Rule 4.7 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 4.7 requires Industry Members to record and report to the Central Repository, for original receipt and origination of an order, the Firm Designated ID if the order is executed, in whole or in part.

In Phase 2a, Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications. A representative order is an order originated in a firm owned or controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders.

In Phase 2a, Industry Members would be required to report the link between the street side representative order and the order being represented when: (1) The representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system.

Phase 2a Industry Member Data also would include the manual and Electronic Capture Time for Manual Order Events. Specifically, for each Reportable Event in Rule 4.7, Industry Members would be required to provide a timestamp pursuant to Rule 4.10. Rule 4.10(b)(1) states that

> Each Industry Member may record and report Manual Order Events to the Central Repository in increments up to and including one second, provided that each Industry Member shall record and report the time when a Manual Order Event has been captured electronically in an order handling and execution system of such Industry Member (''Electronic Capture Time'') in milliseconds;

Accordingly, for Phase 2a, Industry Members would be required to provide both the manual and Electronic Capture Time for Manual Order Events.[14]

Industry Members would be required to report special handling instructions for the original receipt or origination of an order during Phase 2a. In addition, during Phase 2a, Industry Members will be required to report, when routing an order, whether the order was routed as an intermarket sweep order (''ISO''). Industry Members would be required to report special handling instructions on routes other than ISOs in Phase 2c, rather than in Phase 2a.

In Phase 2a, Industry Members would not be required to report modifications of a previously routed order in certain limited instances. Specifically, if a trader or trading software modifies a previously routed order, the routing firm is not required to report the modification of an order route if the destination to which the order was routed is a CAT Reporter that is required to report the corresponding order activity. If, however, the order was modified by a Customer or other non-CAT Reporter, and subsequently the routing Industry Members sends a modification to the destination to which the order was originally routed, then the routing Industry Member must report the modification of the order route.[15] In addition, in Phase 2a, Industry Members would not be required to report a cancellation of an order received from a Customer after the order has been executed.

(ii) Timing of Phase 2a Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2a for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(A) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: (A) Phase 2a Industry Member Data by April 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2a for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraphs (c)(2)(A) and (B) of Rule 4.16. Proposed new

[13] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c, as discussed below.

[14] Industry Members would be required to provide an Electronic Capture Time following the manual capture time only for new orders that are Manual Order Events and, in certain instances, routes that are Manual Order Events. The Electronic Capture Time would not be required for other Manual Order Events.

[15] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

paragraph (c)(2)(A) of Rule 4.16 would state that

Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: (A) A Small Industry Member that is required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry OATS Reporter'') to report to the Central Repository Phase 2a Industry Member data by April 20, 2020.

Proposed new paragraph (c)(2)(B) of Rule 4.16 would state that ''a Small Industry Member that is not required to record or report information to FINRA's Order Audit Trail System pursuant to applicable SRO rules (''Small Industry Non-OATS Reporter'') to report to the Central Repository Phase 2a Industry Member Data by December 13, 2021.''

(B) Phase 2b

In the second phase of the Phased Reporting, referred to as Phase 2b, Large Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by May 18, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is nineteen months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2b, the Exchange proposes to add new paragraph (t)(2) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2b Reporting

To implement the Phased Reporting with respect to Phase 2b, the Exchange proposes to add a definition of ''Phase 2b Industry Member Data'' as new paragraph (t)(2) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2b Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2b as set forth in the Technical Specifications.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. The following summarizes the categories of Industry Member Data required for Phase 2b; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2b Industry Member Data would include Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders.[16] A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders are also reportable in Phase 2b.

Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by Exchange rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.

(ii) Timing of Phase 2b Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2b for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(B) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (B) Phase 2b Industry Member Data by May 18, 2020.'' Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2b for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository Phase 2b Industry Member Data . . . by December 13, 2021.''

(C) Phase 2c

In the third phase of the Phased Reporting, referred to as Phase 2c, Large Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by April 26, 2021. Small Industry Members would be required to report to the Central Repository ''Phase 2c Industry Member Data'' by December 13, 2021, which is seven months after Large Industry Members begin reporting such data to the Central Repository. To implement the Phased Reporting for Phase 2c, the Exchange proposes to add new paragraph (t)(3) of Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2c Reporting

To implement the Phased Reporting with respect to Phase 2c, the Exchange proposes to add a definition of ''Phase 2c Industry Member Data'' as new paragraph (t)(3) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2e Industry Member Data.'' Phase 2c Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2c. The following summarizes the categories of Industry Member Data required for Phase 2c; the full requirements are set forth in the Industry Member Technical Specifications.

Phase 2c Industry Member Data would include Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an interdealer quotation system operated by a CAT Reporter; (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was

[16] The items required to be reported in Phase 2b do not include the items required to be reported in Phase 2d, as discussed below in Section D.

not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO or short sale exempt, which are required to be reported in Phase 2a); (9) a cancellation of an order received from a Customer after the order has been executed; (10) reporting of large trader identifiers [17] (''LTID'') (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date [18] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; and (12) linkages for representative order scenarios involving agency average price trades, net trades, and aggregated orders. In Phase 2c, for any scenarios that involve orders originated in different systems that are not directly linked, such as a customer order originated in an Order Management System (''OMS'') and represented by a principal order originated in an Execution Management System (''EMS'') that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2c for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) Phase 2c Industry Member Data by April 26, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository, as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2c Industry Member Data . . . by December 13, 2021.''

(D) Phase 2d

In the fourth phase of the Phased Reporting, referred to as Phase 2d, Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2d Industry Member Data'' by December 13, 2021. To implement the Phased Reporting for Phase 2d, the Exchange proposes to add new paragraph (t)(4) to Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.1631.

(i) Scope of Phase 2d Reporting

To implement the Phased Reporting with respect to Phase 2d, the Exchange proposes to add a definition of ''Phase 2d Industry Member Data'' as new paragraph (t)(4) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data or Phase 2e Industry Member Data, and Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.'' [19]

Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d and includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and paired manual orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; [20] and (5) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan. In addition, it includes Industry Member Data related to all Eligible Securities for the modification or cancellation of an internal route of an order.

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 4.16 Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2d for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (D) Phase 2d Industry Member Data by December 13, 2021.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2d for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(C) of Rule 4.16, which would state, in relevant part, that ''Each Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (C) a Small Industry Member to report to the Central Repository . . . Phase 2d Industry Member Data by December 13, 2021.''

(E) Phase 2e

In the fifth phase of Phased Reporting, referred to as Phase 2e, both Large Industry Members and Small Industry Members would be required to report to the Central Repository ''Phase 2e Industry Member Data'' by July 11, 2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add new paragraph (t)(5) to

[17] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan; *see also* Rule 13h–1 under the Exchange Act.

[18] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. The Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[19] The Participants have determined that reporting information regarding the modification or cancellation of a route is necessary to create the full lifecycle of an order. Accordingly, the Participants require the reporting of information related to the modification or cancellation of a route similar to the data required for the routing of an order and modification and cancellation of an order pursuant to Sections 6.3(d)(ii) and (iv) of the CAT NMS Plan.

[20] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 4.5 to replace the references to November 15, 2018 and 2019, the prior implementation dates, with references to the Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2) to (5) of Rule 4.5 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

Rule 4.5 and amend paragraphs (c)(1) and (2) of Rule 4.16.

(i) Scope of Phase 2e Reporting

To implement the Phased Reporting with respect to Phase 2e, the Exchange proposes to add a definition of ''Phase 2e Industry Member Data'' as new paragraph (t)(5) of Rule 4.5. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Customer Account Information and Customer Identifying Information, other than LTIDs, date account opened/Account Effective Date and Firm Designated ID type flag previously reported to the CAT.'' LTIDs and Account Effective Date are both required to be reported in Phases 2c and 2d in certain circumstances, as discussed above. The terms ''Customer Account Information'' and ''Customer Identifying Information'' are defined in Rule 4.5 of the Compliance Rule.[21]

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 4.16, Large Industry Members are required to begin reporting to the CAT by November 15, 2018. To implement the Phased Reporting for Phase 2e for Large Industry Members, the Exchange proposes to replace paragraph (c)(1) of Rule 4.16 with new paragraph (c)(1)(E) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member (other than a Small Industry Member) shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) Phase 2e Industry Member Data by July 11, 2022.''

Pursuant to paragraph (c)(2) of Rule 4.16, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2e for Small Industry Members, the Exchange proposes to replace paragraph (c)(2) of Rule 4.16 with new paragraph (c)(2)(D) of Rule 4.16, which would state, in relevant part, that ''[e]ach Industry Member that is a Small Industry Member shall record and report the Industry Member Data to the Central Repository as follows: . . . (E) a Small Industry Member to report to the Central Repository Phase 2e Industry Member Data by July 11, 2022.''

(F) Industry Member Testing Requirements

Rule 4.13(a) sets forth various compliance dates for the testing and development for connectivity, acceptance and the submission order data. In light of the intent to shift to Phased Reporting in place of the two specified dates for the commencement of reporting for Large and Small Industry Members, the Exchange correspondingly proposes to replace the Industry Member development testing milestones in Rule 4.13(a) with the testing milestones set forth in the proposed request for exemptive relief. Specifically, the Exchange proposes to (8).

Proposed new Rule 4.13(a)(1) would provide that ''Industry Member file submission and data integrity testing for Phases 2a and 2b shall begin in December 2019.'' Proposed new Rule 4.13(a)(2) would provide that ''Industry Member testing of the Reporter Portal, including data integrity error correction tools and data submissions, shall begin in February 2020.'' Proposed new Rule 4.13(a)(3) would provide that ''The Industry Member test environment shall open with intrafirm linkage validations to Industry Members for both Phases 2a and 2b in April 2020.'' Proposed new Rule 4.13(a)(4) would provide that ''The Industry Member test environment shall open to Industry Members with interfirm linkage validations for both Phases 2a and 2b in July 2020.'' Proposed new Rule 4.13(a)(5) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2c functionality (full representative order linkages) in January 2021.'' Proposed new Rule 4.13(a)(6) would provide that ''The Industry Member test environment shall open to Industry Members with Phase 2d functionality (manual options orders, complex options orders, and options allocations) in June 2021.'' Proposed new Rule 4.13(a)(7) would provide that ''Participant exchanges that support options market making quoting shall begin accepting Quote Sent Time on quotes from Industry Members no later than April 2020.'' Finally, proposed new Rule 4.13(a)(8) would provide that ''The Industry Member test environment (customer and account information) will be open to Industry Members in January 2022.''

(5) FINRA Facility Data Linkage

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for an alternative approach to the reporting of clearing numbers and cancelled trade indicators. Under this alternative approach, FINRA would report to the Central Repository data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility (collectively, ''FINRA Facility'') pursuant to applicable SRO rules (''FINRA Facility Data''). Included in this FINRA Facility Data would be the clearing number of the clearing broker in place of the SRO-Assigned Market Participant Identifier of the clearing broker required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan as well as the cancelled trade indicator required to be reported to the Central Repository pursuant to Section 6.4(d)(ii)(B) of the CAT NMS Plan. The process would link the FINRA Facility Data to the related execution reports reported by Industry Members. To implement this approach, the Participants request exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require, through their Compliance Rules, that Industry Members record and report to the Central Repository: (1) If the order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator. As conditions to this exemption, the Participants would require Industry Members to submit a trade report for a trade and, if the trade is cancelled, a cancellation to a FINRA Facility pursuant to applicable SRO rules, and to report the corresponding execution to the Central Repository. In addition, the Participants' Compliance Rules would provide that if an Industry Member does not submit a cancellation to a FINRA Facility, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator if the trade is cancelled. As a result, the Exchange proposes to amend its Compliance Rule to reflect the request for exemptive relief to implement this alternative approach.

Specifically, the Exchange proposes to require Industry Members to report to the CAT with an execution report the unique trade identifier reported to a FINRA facility with the corresponding

[21] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, individual tax payer identification numbers and social security numbers (collectively, ''SSNs''). *See* Rule 4.5. The Participants have requested exemptive relief from the requirements for the Participants to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, SEC, Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019), available at *https://www.catnmsplan.com/wpcontent/uploads/2019/10/CCID-and-PII-Exemptive-Request-Oct-16-2019.pdf*. If this requested relief is granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

trade report. For example, the unique trade identifier for the OTC Reporting Facility and the Alternative Display Facility would be the Compliance ID, for the FINRA/Nasdaq Trade Reporting Facility, it would be the Branch Sequence Number, and for the FINRA/NYSE Trade Reporting Facility, it would the FINRA Compliance Number. This unique trade identifier would be used to link the FINRA Facility Data with the execution report in the CAT. Specifically, the Exchange proposes to add a new paragraph to (a)(2)(E) to Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository:

(i) the Industry Member is required to report to the Central Repository the unique trade identifier reported by the Industry Member to such FINRA facility for the trade when the Industry Member reports the execution of an order pursuant to Rule 4.7(a)(1)(E);

The Exchange also proposes to relieve Industry Members of the obligation to report to the CAT data related to clearing brokers and trade cancellations pursuant to Rules 6.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT. Accordingly, the Exchange proposes new paragraphs (a)(1)(E)(2) and (3) of Rule 4.7, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, and the Industry Member is required to report the corresponding execution to the Central Repository: . . .

(ii) the Industry Member is not required to submit the SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 4.7(a)(2)(A)(ii); and

(iii) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities, OTC Reporting Facility or Alternative Display Facility pursuant to applicable SRO rules, the Industry Member is not required to submit the cancelled trade indicator pursuant to Rule 4.7(a)(2)(B), but is required to submit the time of cancellation to the Central Repository.

(6) Granularity of Timestamps

The Participants intend to file with the Commission a request for exemptive relief from the requirement in Section 6.8(b) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require that, to the extent that its Industry Members utilize timestamps in increments finer than nanoseconds in their order handling or execution systems, such Industry Members utilize such finer increment when reporting CAT Data to the Central Repository. As a condition to this exemption, the Participants, through their Compliance Rules, will require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps, after the nanosecond level for submission to CAT, not round up or down in such circumstances. As a result, the Exchange proposes to amend its Compliance Rule to reflect the proposed exemptive relief.

Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 4.10. Rule 4.10(a)(2) states that

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment

The Exchange proposes to amend this provision by adding the phrase ''up to nanoseconds'' to the end of the provision.

(7) Relationship IDs

The Participants intend to file with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to address circumstances in which an Industry Member uses an established trading relationship for an individual Customer (rather than an account) on the order reported to the CAT. Specifically, in this exemptive relief, the Participants request an exemption from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan for each Participant to require, through its Compliance Rules, its Industry Members to record and report to the Central Repository the account number, the date account opened and account type for the relevant individual Customer. As conditions to this exemption, each Participant would require, through its Compliance Rule, its Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier in lieu of the ''account number;'' (ii) the ''account type'' as a ''relationship;'' and (iii) the Account Effective Date in lieu of the ''date account opened.''

With regard to the third condition, an Account Effective Date would depend upon when the trading relationship was established. When the trading relationship was established prior to the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be either the date the relationship identifier was established within the Industry Member, or the date when trading began (*i.e.,* the date the first order was received) using the relevant relationship identifier. If both dates are available, the earlier date will be used to the extent that the dates differ. When the trading relationship was established on or after the implementation date of the CAT NMS Plan applicable to the relevant Industry Member, the Account Effective Date would be the date the Industry Member established the relationship identifier, which would be no later than the date the first order was received. This definition of the Account Effective Date is the same as the definition of the ''Account Effective Date'' in paragraph (a) of the definition of ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan except it would apply with regard to those circumstances in which an Industry Member has established a trading relationship with an individual, instead of an institution. Such exemptive relief would be the same as the SEC provided with regard to institutions in its 2016 Exemptive Order granting exemptions from certain provisions of Rule 613 under the Exchange Act.[22]

As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Specifically, the Exchange proposes to amend paragraphs (a)(1) and paragraph (m) (previously (l)) of Rule 4.5. The definition of Customer Account Information in Rule 4.5(m) states that in those circumstances in which an Industry Member has established a trading relationship with an institution but has not established an account with that institution, the Industry Member will provide the Account Effective Date in lieu of the ''date account opened'', provide the relationship identifier in lieu of the ''account number''; and identify the ''account type'' as ''relationship.'' The Exchange proposes to extend this provision to apply to trading relationships with individuals as well as institutions. Specifically, the Exchange proposes to revise paragraph (m)(1) (previously (l)(1)) of Rule 4.5 to state the following:

(1) in those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual, the Industry Member will: (A) Provide the Account Effective Date in lieu of the ''date account opened''; (B) provide the

[22] 2016 Exemptive Order at 11861–11862.

relationship identifier in lieu of the ''account number''; and (C) identify the ''account type'' as a ''relationship'' . . .

Similarly, the Exchange proposes to amend the definition of ''Account Effective Date'' as set forth in Rule 4.5(a) to apply to circumstances in which an Industry Member has established a trading relationship with an individual in addition to institutions. Specifically, the Exchange proposes to revise the introductory paragraph of subparagraph(a)(1) of Rule 4.5 to state ''with regard to those circumstances in which an Industry Member has established a trading relationship with an institution or an individual but has not established an account with that institution or individual . . . .''

(8) CCID/PII

On October 16, 2019, the Participants filed with the Commission a request for exemptive relief from certain requirements related to SSNs, dates of birth and account numbers for individuals in the CAT NMS Plan.[23] Specifically, to implement the CCID Alternative and the Modified PII Approach, the Participants requested exemptive relief from the requirement in Section 6.4(d)(ii)(C) of the CAT NMS Plan to require, through their Compliance Rules, Industry Members to record and report to the Central Repository for the original receipt of an order SSNs, dates of birth and account numbers for individuals. As a result, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief request. Exchange Rule 4.7(a)(2)(C) states that

> [s]ubject to paragraph (3) below, each Industry Member shall record and report to the Central Repository the following, as applicable (''Received Industry Member Data'' and collectively with the information referred to in Rule 4.7(a)(1) ''Industry Member Data'')) in the manner prescribed by the Operating Committee pursuant to the CAT NMS Plan: . . . (C) for original receipt or origination of an order, the Firm Designated ID for the relevant Customer, and in accordance with Rule 4.8, Customer Account Information and Customer Identifying Information for the relevant Customer.

Rule 4.5(n)(1) (previously Rule 4.5(m)(1)), in turn, defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'') . . .'' In addition, Rule 4.5(m)(1) (previously Rule 4.5(l)(1)) defines ''Customer Account Information'' to include account numbers for individuals. Accordingly, the Exchange proposes to delete ''date of birth, individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from the definition of ''Customer Identifying Information'' in Rule 4.5(n)(1) (previously Rule 4.5(m)(1)) and to delete account numbers for individuals from the definition of ''Customer Account Information'' in Rule 4.5(m)(1) (previously Rule 4.5(l)(1)). The Exchange proposes to amend the definition of ''Customer Account Information'' to include only account numbers other than for individuals. With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals pursuant to Rule 4.5(a)(2)(C).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[24] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[25] requirements that the rules of an 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[26] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that this proposal is consistent with the Act because it is consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, because it facilitates the retirement of certain existing regulatory systems, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the Commission 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.''[27] To the extent that this proposal implements the Plan, including the proposed amendments and exemptive relief, 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.

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 Exchange notes that the proposed rule changes are consistent with certain proposed amendments to and exemptions from the CAT NMS Plan, facilitate the retirement of certain existing regulatory systems, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the amendments to the Compliance Rule will apply equally to all Industry Members that trade NMS Securities and OTC Equity Securities. In addition, all national securities exchanges and FINRA are proposing these amendments to their Compliance Rules. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which

[23] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Oct. 16, 2019).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *Id.*

[27] Approval Order at 84697.

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–CboeEDGA–2020–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGA–2020–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGA–2020–003 and should be submitted on or before February 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–02187 Filed 2–4–20; 8:45 am]

BILLING CODE 8011–01–P

[28] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60 Day Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before April 6, 2020.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections to Daniel Upham, Chief, Microenterprise Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Daniel Upham, Chief, Microenterprise Development Division, (202) 205–7001, *Daniel.upham@sba.gov,* or Curtis B. Rich, Management Analyst, (202) 205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This revised information collection is submitted to SBA by lenders that are applying for participation in SBA's Community Advantage Pilot Program. SBA uses the information to evaluate the lenders eligibility and qualifications for participation in the pilot program.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Title: ''Community Advantage Lender Participation Application''.

Description of Respondents: SBA Lenders.

Form Number: 2301.

Annual Responses: 29.

Annual Burden: 203.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–02218 Filed 2–4–20; 8:45 am]

BILLING CODE P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2020–0003]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2020–0003].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than April 6, 2020. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Request for Corrections of Earnings Record—20 CFR 404.820 and 20 CFR 422.125—0960–0029.* Individuals alleging inaccurate earnings records in SSA's files use paper Form SSA–7008, or a personal interview during which SSA employees key their answers into our electronic Earnings Modernization Item Correction system, to provide the information SSA needs to check earnings posted, and, as necessary, initiate development to resolve any inaccuracies. The respondents are individuals who request correction of earnings posted to their Social Security earnings record. Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total Annual opportunity cost (dollars) **
SSA–7008	28,734	1	28	13,409	* 22.50	** 301,703
In-person or telephone interview	337,500	1	10	56,250	* 22.50	** 1,265,625
Totals	366,234			69,659		** 1,567,328

* We based this figure on average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Application for a Social Security Number Card, the Social Security Number Application Process (SSNAP), and internet SSN Replacement Card (iSSNRC) Application—20 CFR 422.103—422.110—0960–0066.* SSA collects information on the SS–5 (used in the United States) and SS–5–FS (used outside the United States) to issue original or replacement Social Security cards. SSA also enters the application data into the SSNAP application when issuing a card via telephone or in person. In addition, hospitals collect the same information on SSA's behalf for newborn children through the Enumeration-at-Birth process. In this process, parents of newborns provide hospital birth registration clerks with information required to register these newborns. Hospitals send this information to State Bureaus of Vital Statistics (BVS), and they send the information to SSA's National Computer Center. SSA then uploads the data to the SSA mainframe along with all other enumeration data, and we assign the newborn a Social Security number (SSN) and issue a Social Security card. Respondents can also use these modalities to request a change in their SSN records. In addition, the iSSNRC internet application collects information similar to the paper SS–5 for no-change replacement SSN cards for adult U.S. citizens. The iSSNRC modality allows certain applicants for SSN replacement cards to complete the internet application and submit the required evidence online rather than completing a paper Form SS–5. Finally, the new Online Social Security Number Application Process (oSSNAP) collects information similar to the paper SS–5 for no change, with the exception of name change, replacement SSN cards for U.S Citizens (adult and minor children). oSSNAP will allow certain applicants for SSN replacement cards to start the application process on-line, receive a list of evidentiary documents, and then submit the application data to SSA for further processing by SSA employees. Applicants will need to visit a local SSA office to complete the application process. The respondents for this collection are applicants for original and replacement Social Security cards, or individuals who wish to change information in their SSN records, who use any of the modalities described above.

Type of Request: Revision of an OMB-approved information collection.

Application scenario	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Respondents who do not have to provide parents' SSNs	7,380,000	1	9	1,107,000	* 22.50	** 24,907,500
Adult U.S. Citizens requesting a replacement card with no changes through the iSSNRC modality	1,350,000	1	5	112,500	* 22.50	** 2,531,250
Adult U.S. Citizens providing information to receive a replacement card through the oSSNAP modality ***	3,500,000	1	5	291,667	* 22.50	** 6,562,508
Respondents whom we ask to provide parents' SSNs (when applying for original SSN cards for children under age 12)	190,000	1	9	28,500	* 22.50	** 641,250
Applicants age 12 or older who need to answer additional questions so SSA can determine whether we previously assigned an SSN	910,000	1	10	151,667	* 22.50	** 3,412,508
Applicants asking for a replacement SSN card beyond the allowable limits (i.e., who must provide additional documentation to accompany the application)	7,250	1	60	7,250	* 22.50	** 163,125

Application scenario	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Authorization to SSA to obtain personal information cover letter	500	1	15	125	* 22.50	** 2,813
Authorization to SSA to obtain personal information follow-up cover letter	500	1	15	125	* 22.50	** 2,813
Totals	13,338,250			1,698,834		** 38,223,767

* We based this figure on average U.S. worker's hourly wages (based on *BLS.gov* data).
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*
*** The number of respondents for this modality is an estimate based on google analytics data for the SS–5 form downloads from *SSA.Gov.*

3. *Petition for Authorization to Charge and Collect a Fee for Services Before the Social Security Administration—20 CFR 404.1720—404.1730; 20 CFR 416.1520—416.1530—0960–0104.* A Social Security claimant's representative, whether an attorney or a non-attorney, uses Form SSA–1560 to petition SSA for authorization to charge and collect a fee for their services as a representative. In addition, the representatives indicate on the form if they have been disbarred or suspended from a court or bar to which they were previously admitted to practice as an attorney; or if they have been disqualified from appearing before a Federal program or agency. SSA must authorize a fee to the representative, if the representative requests to be paid from the expected past-due benefits of the claimant. The representative submits the SSA–1560 after a claim decision, or any time when the representation is terminated, to request authorization to charge and collect a fee under the fee petition process. Since this information is mandated by regulation, the form is mandatory for the representative to obtain authorization to charge and collect a fee. SSA collects the information on a claim-by-claim basis, if the individual representatives decide to use this option to receive authorization of a fee, and representatives must submit the documentation once per claim. SSA employees then evaluate and process the request for authorization of a fee. The respondents are representatives who use this form to request a fee via the fee petition process.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–1560	24,153	1	30	12,077	* 72.21	** 872,080

* We based this figure on average lawyer's salary (*https://www.bls.gov/oes/current/oes231011.htm*).
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Development of Participation in a Vocational Rehabilitation or Similar Program—20 CFR 404.316(c), 404.337(c), 404.352(d), 404.1586(g), 404.1596, 404.1597(a), 404.327, 404.328, 416.1321(d), 416.1331(a)–(b), and 416.1338, 416.1402–0960–0282.* State Disability Determination Services (DDS) determine if Social Security disability payment recipients whose disability ceased and who participate in vocational rehabilitation programs may continue to receive disability payments. To do this, DDSs need information about the recipients; the types of program participation; and the services they receive under the rehabilitation program. SSA uses Form SSA–4290 to collect this information. The respondents are State employment networks, vocational rehabilitation agencies, or other providers of educational or job training services.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–4290–F5	3,000	1	15	750	* 17.22	** 12,915

* We based this figure on average Social and Human Service Assistant's hourly salary, as reported by Bureau of Labor Statistics data.
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: January 30, 2020.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2020–02176 Filed 2–4–20; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: In September of 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated a product exclusion process in June 2019, and interested persons have submitted requests for the exclusion of specific products. This notice announces the U.S. Trade Representative's determination to grant certain exclusion requests, as specified in the Annex to this notice, and corrects technical errors in previously announced exclusions.

DATES: The product exclusions announced in this notice will apply as of September 24, 2018, the effective date of the $200 billion action, to August 7, 2020. The amendments announced in this notice are retroactive to the date the original exclusions were published.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FRN 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), and 85 FR 549 (January 6, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. *See* 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $200 billion action from the additional duties. *See* 84 FR 29576 (the June 24 notice).

Under the June 24 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit subheading covered by the $200 billion action. Requestors also had to provide the 10-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors were asked to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product is available only from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

The June 24 notice stated that the U.S. Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The June 24 notice required submission of requests for exclusion from the $200 billion action no later than September 30, 2019, and noted that the U.S. Trade Representative would periodically announce decisions. In August 2019, the U.S. Trade Representative granted an initial set of exclusion requests. *See* 84 FR 38717. The U.S. Trade Representative granted additional exclusions in September 2019, October 2019, November 2019, December 2019, and January 2020. *See* 84 FR 49591, 84 FR 57803, 84 FR 61674, 84 FR 65882, 84 FR 69012, 85 FR 549. The Office of the United States Trade Representative (USTR) regularly updates the status of each pending request on the USTR Exclusions Portal at *https://exclusions.ustr.gov/s/docket?docketNumber=USTR-2019-0005*.

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set forth in the June 24 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to grant the product exclusions set forth in the Annex to this notice. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests.

As set forth in the Annex, the exclusions are reflected in 2 10-digit HTSUS subheadings, which cover 52 requests, and 117 specially prepared product descriptions, which cover 156 separate exclusion requests.

In accordance with the June 24 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the product descriptions in the Annex, and not by the product descriptions found in any particular request for exclusion.

Subparagraphs A(3–7) of the Annex contain conforming amendments to the HTSUS reflecting the modifications made by the Annex. Paragraph B of the Annex contains amendments reflecting technical corrections to the specially prepared product descriptions in certain notes to the HTSUS, specifically U.S.

note 20(ll)(26), published at 84 FR 57803 (October 29, 2019), and U.S. note 20(nn)(20), published at 84 FR 61674 (November 13, 2019).

As stated in the September 20, 2019 notice, the exclusions will apply from September 24, 2018, to August 7, 2020. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

BILLING CODE 3290–F0–P

ANNEX

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.38 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", and "Rates of Duty 1-General", respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
"9903.88.38	Articles the product of China, as provided for in U.S. note 20(qq) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading"		

2. by inserting the following new U.S. note 20(qq) to subchapter III of chapter 99 in numerical sequence:

"(qq) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and (f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04. See 83 Fed. Reg. 47974 (September 21, 2018) and 84 Fed. Reg. 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.03 or in heading 9903.88.04 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

1) 8425.31.0100
2) 8708.93.7500
3) Alaskan sole (yellowfin, rock or flathead), frozen in blocks, in cases with net weight of more than 4.5 kg (described in statistical reporting number 0304.83.5015)

4) Sole fillets, individually frozen, each fillet weighing more than 50 g but less than 150 g (described in statistical reporting number 0304.83.5015)
5) Alaskan plaice, frozen in blocks, in cases each with net weight of more than 4.5 kg (described in statistical reporting number 0304.83.5020)
6) Individually frozen fillets of flounder, including Arrowtooth Flounder (Atheresthes stomias) and Kamchatka Flounder (Atheresthes evermanni), each weighing 80 g or more but not exceeding 200 g (described in statistical reporting number 0304.83.5020)
7) Slipper lobster meat (Ibicus ciliatus), frozen, raw, whether whole or in pieces, put up for sale in bags each with a net weight of not more than 2.27 kg (described in statistical reporting number 0306.19.0061)
8) King crab meat, frozen in blocks each weighing at least 1 kg but not more than 1.2 kg, in airtight containers (described in statistical reporting number 1605.10.2010)
9) Snow crab meat (C. opilio), frozen in blocks, in airtight containers each with net weight of not more than 1.2 kg (described in statistical reporting number 1605.10.2022)
10) Dungeness crab meat, frozen in blocks, in airtight containers with net weight of not more than 1.2 kg (described in statistical reporting number 1605.10.2030)
11) Crab meat (other than King crab, Snow crab, Dungeness or swimming crabs), frozen in blocks, in airtight containers with net weight of not more than 1.5 kg (described in statistical reporting number 1605.10.2090)
12) Synthetic silica gel, in granules measuring 0.25 to 0.6 mm in diameter, put up in retail packaging, of a kind used for drying and preserving flowers (described in statistical reporting number 2811.22.1000)
13) Nitrous oxide (dinitrogen monoxide) (CAS No. 10024-97-2), pressurized to 250 bars in cylindrical, zinc-coated, steel cartridges, each measuring not more than 18.1 mm in diameter and not more than 65.6 mm in length, containing not more than 8.3 g of nitrous oxide (described in statistical reporting number 2811.29.5000)
14) Fertilizer, derived from soybeans, powdered, put up in bags each with net weight of 23 kg, of which 14 percent by weight is nitrogen (N) and containing no phosphorus (P) or potassium (K) (described in statistical reporting number 3101.00.0000)
15) Laundry detergent powder, put up for retail sale, whether as powder or as water-soluble, pre-measured pods (described in statistical reporting number 3402.20.1100)
16) Herbicide consisting of 1,1'-dimethyl-4,4'-bipyridinium dichloride (CAS No. 1910-42-5) (Paraquat concentrate in liquid form) up to 45 percent concentration with application adjuvants (described in statistical reporting number 3808.93.1500)

17) Supported nickel-based catalysts, of a kind used for methanation, desulfurization, hydrogenation, pre-reforming or reforming of organic chemicals or for protection of hydrotreating catalysts from arsine poisoning (described in statistical reporting number 3815.11.0000)
18) Supported catalysts for high-temperature shift reactions for ammonia, hydrogen, and methanol, with carbon monoxide or carbon dioxide as the active ingredients (described in statistical reporting number 3815.19.0000)
19) Supported catalysts for polymerization (described in statistical reporting number 3815.19.0000)
20) Supported catalysts of cuprous oxide and zinc oxide as the active ingredients for arsine removal (described in statistical reporting number 3815.19.0000)
21) Supported catalysts with alumina as the active substance for chlorine removal (described in statistical reporting number 3815.19.0000)
22) Supported catalysts with copper carbonate or zinc carbonate as the active ingredients for low temperature desulfurization (described in statistical reporting number 3815.19.0000)
23) Supported catalysts with metal sulfide as the active substance for mercury removal (described in statistical reporting number 3815.19.0000)
24) Supported catalysts with molybdenum compounds as the active substance for hydrogenation (described in statistical reporting number 3815.19.0000)
25) Supported catalysts with zinc oxide absorbent as the active substance (described in statistical reporting number 3815.19.0000)
26) Floor coverings of polymers of vinyl chloride, with a rigid core of wood powder composite, with planks glued together, each measuring not less than 115 cm but not more than 130 cm in length (described in statistical reporting number 3918.10.1000)
27) Bags of plastic certified by the Biodegradable Products Institute as being compostable, each measuring 43 cm or more but not more than 107 cm in width and 45 cm or more but not more than 122 cm in length, of sheet or film measuring 0.02 mm or more but not more than 0.056 mm in thickness (described in statistical reporting number 3923.29.0000)
28) New pneumatic tires of rubber of a kind used on bicycles, each having a carbon steel wire-reinforced bead and weighing not more than 2.27 kg each (described in statistical reporting number 4011.50.0000)
29) Seamless disposable gloves of acrylonitrile butadiene rubber, other than for surgical or medical use (described in statistical reporting number 4015.19.1010)
30) Seamless disposable gloves of natural rubber latex, other than for surgical or medical use (described in statistical reporting number 4015.19.1010)
31) Bags of woven nylon with leather trim, each having a metal slide fastener and a locking mechanism on one end of the bag to prevent the slide fastener from opening, measuring 11 cm or more but not more than 20 cm in length, 5 cm or

more but not more than 9 cm in width, and 7 cm or more but not more than 12 cm in height (described in statistical reporting number 4202.22.8100)

32) Zippered containers with outer surface of polyester fabric, each measuring not over 170 mm by 95 mm by 30 mm, with clear touch-sensitive polyvinyl chloride front window, such containers mounted on armband (described in statistical reporting number 4202.92.9100)

33) Poles, finials, tiebacks and similar drapery hardware of wood (described in statistical reporting number 4421.99.9780)

34) Paper and paperboard printed labels, personalized, not lithographic, on matte self-adhesive stock, with foil embellishments, each measuring 2 cm or more but not more than 6 cm in diameter, on sheets measuring not more than 21 cm in width and not more than 29 cm in length, packaged in a sealed direct mail package (described in statistical reporting number 4821.10.4000)

35) Drinking straws of paper, each measuring 12.5 cm or more but not more than 26.5 cm in length and 5 mm or more but not more than 10 mm in diameter (described in statistical reporting number 4823.90.8600)

36) Dyed sateen fabric containing artificial staple fibers, measuring 292.1 cm in width (described in statistical reporting number 5516.92.0060)

37) Rugs of 100 percent polyester or polypropylene, with brass grommets and stainless steel springs, each measuring at least 44 cm by 45 cm but not exceeding 56 cm by 59 cm (described in statistical reporting number 5705.00.2030)

38) Fabrics of 100 percent polyester, silicone coated, of a kind suitable for upholstery, weighing more than 90 g/m^2, meeting ASTM International standard G21, American Association of Textile Chemists and Colorists (AATCC) standards 147-2004 and 30 and Chemical Fabric & Film Association (CFFA) standard 141 method II (described in statistical reporting number 5903.90.2000)

39) Cullet of clear soda-lime glass to be used for the production of continuous filament mats (described in statistical reporting number 7001.00.5000)

40) Glass shells fitted for incorporation into glass insulators for use in the transmission of electricity (described in statistical reporting number 7006.00.4050)

41) Rear-view mirrors of convex glass for motor vehicles, each measuring not less than 1.75 mm and not more than 2.4 mm in thickness, not less than 125 mm and not more than 210 mm in length, not less than 97 mm and not more than 180 mm in width, weighing not less than 74 g and not more than 188 g (described in statistical reporting number 7009.10.0000)

42) Rear-view mirrors of flat glass for motor vehicles, each measuring not less than 1.75 mm but not more than 2.4 mm in thickness, not less than 163 mm but not more than 210 mm in length, not less than 107 mm but not more than 167 mm in width and weighing not less than 80 g but not more than 188 g (described in statistical reporting number 7009.10.0000)

43) Non-woven fiberglass and polyester composite panels, each panel measuring not less than 120 cm by 242 cm, and not less than 2 mm but not more than 10 mm in thickness (described in statistical reporting number 7019.39.1090)

44) Bent bolts, tube nuts, of cold-heading quality carbon steel, measuring 18.75 mm in length and 19.50 mm in outside diameter (described in statistical reporting number 7318.15.2046)

45) Furnace manifold and orifice holder assemblies of steel, with an internal thread and welded flat plate with screw holes, measuring not less than 15 cm in length, not less than 8 cm in width, and not less than 10 cm in height (described in statistical reporting number 7321.90.6060)

46) Cable hooks of steel, each weighing not less than 0.2 kg, measuring not less than 9 cm in length, not less than 5 cm in width and not less than 1 cm in height with spring loaded closure gate (described in statistical reporting number 7326.90.8688)

47) Registers, grills and diffusers of steel, of the type used for duct openings of heating and ventilating systems (described in statistical reporting number 7326.90.8688)

48) Awning stabilizer kits, each comprising two zinc-plated steel constructed spiral stakes with two rolls of cord or two pull-tension straps, weighing not more than 2 kg (described in statistical reporting number 7326.90.8688)

49) Toilet paper holders of brass with chrome or nickel finish (described in statistical reporting number 7418.20.1000)

50) Hole saw cups, tungsten carbide tipped or bi-metal, measuring not less than 18.5 mm but not more than 166 mm in diameter (described in statistical reporting number 8202.99.0000)

51) Sockets of zinc-plated alloy steel to fit 19 mm hex, each with quick-connect shaft, weighing not more than 250 g (described in statistical reporting number 8204.20.0000)

52) Stamping dies of A2 or D2 tool steel, each measuring not less than 60 cm by 60 cm by 32 cm and not more than 370 cm by 155 cm by 125 cm, weighing not less than 1,360 kg or more but not more than 5,450 kg, of a kind suitable for stamping steel or aluminum (described in statistical reporting number 8207.30.6032)

53) Ladder hooks and supports of polyethylene coated steel suitable for carrying waste tanks of recreational vehicles, each weighing not more than 2 kg (described in statistical reporting number 8302.30.3060)

54) Push bars of aluminum for screen doors of recreational vehicles, each adjustable in length from not less than 500 mm to not more than 825 mm, weighing not more than 600 g (described in statistical reporting number 8302.30.3060)

55) Awning roller bar hanging mountings of polyvinyl chloride for recreational vehicles, each with S-hook hangers having a capacity of not more than 7 kg,

weighing not more than 200 g (described in statistical reporting number 8302.41.9080)

56) Hand pumps for liquids (other than those of subheading 8413.11 or 8413.19) of acrylonitrile butadiene styrene (ABS) plastics (described in statistical reporting number 8413.20.0000)

57) Hand-operated pumps, weighing 350 g each, designed to inflate or deflate sports balls (described in statistical reporting number 8414.20.0000)

58) Sewing machines, not of the household type, not specially designed to join footwear soles to uppers; each such machine weighing 45 kg or more but not over 140 kg, suitable for sewing leather (described in statistical reporting number 8452.29.9000)

59) Bath and shower faucets of copper, each consisting of a valve in which the temperature of the water exiting the faucet is controlled by an adjustable thermostat set to the user's desire, having a pressure rating under 850 kPa (described in statistical reporting number 8481.80.1020)

60) Bath and shower faucets of copper, each consisting of a valve to control flow of water, with one inlet port and one outlet port, having a pressure rating under 850 kPa (described in statistical reporting number 8481.80.1020)

61) Bath and shower faucets of copper, each consisting of a valve to direct flow of water, with one inlet port and two outlet port, having a pressure rating under 850 kPa (described in statistical reporting number 8481.80.1020)

62) Hand-operated shower faucets of copper, having a pressure rating under 850 kPa (described in statistical reporting number 8481.80.1020)

63) Water pressure balance valves of brass, each with 1.91 cm inlet and 1.27 cm outlets (described in statistical reporting number 8481.80.1020)

64) Water pressure balance valves of copper, each with 1.27 cm inlets and 1.27 cm outlets (described in statistical reporting number 8481.80.1020)

65) Water pressure balance valves of copper, each with 1.91 cm inlets and 1.91 cm outlets (described in statistical reporting number 8481.80.1020)

66) Faucets of copper having a pressure rating under 850 kPa, for sink and lavatories, each to be deck-mounted through one hole (described in statistical reporting number 8481.80.1030)

67) Faucets of copper having a pressure rating under 850 kPa, for sinks and lavatories, each to be deck-mounted through three holes of which the distance between the centers of the outermost holes is 20.3 cm (described in statistical reporting number 8481.80.1030)

68) Faucets of brass having a pressure rating under 850 kPa, for sinks and lavatories, each to be wall-mounted through two holes of which the distance between the centers of the holes is 20.3 cm (described in statistical reporting number 8481.80.1030)

69) Supply stops of brass, each with 1.91 cm inlet and 1.91 cm outlet (described in statistical reporting number 8481.80.1040)

70) Hand-operated valves of plastics, each comprising a bottle lid, drinking spout and flavor dispensing valve (described in statistical reporting number 8481.80.5090)

71) Hand-operated valves of acrylonitrile butadiene styrene (ABS) plastic, each a hand operated, quarter-turn ball valve, threaded at one end to receive male end of U.S. garden hose (described in statistical reporting number 8481.80.5090)

72) Pressure regulating valves of brass, adjustable, each threaded to fit U.S. garden hose, having a maximum input pressure setting of 1.1 MPa, weighing no more than 750 g (described in statistical reporting number 8481.80.9015)

73) AC fan motors, single phase, of an output not exceeding 500 W, with motor and shaft measuring not more than 40 cm in length, specially designed for the heat pump of a recreational vehicle (described in statistical reporting number 8501.40.4040)

74) Solar-powered battery chargers, each consisting of an ABS plastic housing, a solar panel charger and a 6 V or 12 V sealed lead acid battery (described in statistical reporting number 8504.40.9550)

75) Printed circuit board assemblies of a kind used in motor vehicle lighting systems (described in statistical reporting number 8512.90.6000)

76) Game calling devices, imported with or without remote control devices, used in hunting to simulate the sound of animals to attract game (described in statistical reporting number 8519.81.3020)

77) Printed circuit boards, each with a base wholly of plastics impregnated glass, not flexible, with 4 layers of copper (described in statistical reporting number 8534.00.0020)

78) Printed circuit boards, each with a base wholly of plastics impregnated glass, not flexible, with 2 layers of copper (described in statistical reporting number 8534.00.0040)

79) Floor-mounted receptacles conforming to types 1-15R, 5-15R or 5-20R of the National Electrical Manufacturers Association (NEMA) (described in statistical reporting number 8536.69.8000)

80) Locking adapter plugs, each with National Electrical Manufacturers Association (NEMA) type 5-15P plug and NEMA type SS2-50R receptacle, NEMA type 5-15P plug and NEMA type L5-30R receptacle, NEMA type TT-30P plug and NEMA type SS2-50R receptacle or NEMA type TT-30P plug and NEMA type L5-30R receptacle, for connecting to standard 15 A and 30 A residential outlets and power pedestals (described in statistical reporting number 8536.69.8000)

81) Male electrical plugs of polycarbonate plastics with brass terminals, each conforming to types TT-30P or 14-50P of the National Electrical Manufacturers Association (NEMA), with a handle in the shape of a loop (described in statistical reporting number 8536.69.8000)

82) Extension cords of copper wire with polyvinyl chloride (PVC) sheaths, for a voltage not exceeding 1,000 V, each measuring at least 9 m but not longer

than 16 m in length, with National Electrical Manufacturers Association (NEMA) type 5-15P plug on one end and NEMA type 5-15R receptacle on the other (described in statistical reporting number 8544.42.9010)

83) Extension cords of copper wire with polyvinyl chloride (PVC) sheaths, for a voltage not exceeding 1,000 V, each measuring at least 4 m but not longer than 16 m in length, with National Electrical Manufacturers Association (NEMA) type TT-30P plug on one end and NEMA type TT-30R receptacle on the other or NEMA type 14-50P plug on one end and NEMA type 14-50R receptacle on the other, with handles on each end in the shape of loops (described in statistical reporting number 8544.42.9090)

84) Cup holder assemblies, designed to be incorporated in the vehicles of headings 8701 to 8705 (described in statistical reporting number 8708.29.5060)

85) Devices for mounting phones on motor vehicle interiors without a Universal Serial Bus (USB) charging port (described in statistical reporting number 8708.29.5060)

86) Hitches receivers of steel, not suitable for towing applications, each receiver to be clamped onto the rear bumper of a recreational vehicle, such bumpers being square in section and measuring not more than 102 mm on a side (described in statistical reporting number 8708.99.8180)

87) Tank holders of steel, designed to be mounted to the external rear bumper of a recreational vehicle, to safely secure portable holding tanks while the vehicle is in motion (described in statistical reporting number 8708.99.8180)

88) Bicycles, not motorized, each having both wheels exceeding 63.5 cm in diameter, fixed gearing and a coaster brake (described in statistical reporting number 8712.00.3500)

89) Bicycles, not motorized, having both wheels exceeding 63.5 cm in diameter, each having no more than three speeds and a coaster brake (described in statistical reporting number 8712.00.3500)

90) Wheeled trailers suitable for towing behind an adult bicycle, each comprising a frame of aluminum with a hitch mechanism, weighing not more than 17.5 kg, with a capacity of not more than 46 kg, with those trailers designated for carrying children meeting ASTM International standard F1975 (described in statistical reporting number 8716.40.0000)

91) Kayaks of high-density polyethylene, not inflatable (described in statistical reporting number 8903.99.0500)

92) Electrical levels, each with four indicator lights that change from red to green when the surface on which the device rests is horizontal (described in statistical reporting number 9015.30.4000)

93) Digital electronic balances of 5 cg or better sensitivity, battery powered, with outer housings of plastic, furnished with bowls or stainless steel platforms (described in statistical reporting number 9016.00.2000)

94) Hand-held card counters, each consisting of a plastic case containing a circuit board, rechargeable battery and controls, weighing less than 1 kg (described in statistical reporting number 9029.10.8000)

95) Upholstered seats with wooden frames other than chairs, not of cane, osier, bamboo or similar materials, each measuring at least 144 cm but no more than 214 cm in width, at least 81 cm but no more than 89 cm in height and at least 81 cm but not more than 163 cm in depth (described in statistical reporting number 9401.61.6011)

96) Covers or shell liners of textile material, cut and sewn to shape, for the seats of heading 9401 (described in statistical reporting number 9401.90.5021)

97) Parts of seats (other than of seats of a kind used for motor vehicles or of bent-wood seats), consisting of fabric material cut to shape, including liner parts, partially sewn, with zippered cushions, weld cords or piping (described in statistical reporting number 9401.90.5021)

98) Parts of seats (other than of seats of a kind used for motor vehicles or of bent-wood seats), consisting of leather cut to shape, including liner parts, partially sewn, with zippered cushions, weld cords or piping (described in statistical reporting number 9401.90.5081)

99) Household furniture of metal and high-pressure laminated bamboo (other than ironing boards, furniture for infants or children or bed frames) (described in statistical reporting number 9403.20.0050)

100) Lockers, of steel (described in statistical reporting number 9403.20.0050)

101) Display racks of powder coated steel, whether or not on casters, whether or not with LED lighting, each measuring at least 60 cm but not more than 125 cm in length, at least 60 cm but not more than 125 cm in width and at least 130 cm but not more than 225 cm in height, with slanted shelves with a lip at the front edge of each that measures 3 cm or more in height (described in statistical reporting number 9403.20.0080 prior to July 1, 2019; described in statistical reporting number 9403.20.0081 effective July 1, 2019)

102) Display tables of steel, each measuring not less than 92 cm but not more than 254 cm in width, not less than 46 cm but not more than 221 cm in depth, and not less than 66 cm but not more than 120 cm in height, with a steel lip around the entire top perimeter edge measuring not more than 3 cm in height, with plastic risers (described in statistical reporting number 9403.20.0080 prior to July 1, 2019; described in statistical reporting number 9403.20.0081 effective July 1, 2019)

103) Household furniture of high-pressure laminated bamboo, other than babies' or children's furniture (described in statistical reporting number 9403.82.0015)

104) Bassinets, composed of polyester fabric with frames of steel tubing and partial solid wood rails, each measuring 86 cm by 51 cm by 86 cm, weighing 12 kg, with adjustable height legs on wheels (described in statistical reporting number 9403.89.6003)

105) Parts of lockers, of steel (described in statistical reporting number 9403.90.8041)

106) Ceiling luminaires of aluminum, with light-emitting diodes (LEDs), measuring at least 26 cm but not exceeding 39 cm in diameter, operating at 120 V or more but not exceeding 277 V, other than for household use (described in statistical reporting number 9405.10.6020)

107) Troffers of aluminum incorporating light-emitting diodes (LEDs), measuring no more than 61 cm by 122 cm, other than for household use (described in statistical reporting number 9405.10.6020)

108) Troffers of aluminum incorporating light-emitting diodes (LEDs), measuring no more than 61 cm by 61 cm, with selectable correlated color temperature, other than for household use (described in statistical reporting number 9405.10.6020)

109) Electric household floor-standing lamps, of base metal other than brass, each measuring not more than 2 m in height (described in statistical reporting number 9405.20.6010)

110) Electric household table or desk lamps, of base metal other than brass, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.6010)

111) Electric household floor-standing lamps, of crystal, each measuring more than 36 cm but not more than 200 cm in height (described in statistical reporting number 9405.20.8010)

112) Electric household table or desk lamps, of ceramics, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

113) Electric household table or desk lamps, of concrete, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

114) Electric household table or desk lamps, of crystal, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

115) Electric household table or desk lamps, of glass, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

116) Electric household table or desk lamps, of marble, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

117) Electric household table or desk lamps, of polyester resin or plastics, each measuring not more than 92 cm in height (described in statistical reporting number 9405.20.8010)

118) Outdoor lighting sets, each containing 6 or 10 polycarbonate bulb sockets (described in statistical reporting number 9405.40.8410)

119) Flexible strips, each having embedded light-emitting diodes electrically connected to a molded electrical end connector, each strip wound onto a reel measuring not more than 25 cm in diameter and not more than 1.5 cm in width (described in statistical reporting number 9405.40.8440)”

3. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99:

a. by deleting the word "or" where it appears after the phrase "U.S. note 20(oo) to subchapter III of chapter 99;"; and
b. by inserting the phrase "; or (8) heading 9903.88.38 and U.S. note 20(qq) to subchapter III of chapter 99" after the phrase "U.S. note 20(pp) to subchapter III of chapter 99".

4. by amending U.S. note 20(f) to subchapter III of chapter 99;

a. by deleting the word "or" where it appears after the phrase "U.S. note 20(oo) to subchapter III of chapter 99;"; and
b. by inserting the phrase "; or (8) heading 9903.88.38 and U.S. note 20(qq) to subchapter III of chapter 99" after the phrase "U.S. note 20(pp) to subchapter III of chapter 99".

5. by amending the first sentence of U.S. note 20(g) to subchapter III of chapter 99:

   a. by deleting "or" where it appears after "U.S. note 20(oo) to subchapter III of chapter 99"; and

   b. by inserting "; or (5) heading 9903.88.38 and U.S. note 20(qq) to subchapter III of chapter 99" after "U.S. note 20(pp) to subchapter III of chapter 99".

6. by amending the Article Description of heading 9903.88.03:

   a. by deleting "9903.88.36 or" and inserting "9903.88.36," in lieu thereof; and

   b. by inserting "or 9903.88.38," after "9903.88.37,".

7. By amending the Article Description of heading 9903.88.04:

   a. by deleting "9903.88.36 or" and inserting "9903.88.36," in lieu thereof; and

   b. by inserting "or 9903.88.38," after "9903.88.37,".

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 24, 2018:

a. U.S. note 20(ll)(26) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "$100 or more but not exceeding $120" and inserting "$70 or more but not exceeding $300" in lieu thereof.

b. U.S. note 20(nn)(20) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting "550" and inserting "681" in lieu thereof.

[FR Doc. 2020–02225 Filed 2–4–20; 8:45 am]
BILLING CODE 3290–F0–C

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2020–0002]

Request for Comments Concerning the Extension of Particular Exclusions Granted Under the April 2019 Product Exclusion Notice From the $34 Billion Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process in July 2018 and has granted multiple sets of exclusions. The third set of exclusions was granted in April 2019, and is scheduled to expire on April 18, 2020. The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in April 2019. The Office of the U.S. Trade Representative (USTR) invites public comment on whether to extend particular exclusions.

DATES:

February 16, 2020 at 12:01 a.m. ET: The docket—USTR–2020–0002—will open for submitting comments on the possible extension of particular exclusions.

March 16, 2020 at 11:59 p.m. ET: To be assured of consideration, submit written comments by March 16, 2020.

ADDRESSES: Submit public comments through the Federal eRulemaking Portal: *https://www.regulations.gov.* The docket number is USTR–2020–0002. USTR strongly encourages all commenters to use Form A in submitting comments. If applicable, Form B (which requests Business Confidential Information (BCI)), along with a copy of the corresponding Form A, must be submitted via email at *301bcisubmissions@ustr.eop.gov.* See the submission instructions below.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact USTR Assistant General Counsels Philip Butler or Benjamin Allen at (202) 395–5725.

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 43304 (August 20, 2019), 84 FR 45821 (August 30, 2019), 84 FR 69447 (December 18, 2019), and 85 FR 3741 (January 22, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders can request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the U.S. Trade Representative periodically would announce decisions. The U.S. Trade Representative has granted multiple sets of exclusions. The third set of exclusions was granted in April 2019, and is scheduled to expire on April 18, 2020. *See* 84 FR 16310 (April 2019 notice).

B. Possible Extensions of Particular Product Exclusions

The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in the April 2019 notice. Accordingly, USTR invites public comments on whether to extend particular exclusions granted in the April 2019 notice. At this time, USTR is not considering comments concerning possible extensions of exclusions granted under any other product exclusion notice.

USTR will evaluate the possible extension of each exclusion on a case-by-case basis. The focus of the evaluation will be whether, despite the first imposition of these additional duties in July 2018, the particular product remains available only from China. In addressing this factor, commenters should address specifically:

- Whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries.
- Any changes in the global supply chain since July 2018 with respect to the

particular product or any other relevant industry developments.

• The efforts, if any, the importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, USTR will continue to consider whether the imposition of additional duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.

USTR strongly encourages that commenters complete Form A, which will be posted on USTR's website by the time the docket opens, and submit the completed Form A to *https://www.regulations.gov.* The docket number is USTR–2020–0002. USTR will post completed Form A's on the public docket.

In addition to submitting Form A, commenters who are importers and/or purchasers of the products covered by the exclusion also should complete Form B, which will be posted on USTR's website by the time the docket opens, and submit it, along with a copy of their completed Form A, via email at *301bcisubmissions@ustr.eop.gov.* Form A must be submitted via email with Form B and submitted as a single document without Form B to docket USTR–2020–0002 at *https://www.regulations.gov.*

Form B requests BCI information, and will not be posted on the public docket. To facilitate advance preparation of submissions, facsimiles of Forms A and B are annexed to this notice and will be available electronically at *https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china/34-billion-trade-action.*

Set forth below is a summary of the information to be entered on Form A:

• Contact information, including the full legal name of the organization making the comment, whether the commenter is a third party (*e.g.,* law firm, trade association, or customs broker) submitting on behalf of an organization or industry, and the name of the third party organization, if applicable.

• The publication date of the **Federal Register** notice containing the exclusion on which you are commenting. Since USTR at this time only is considering exclusions granted by the April 2019 notice, this field must specify April 18, 2019.

• The full article description for the exclusion you are commenting on and the 10-digit code, as provided in the **Federal Register** notice granting the exclusion. Please indicate if the exclusion is a 10-digit HTSUS code (covering all products under a single 10-digit HTSUS number).

• Whether the product or products covered by the exclusion are subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce.

• Whether you support or oppose extending the exclusion and an explanation of your rationale. Commenters must provide a public version of their rationale, even if the commenter also is submitting a Form B with more detailed, confidential information.

• Whether the products covered by the exclusion or comparable products are available from sources in the U.S. or in third countries. Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.

• Whether the commenter will be submitting Form B.

As indicated above, information submitted on Form B will not be publically available. Form B requires commenters who are importers and/or purchasers of the products covered by the exclusion to provide the following information:

• The efforts undertaken since July 2018 to source the product from the United States or third countries.

• The value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018, the first half of 2018, and the first half of 2019. Whether these purchases are from a related company, and if so, the name of and relationship to the related company.

• Whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties.

• The value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018, the first half of 2018, and the first half of 2019.

• If applicable, the commenter's gross revenue for 2018, the first half of 2018, and the first half of 2019.

• Whether the Chinese-origin product of concern is sold as a final product or as an input.

• Whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests.

• Any additional information in support or in opposition of the extending the exclusion.

Commenters also may provide any other information or data that they consider relevant.

C. Submission Instructions

To be assured of consideration, you must submit your comment between the opening of the docket on February 15, 2020, and the March 15, 2020 submission deadline. By submitting a comment, you are certifying that the information provided is complete and correct to the best of your knowledge.

C. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, USTR submitted a request to the Office of Management and Budget (OMB) for clearance of this information collection request (ICR) titled *301 Exclusion Requests.* OMB assigned control number 0350–0015, which expires January 31, 2023.

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

BILLING CODE 3290–F0–P

ANNEX

OMB Control Number: 0350-0015 Expiration Date: January 31, 2023

Exclusion Extension Comment
Form A

Information in Form A should be submitted on the Public Docket at https://www.regulations.gov.

1. Submitter Information

Full Organization Legal Name **(Public)**	
Commenter First Name **(Public)**	
Commenter Last Name **(Public)**	
Contact Email Address **(Public)**	

Note: If you do not wish to provide a public email address, you can provide a private email address when you submit this form on Regulations.gov. Please check the box that reads "I want to provide my contact information" and enter your email address in the designated field.

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? **(Public)**

Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**	
Third Party First Name **(Public)**	
Third Party Last Name **(Public)**	

2.

a) Please provide the publication date of the Federal Register notice containing the exclusion you are commenting on. **(Public)**

b) Please provide the 10-digit subheading of the HTSUS applicable to the exclusion you are commenting on. ***A 10-digit HTSUS number is required.*** **(Public)**

c) From the Federal Register notice, please provide the full article description for the exclusion. If the exclusion is a 10-digit code, please indicate. (Public)

d) Is this product subject to an antidumping or countervailing duty order issued by the U.S. Department of Commerce? (Public)

3. Do you support extending the exclusion (yes or no)? Please explain your rationale. (You must provide a public version of your rationale, even if you are also submitting a Form B with more detailed, confidential information.) (Public)

4. Please explain whether the products covered by the exclusion, or comparable products, are available from sources in the United States? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product or any other relevant industry developments.) (Public)

5. Please explain whether the products covered by the exclusion, or a comparable products, are available from sources in third countries? (Please include information concerning any changes in the global supply chain since July 2018 with respect to the particular product.) (Public)

6. Will you be submitting Form B? (Public)

Note: Responses to Form A should be submitted to the Public Docket at Regulations.gov (Information submitted in Form A will be posted on the Public Docket).

OMB Control Number: 0350-0015 Expiration Date: January 31, 2023

Exclusion Extension Comment
Form B

Form B should be completed by Importers and Purchasers of the products covered by the exclusion. Form B should be submitted via email at 301bcisubmissions@ustr.eop.gov and will not be available to the public. Please include Form A with your email submission of Form B.

NOTE: Form A should be submitted both on regulations.gov and with Form B, via email. Please include your Regulations.gov tracking number when submitting Form B.

1.

a.) Please provide the value in USD and quantity (with units) of the Chinese-origin product covered by the specific exclusion that you purchased in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

Are the provided figures estimates? (BCI)

Are any of these purchases from a related company? (BCI)

Please list the name and relationship of the related company. (BCI)

Name: **Relationship:**

b.) Please discuss whether Chinese suppliers have lowered their prices for products covered by the exclusion following imposition of the duties. (BCI)

2. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from any third-country source in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

Are the provided figures estimates? (BCI)

3. Please provide the value in USD and quantity (with units) of the product covered by the specific exclusion that you purchased from domestic sources in 2018, the first half of 2018, and the first half of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. (BCI)

2018 Value:		**2018 Quantity:**	
2018 (Jan-Jun) Value:		**2018 (Jan-Jun) Quantity:**	
2019 (Jan-Jun) Value:		**2019 (Jan-Jun) Quantity:**	

Are the provided figures estimates? (BCI)

4. Please discuss any efforts you have undertaken since July 2018 to source this product from United States or third countries. (BCI)

5. Please provide information regarding your company's gross revenue in USD for 2018, the first half of 2018, and the first half of 2019. (BCI)

2018 Gross Revenue:	
First Half (Jan-Jun) 2018:	
First Half (Jan-Jun) 2019:	

Are the provided figures estimates? (BCI)

6. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? (BCI)

7. Please comment on whether the imposition of additional duties on the product(s) covered by the exclusion you are seeking an extension for, will result in severe economic harm to your company or other U.S. interests. (BCI)

8. Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (BCI)

9. Please provide the Regulations.gov tracking number for your Form A submission (e.g. 1kx-xx-xxxx). (BCI)

[FR Doc. 2020–02219 Filed 2–4–20; 8:45 am]

BILLING CODE 3290–F0–C

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0017]

Request for Comments of a Previously Approved Information Collection: Title XI Obligation Guarantees

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on October 22, 2019.

DATES: Comments must be submitted on or before March 6, 2020.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David Gilmore, (202) 366–366–2118, Office of Marine Financing, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Title XI Obligations Guarantees—46 CFR part 298.

OMB Control Number: 2133–0018.

Type of Request: Renewal of a previously approved information collection.

Background: In accordance with 46 U.S.C. Chapter 537, the Maritime Administration (MARAD) is authorized to execute a full faith and credit guarantee by the United States of debt obligations issued to finance or refinance the construction or reconstruction of vessels. In addition, the program allows for financing shipyard modernization and improvement projects.

Respondents: Individuals/businesses interested in obtaining loan guarantees for construction or reconstruction of vessels as well as businesses interested in shipyard modernization and improvements.

Affected Public: Business or other for profit.

Total Estimated Number of Responses: 10.

Frequency of Collection: Annually.

Estimated Time per Respondent: 150 hours.

Total Estimated Number of Annual Burden Hours: 1,500.

Public Comments Invited: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

* * * * *

Dated: January 31, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–02272 Filed 2–4–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (''Committee'') will meet via teleconference on Friday, February 21, 2020 from 1:30 p.m.–4:30 p.m. Eastern Time. The meeting is open to the public.

DATES: The meeting will be held via teleconference on Friday, February 21, from 1:30 p.m.–4:30 p.m. Eastern Time.

Attendance: The Committee meeting will be held via teleconference and is open to the public. The public can attend remotely via live webcast at *http://www.yorkcast.com/treasury/events/2020/02/21/FACI.* The webcast will also be available through the Committee's website at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci.* Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

- Send electronic comments to *faci@treasury.gov.*

Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its website *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is the first periodic meeting of the Committee in 2020. In this meeting, the Committee will receive updates from the Committee's three subcommittees: The Availability of Insurance Products, the Federal Insurance Office's International Work, and Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms. The Committee will also receive an update from the Federal Insurance Office on its activities.

Dated: January 29, 2020.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2020–02251 Filed 2–4–20; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

Vol. 85 Wednesday,

No. 24 February 5, 2020

Part II

The President

Proclamation 9983—Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats

Proclamation 9984—Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus and Other Appropriate Measures To Address This Risk

Federal Register
Vol. 85, No. 24
Wednesday, February 5, 2020

Presidential Documents

Title 3—

The President

Proclamation 9983 of January 31, 2020

Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats

By the President of the United States of America

A Proclamation

In Executive Order 13780 of March 6, 2017 (Protecting the Nation from Foreign Terrorist Entry Into the United States), I temporarily suspended entry of nationals of certain specified countries and ordered a worldwide review of whether the United States would need additional information from each foreign country to assess adequately whether nationals of that foreign country seeking to enter the United States pose a security or public-safety threat to the United States, and if so, what additional information was needed. The Secretary of Homeland Security, pursuant to Executive Order 13780 and in consultation with the Secretary of State and the Director of National Intelligence, developed an assessment model using three categories of criteria to assess national security and public-safety threats: whether a foreign government engages in reliable identity-management practices and shares relevant information; whether a foreign government shares national security and public-safety information; and whether a country otherwise poses a national security or public-safety risk.

Following a comprehensive worldwide review of the performance of approximately 200 countries using these criteria, the Secretary of Homeland Security presented the results of this review, focusing in particular on those countries that were deficient or at risk of becoming deficient in their performance under the assessment criteria. After a subsequent period of diplomatic engagement on these issues by the Department of State, the Acting Secretary of Homeland Security submitted a report in September 2017, which found that eight countries were hindering the ability of the United States Government to identify threats posed by foreign nationals attempting to enter the United States. The Secretary of Homeland Security then recommended that I impose travel restrictions on certain nationals of those countries. After consultation with relevant Cabinet officials and appropriate Assistants to the President, I issued Proclamation 9645 of September 24, 2017 (Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats).

In Proclamation 9645, I suspended and limited the entry into the United States of certain nationals of eight countries that failed to satisfy the criteria and were unable or unwilling to improve their information sharing, or that otherwise presented serious terrorism-related risks. Those travel restrictions remain in effect today, with one exception. On April 10, 2018, I issued Proclamation 9723 (Maintaining Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats), removing travel restrictions on nationals of the Republic of Chad. Chad had improved its identity-management and information-sharing practices by taking steps to issue more secure passports and by increasing the integrity of how its government handles lost and stolen passports. Chad also began to share information about known or suspected terrorists in a manner that makes that information available to the United States screening and vetting programs, and it created a new,

standardized process for the United States to request relevant criminal information.

Pursuant to my directives in section 4 of Proclamation 9645, the Department of Homeland Security (DHS) has continued to assess every 180 days and report to me on whether the interests of the United States require the suspension of or limitation on entry of certain classes of foreign nationals. DHS has also continued to assess ways to further improve its processes for measuring how countries perform under the assessment criteria. From July 2018 through August 2019, DHS updated its methodology to assess compliance with the assessment criteria, which has allowed for more in-depth analysis and yields even more granularity and increased accuracy regarding each country's performance under the criteria.

In this updated methodology, the general overall criteria for review have not changed. The United States Government still expects all foreign governments to share needed identity-management information, to share national security and public-safety information, and to pass a security and public-safety risk assessment. Building on experience and insight gained over the last 2 years, DHS has, however, refined and modified the specific performance metrics by which it assesses compliance with the above criteria. For example, while the prior model determined whether a country shares certain needed information, the revised model accounts for how frequently the country shares that information and the extent to which that data contributes to border and immigration screening and vetting. As another example, the prior system asked whether a country issued electronic passports at all, whereas the refined metrics assess whether a country issues electronic passports for all major classes of travel documents. Similarly, the lost and stolen passports criterion previously assessed whether a country had prior instances of reporting loss or theft to the International Criminal Police Organization (INTERPOL), whereas the revised model now assesses whether the country has reported lost or stolen passports to INTERPOL within 30 days of a report of a loss or theft.

The DHS improvements to the assessment criteria also involve additional, and more customized, data from the United States Intelligence Community. DHS's original evaluation under Executive Order 13780 relied on existing intelligence products to assess the threat from each country. With the benefit of 2 years of experience, DHS has worked closely with the Intelligence Community to define intelligence requirements and customize intelligence reporting that offers a detailed characterization of the relative risk of terrorist travel to the United States from each country in the world. This additional detail improves DHS's assessment of national security and public-safety risk.

In addition, DHS greatly increased the amount of information obtained from United States Embassies abroad, which work closely with foreign governments. United States Embassies are best positioned to understand their host countries' ability and willingness to provide information to the United States, and United States Embassies' assessments contribute to a clearer understanding of how well a foreign government satisfies the assessment criteria. DHS also consolidated statistical information on operational encounters with foreign nationals. This information speaks to the frequency with which a country's nationals commit offenses while in the United States or otherwise develop grounds for inadmissibility under the Immigration and Nationality Act (INA).

Finally, as more precise, granular data became available, it became clear that many countries were only partially implementing each criterion. The 2017 process had three basic potential compliance ratings for each criterion: in compliance, out of compliance, or unknown. The updated methodology allows the United States to account for ways in which countries partially comply with the metrics associated with each criterion. As a result, for example, countries that DHS assessed in the 2017 review have now received more nuanced, partial compliance ratings. In addition, the process now

weighs each criterion and risk factor based on its degree of importance to the United States Government for conducting screening and vetting of visa applicants and other travelers to the United States.

Using this enhanced review process, DHS conducted its most recent, worldwide review pursuant to Proclamation 9645 between March 2019 and September 2019. The process began on March 11, 2019, when the United States Government formally notified all foreign governments (except for Iran, Syria, and North Korea) about the refined performance metrics for the identity-management and information-sharing criteria. After collecting information from foreign governments, multilateral organizations, United States Embassies, Federal law enforcement agencies, and the Intelligence Community, multiple subject matter experts reviewed each country's data and measured its identity-management and information-sharing practices against the criteria. DHS then applied the data to an algorithm it developed to consistently assess each country's compliance with the criteria.

DHS identified the worst-performing countries for further interagency review and for an assessment of the potential impact of visa restrictions. As in the worldwide review culminating in Proclamation 9645, the Acting Secretary of Homeland Security assessed that Iraq did not meet the baseline for compliance. As part of the interagency review process, the Acting Secretary of Homeland Security determined, however, not to recommend entry restrictions and limitations for nationals of Iraq. In his report, the Acting Secretary of Homeland Security recognized a close cooperative relationship between the United States and the democratically elected government of Iraq, the strong United States diplomatic presence in Iraq, the significant presence of United States forces in Iraq, and Iraq's commitment to combating the Islamic State of Iraq and Syria (ISIS). The Acting Secretary of Homeland Security considered another similarly situated country and determined that, for reasons similar to those present in Iraq, entry restrictions and limitations would not be appropriate.

In addition, the United States Government, led by the Department of State, continued or increased engagements with many countries about those countries' deficiencies. A number of foreign governments sent senior officials to Washington, D.C., to discuss those issues, explore potential solutions, and convey views about obstacles to improving performance. As a result of this engagement, one country made sufficient improvements in its information-sharing and identity-management practices and was removed from consideration for travel restrictions.

On September 13, 2019, the Acting Secretary of Homeland Security, after consulting with the Secretary of State, the Attorney General, the Director of National Intelligence, and the heads of other appropriate agencies, submitted a fourth report to me recommending the suspension of, or limitation on, the entry of certain classes of nationals from certain countries in order to protect United States national security, including by incentivizing those foreign governments to improve their practices. The Acting Secretary of Homeland Security recommended maintaining the current restrictions on the seven countries announced in Proclamation 9645 (apart from Chad), as well as implementing suspensions and limitations on entry for certain nationals of twelve additional countries.

Since the Acting Secretary of Homeland Security issued his report on September 13, 2019, the Secretary of State, consistent with section 4(b) of Proclamation 9645, has continued to engage many foreign governments regarding the deficiencies identified in DHS's report and has continued to consult with the Acting Secretary of Homeland Security, the Secretary of Defense, and other Cabinet-level officials about how best to protect the national interest. Based on these engagements, in January 2020, those senior officials recommended that I maintain the entry restrictions adopted in Proclamation 9645 (as modified by Proclamation 9723), and that I exercise my authority under section 212(f) of the INA to suspend entry into the United States for nationals of six new countries—Burma (Myanmar), Eritrea,

Kyrgyzstan, Nigeria, Sudan, and Tanzania—until those countries address their identified deficiencies.

The January 2020 proposal recommended visa restrictions on fewer countries than identified by the September 2019 DHS report. For example, the January 2020 proposal recommended no entry restrictions on nationals of one country that had been recommended for restrictions in the September 2019 report. This country made exceptional progress in correcting deficiencies since the September 2019 report, such that it could no longer be characterized as a country that is among those posing the highest degree of risk. In addition, the January 2020 proposal recommended that, for five poorly performing countries, foreign policy interests warranted a different approach than recommended in the September 2019 report. Specifically, the January 2020 proposal suggested that diplomatic engagement and requests for specific improvements during a defined 180-day period would be more appropriate and more likely to result in immediate improvements in these five countries. Each of these five countries provides critical counterterrorism cooperation with the United States and therefore holds strategic importance in countering malign external actors. In several of the five countries, the United States has experienced a recent deepening of diplomatic ties that generally mark increased cooperation toward achieving key regional and global United States foreign policy goals. Importantly, all five countries have credibly communicated willingness to work directly with the United States Government to correct their outstanding deficiencies, and the United States believes progress is imminent for several countries and underway for others. For these reasons, these countries will be given an opportunity to show specific improvements in their deficiencies within the next 180 days.

Consistent with recommendations contained in the January 2020 proposal, I have decided to leave unaltered the existing entry restrictions imposed by Proclamation 9645, as amended by Proclamation 9723, and to impose tailored entry restrictions and limitations on nationals from six additional countries. I have decided not to impose any nonimmigrant visa restrictions for the newly identified countries, which substantially reduces the number of people affected by the proposed restrictions. Like the seven countries that continue to face travel restrictions pursuant to Proclamation 9645, the six additional countries recommended for restrictions in the January 2020 proposal are among the worst performing in the world. However, there are prospects for near-term improvement for these six countries. Each has a functioning government and each maintains productive relations with the United States. Most of the newly identified countries have expressed a willingness to work with the United States to address their deficiencies, although it may take some time to identify and implement specific solutions to resolve the deficiencies.

Consistent with the January 2020 proposal, I have prioritized restricting immigrant visa travel over nonimmigrant visa travel because of the challenges of removing an individual in the United States who was admitted with an immigrant visa if, after admission to the United States, the individual is discovered to have terrorist connections, criminal ties, or misrepresented information. Because each of the six additional countries identified in the January 2020 proposal has deficiencies in sharing terrorist, criminal, or identity information, there is an unacceptable likelihood that information reflecting the fact that a visa applicant is a threat to national security or public safety may not be available at the time the visa or entry is approved.

For two newly identified countries that were among the highest risk countries, but performed somewhat better than others, I have decided, consistent with the January 2020 proposal, to suspend entry only of Diversity Immigrants, as described in section 203(c) of the INA, 8 U.S.C. 1153(c). Such a suspension represents a less severe limit compared to a general restriction on immigrant visas, given the significantly fewer number of aliens affected. The Acting Secretary of Homeland Security considers foreign-government-

supplied information especially important for screening and vetting the Diversity Visa population in comparison to other immigrant visa applicants, and I agree with that assessment. In many cases, the United States Government may not have the same amount of information about Diversity Visa applicants compared with other categories of immigrant visa applicants because Diversity Visa applicants, with limited exceptions, do not have the burden to show certain family ties to or employment in the United States, or particular service to the United States Government, as required for other immigrant visa categories.

Consistent with the January 2020 proposal, I have decided not to impose any restrictions on certain Special Immigrant Visas for nationals of the six newly identified countries. Applicants under Special Immigrant programs generally do not need to demonstrate the same work or familial ties as other immigrant visas, but do need to show other unique qualifications. This exception is intended to cover those Special Immigrants who have advanced United States interests (and their eligible family members), such as foreign nationals who have worked for a United States Embassy for 15 years or more and are especially deserving of a visa.

As President, I must continue to act to protect the security and interests of the United States and its people. I remain committed to our ongoing efforts to engage those countries willing to cooperate, to improve information-sharing and identity-management protocols and procedures, and to address both terrorism-related and public-safety risks. And I believe that the assessment process, including enhancements made to that process, leads to new partnerships that strengthen our immigration screening and vetting capabilities. Until the countries identified in this proclamation satisfactorily address the identified deficiencies, I have determined, on the basis of a recommendation from the Acting Secretary of Homeland Security and other members of my Cabinet, to impose certain conditional restrictions and limitations on entry into the United States of nationals of the countries identified in section 1 of this proclamation, as set forth more fully below.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the INA, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that, absent the measures set forth in this proclamation, the immigrant entry into the United States of persons described in section 1 of this proclamation would be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Suspension of Entry for Nationals of Countries of Identified Concern.* The entry into the United States of nationals of the following countries is hereby suspended and limited, as follows, subject to section 2 of this proclamation.

(a) The entry suspensions and limitations enacted by section 2 of Proclamation 9645 are not altered by this proclamation, and they remain in force by their terms, except as modified by Proclamation 9723.

(b) Burma (Myanmar)

(i) Although Burma has begun to engage with the United States on a variety of identity-management and information-sharing issues, it does not comply with the established identity-management and information-sharing criteria assessed by the performance metrics. Burma does not issue electronic passports nor does it adequately share several types of information, including public-safety and terrorism-related information, that are necessary for the protection of the national security and public safety of the United States. Burma is in the process of modernizing its domestic identity-management and criminal-records systems and has worked with the United States to develop some of those systems. It has also recognized the need to make improvements. As its capabilities improve, the prospect for further bilateral cooperation will likely also increase. Despite these

encouraging prospects, Burma's identified deficiencies create vulnerabilities that terrorists, criminals, and fraudulent entrants could exploit to harm United States national security and public safety.

(ii) The entry into the United States of nationals of Burma as immigrants, except as Special Immigrants whose eligibility is based on having provided assistance to the United States Government, is hereby suspended.

(c) Eritrea

(i) Eritrea does not comply with the established identity-management and information-sharing criteria assessed by the performance metrics. Eritrea does not issue electronic passports or adequately share several types of information, including public-safety and terrorism-related information, that are necessary for the protection of the national security and public safety of the United States. Further, Eritrea is currently subject to several non-immigrant visa restrictions. Eritrea does not accept return of its nationals subject to final orders of removal from the United States, which further magnifies the challenges of removing its nationals who have entered with immigrant visas. Eritrea has engaged with the United States about its deficiencies, but it also requires significant reforms to its border security, travel-document security, and information-sharing infrastructure. Improvements in these areas will increase its opportunities to come into compliance with the United States Government's identity-management and information-sharing criteria.

(ii) The entry into the United States of nationals of Eritrea as immigrants, except as Special Immigrants whose eligibility is based on having provided assistance to the United States Government, is hereby suspended.

(d) Kyrgyzstan

(i) Kyrgyzstan does not comply with the established identity-management and information-sharing criteria assessed by the performance metrics. Kyrgyzstan does not issue electronic passports or adequately share several types of information, including public-safety and terrorism-related information, that are necessary for the protection of the national security and public safety of the United States. Kyrgyzstan also presents an elevated risk, relative to other countries in the world, of terrorist travel to the United States, though it has been responsive to United States diplomatic engagement on the need to make improvements.

(ii) The entry into the United States of nationals of Kyrgyzstan as immigrants, except as Special Immigrants whose eligibility is based on having provided assistance to the United States Government, is hereby suspended.

(e) Nigeria

(i) Nigeria does not comply with the established identity-management and information-sharing criteria assessed by the performance metrics. Nigeria does not adequately share public-safety and terrorism-related information, which is necessary for the protection of the national security and public safety of the United States. Nigeria also presents a high risk, relative to other countries in the world, of terrorist travel to the United States. Nigeria is an important strategic partner in the global fight against terrorism, and the United States continues to engage with Nigeria on these and other issues. The Department of State has provided significant assistance to Nigeria as it modernizes its border management capabilities, and the Government of Nigeria recognizes the importance of improving its information sharing with the United States. Nevertheless, these investments have not yet resulted in sufficient improvements in Nigeria's information sharing with the United States for border and immigration screening and vetting.

(ii) The entry into the United States of nationals of Nigeria as immigrants, except as Special Immigrants whose eligibility is based on having provided assistance to the United States Government, is hereby suspended.

(f) Sudan

(i) Sudan generally does not comply with our identity-management performance metrics and presents a high risk, relative to other countries in the world, of terrorist travel to the United States. Sudan is, however, transitioning to civilian rule, a process which should improve opportunities for cooperation in the future, and it has already made progress in addressing its deficiencies in several areas. For example, Sudan now issues electronic passports and has improved its coordination with INTERPOL in several respects. Sudan has also shared exemplars of its passports with the United States and now permanently invalidates lost and stolen passports and fraudulently obtained travel documents. Because Sudan performed somewhat better than the countries listed earlier in this proclamation and is making important reforms to its system of government, different travel restrictions are warranted.

(ii) The entry into the United States of nationals of Sudan as Diversity Immigrants, as described in section 203(c) of the INA, 8 U.S.C. 1153(c), is hereby suspended.

(g) Tanzania

(i) Tanzania does not comply with the established identity-management and information-sharing criteria assessed by the performance metrics. Tanzania does not adequately share several types of information, including public-safety and terrorism-related information, that is necessary for the protection of the national security and public safety of the United States. The Government of Tanzania's significant failures to adequately share information with the United States and other countries about possible Ebola cases in its territory detract from my confidence in its ability to resolve these deficiencies. Tanzania also presents an elevated risk, relative to other countries in the world, of terrorist travel to the United States. Tanzania does, however, issue electronic passports for all major passport classes, reports lost and stolen travel documents to INTERPOL at least once a month, and has provided exemplars of its current passports to the United States. Further, Tanzania does share some information with the United States, although its processes can be slow, overly bureaucratic, and complicated by limited technical capability. In light of these considerations, different travel restrictions are warranted.

(ii) The entry into the United States of nationals of Tanzania as Diversity Immigrants, as described in section 203(c) of the INA, 8 U.S.C. 1153(c), is hereby suspended.

Sec. 2. *Scope and Implementation of Suspensions and Limitations.* (a) Subject to the exceptions set forth in section 3(b) of Proclamation 9645, any waiver under section 3(c) of Proclamation 9645, and any enforcement provision of section 6(b) through (e) of Proclamation 9645, the suspensions of and limitations on entry pursuant to section 1(b) of this proclamation shall apply to foreign nationals of the designated countries who:

(i) are outside the United States on the applicable effective date of this proclamation;

(ii) do not have a valid visa on the applicable effective date of this proclamation; and

(iii) do not qualify for a visa or other valid travel document under section 6(d) of Proclamation 9645.

(b) The Secretary of State and the Secretary of Homeland Security shall coordinate to update guidance, if necessary, to implement this proclamation as to nationals of the six countries identified in section 1(b) of this proclamation, consistent with the provisions of this section.

(c) For purposes of this proclamation, the phrase ''Special Immigrants whose eligibility is based on having provided assistance to the United States Government'' means those aliens described in section 101(a)(27)(D) through (G) and (K) of the INA, 8 U.S.C. 1101(a)(27)(D) through (G) and (K), any alien seeking to enter the United States pursuant to a Special Immigrant

Visa in the SI or SQ classification, and any spouse and children of any such individual.

Sec. 3. *Reporting Requirements.* (a) Section 4 of Proclamation 9645 is amended to read as follows:

''Sec. 4. Adjustments to Removal of Suspensions and Limitations.

''(a) The Secretary of Homeland Security, in consultation with the Secretary of State, shall on October 1, 2020, and annually thereafter, submit to the President the results of an evaluation as to whether to continue, terminate, modify, or supplement any suspensions of, or limitations on, the entry on certain classes of nationals of countries identified in section 2 of this proclamation and section 1(b) of the Proclamation ''Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats,'' signed on January 31, 2020.

''(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall not less than every 2 years evaluate whether each country in the world sufficiently shares relevant information and maintains adequate identity-management and information-sharing practices to mitigate the risk that its citizens or residents may travel to the United States in furtherance of criminal or terrorist objectives, or otherwise seek to violate any law of the United States through travel or immigration. In doing so, the Secretary of Homeland Security shall:

''(i) in consultation with the Secretary of State, Attorney General, and the Director of National Intelligence, report to the President, through the appropriate Assistants to the President, any instance in which, based on a review conducted under subsection (b) of this section, the Secretary of Homeland Security believes it is in the interests of the United States to suspend or limit the entry of certain classes of nationals of a country; and

''(ii) in consultation with the Secretary of State and the Director of National Intelligence, regularly review and update as necessary the criteria and methodology by which such evaluations are implemented to ensure they continue to protect the national interests of the United States.

''(c) Notwithstanding the requirements set forth in subsections (a) and (b) of this section, the Secretary of Homeland Security, in consultation with the Secretary of State, Attorney General, and the Director of National Intelligence, may, at any time, recommend that the President impose, modify, or terminate a suspension or limitation on entry on certain classes of foreign nationals to protect the national interests of the United States.''

(b) Section 5 of Proclamation 9645 is revoked.

Sec. 4. *Effective Date.* This proclamation is effective at 12:01 a.m. eastern standard time on February 21, 2020. With respect to the application of those provisions of Proclamation 9645 that are incorporated here through section 2 for countries designated in section 1(b), and that contained their own effective dates, those dates are correspondingly updated to be January 31, 2020, or February 21, 2020, as appropriate.

Sec. 5. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, foreign policy, and counterterrorism interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its other provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 6. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) United States Government obligations under applicable international agreements;

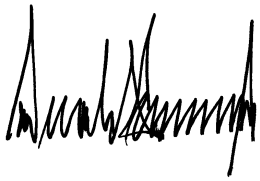
(ii) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 9984 of January 31, 2020

Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus and Other Appropriate Measures To Address This Risk

By the President of the United States of America

A Proclamation

The United States has confirmed cases of individuals who have a severe acute respiratory illness caused by a novel (new) coronavirus (''2019-nCoV'') (''the virus'') first detected in Wuhan, Hubei Province, People's Republic of China (''China''). The virus was discovered in China in December 2019. As of January 31, 2020, Chinese health officials have reported approximately 10,000 confirmed cases of 2019-nCoV in China, more than the number of confirmed cases of Severe Acute Respiratory Syndrome (SARS) during its 2003 outbreak. An additional 114 cases have been confirmed across 22 other countries; in several of these cases, the infected individuals had not visited China. More than 200 people have died from the virus, all in China.

Coronaviruses are a large family of viruses. Some cause illness in people and others circulate among animals, including camels, cats, and bats. Animal coronaviruses are capable of evolving to infect people and subsequently spreading through human-to-human transmission. This occurred with both Middle East Respiratory Syndrome and SARS. Many of the individuals with the earliest confirmed cases of 2019-nCoV in Wuhan, China had some link to a large seafood and live animal market, suggesting animal-to-human transmission. Later, a growing number of infected individuals reportedly did not have exposure to animal markets, indicating human-to-human transmission. Chinese officials now report that sustained human-to-human transmission of the virus is occurring in China. Manifestations of severe disease have included severe pneumonia, acute respiratory distress syndrome, septic shock, and multi-organ failure.

Neighboring jurisdictions have taken swift action to protect their citizens by closing off travel between their territories and China. On January 30, 2020, the World Health Organization declared the 2019-nCoV outbreak a public health emergency of international concern.

Outbreaks of novel viral infections among people are always of public health concern, and older adults and people with underlying health conditions may be at increased risk. Public health experts are still learning about the severity of 2019-nCoV. An understanding of the key attributes of this novel virus, including its transmission dynamics, incubation period, and severity, is critical to assessing the risk it poses to the American public. Nonetheless, the Centers for Disease Control and Prevention (CDC) has determined that the virus presents a serious public health threat.

The CDC is closely monitoring the situation in the United States, is conducting enhanced entry screening at 5 United States airports where the majority of travelers from Wuhan arrive, and is enhancing illness response capacity at the 20 ports of entry where CDC medical screening stations are located. The CDC is also supporting States in conducting contact investigations of confirmed 2019-nCoV cases identified within the United States.

The CDC has confirmed that the virus has spread between two people in the United States, representing the first instance of person-to-person transmission of the virus within the United States. The CDC, along with state and local health departments, has limited resources and the public health system could be overwhelmed if sustained human-to-human transmission of the virus occurred in the United States. Sustained human-to-human transmission has the potential to have cascading public health, economic, national security, and societal consequences.

During Fiscal Year 2019, an average of more than 14,000 people traveled to the United States from China each day, via both direct and indirect flights. The United States Government is unable to effectively evaluate and monitor all of the travelers continuing to arrive from China. The potential for widespread transmission of the virus by infected individuals seeking to enter the United States threatens the security of our transportation system and infrastructure and the national security. Given the importance of protecting persons within the United States from the threat of this harmful communicable disease, I have determined that it is in the interests of the United States to take action to restrict and suspend the entry into the United States, as immigrants or nonimmigrants, of all aliens who were physically present within the People's Republic of China, excluding the Special Administrative Regions of Hong Kong and Macau, during the 14-day period preceding their entry or attempted entry into the United States. I have also determined that the United States should take all necessary and appropriate measures to facilitate orderly medical screening and, where appropriate, quarantine of persons allowed to enter the United States who may have been exposed to this virus.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that the unrestricted entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Suspension and Limitation on Entry*. The entry into the United States, as immigrants or nonimmigrants, of all aliens who were physically present within the People's Republic of China, excluding the Special Administrative Regions of Hong Kong and Macau, during the 14-day period preceding their entry or attempted entry into the United States is hereby suspended and limited subject to section 2 of this proclamation.

Sec. 2. *Scope of Suspension and Limitation on Entry.*

(a) Section 1 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

(ii) any alien who is the spouse of a U.S. citizen or lawful permanent resident;

(iii) any alien who is the parent or legal guardian of a U.S. citizen or lawful permanent resident, provided that the U.S. citizen or lawful permanent resident is unmarried and under the age of 21;

(iv) any alien who is the sibling of a U.S. citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;

(v) any alien who is the child, foster child, or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to the IR–4 or IH–4 visa classifications;

(vi) any alien traveling at the invitation of the United States Government for a purpose related to containment or mitigation of the virus;

(vii) any alien traveling as a nonimmigrant under section 101(a)(15)(C) or (D) of the INA, 8 U.S.C. 1101(a)(15)(C) or (D), as a crewmember or any alien otherwise traveling to the United States as air or sea crew;

(viii) any alien seeking entry into or transiting the United States pursuant to an A–1, A–2, C–2, C–3 (as a foreign government official or immediate family member of an official), G–1, G–2, G–3, G–4, NATO–1 through NATO–4, or NATO–6 visa;

(ix) any alien whose entry would not pose a significant risk of introducing, transmitting, or spreading the virus, as determined by the CDC Director, or his designee;

(x) any alien whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees based on a recommendation of the Attorney General or his designee; or

(xi) any alien whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their designees.

(b) Nothing in this proclamation shall be construed to affect any individual's eligibility for asylum, withholding of removal, or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws and regulations of the United States.

Sec. 3. *Implementation and Enforcement.* (a) The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of aliens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(b) Consistent with applicable law, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security shall ensure that any alien subject to this proclamation does not board an aircraft traveling to the United States.

(c) The Secretary of Homeland Security may establish standards and procedures to ensure the application and implementation of this proclamation at United States seaports and in between all ports of entry.

(d) An alien who circumvents the application of this proclamation through fraud, willful misrepresentation of a material fact, or illegal entry shall be a priority for removal by the Department of Homeland Security.

Sec. 4. *Orderly Medical Screening and Quarantine.* The Secretary of Homeland Security shall take all necessary and appropriate steps to regulate the travel of persons and aircraft to the United States to facilitate the orderly medical screening and, where appropriate, quarantine of persons who enter the United States and who may have been exposed to the virus. Such steps may include directing air carriers to restrict and regulate the boarding of such passengers on flights to the United States.

Sec. 5. *Termination.* This proclamation shall remain in effect until terminated by the President. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 15 days after the date of this order and every 15 days thereafter, recommend that the President continue, modify, or terminate this proclamation.

Sec. 6. *Effective Date.* This proclamation is effective at 5:00 p.m. eastern standard time on February 2, 2020.

Sec. 7. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, public safety, and foreign policy interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 8. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

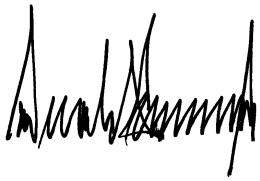
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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FEDERAL REGISTER

Vol. 85 Wednesday,

No. 24 February 5, 2020

Part III

The President

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Federal Register
Vol. 85, No. 24
Wednesday, February 5, 2020

Presidential Documents

Title 3—

The President

Proclamation 9985 of January 31, 2020

American Heart Month, 2020

By the President of the United States of America

A Proclamation

As the leading cause of death for both men and women nationwide, heart disease devastates hundreds of thousands of families every year. During American Heart Month, we pause to remember the lives lost to heart disease and the families who mourn, and we reaffirm our commitment to preventing and treating this terrible disease that inflicts immeasurable pain and suffering.

Evidence-based research has identified several critical risk factors that contribute to heart disease, including elevated blood pressure and cholesterol, physical inactivity, excess body weight, high salt intake, smoking, age, and family history. According to the Centers for Disease Control and Prevention, about half of all Americans have at least one of three key risk factors: high blood pressure, high blood cholesterol, or a history of smoking. While some risk factors are unchangeable, most are avoidable with behavior modification and lifestyle changes like eating a healthy diet, moderating alcohol consumption, exercising regularly, and avoiding smoking. Making small, incremental changes and creating healthier habits can lead to life-saving benefits. We must all take decisive action to control our cardiovascular health and support and motivate friends and family members in their efforts to curb unhealthy behaviors. Community groups, educators, and fitness and healthcare professionals can also provide guidance, support, accountability, and encouragement on the journey to better health.

American innovation and medical advancements continue to improve treatment options for those who have experienced heart disease. Medical procedures to treat heart conditions are more precise, using less invasive techniques with fewer complications and faster recovery times. Additionally, we have developed medications to more effectively treat high blood pressure, high blood cholesterol, and type 2 diabetes, all conditions that contribute to an increased risk of heart disease. We also commend the dedicated healthcare professionals, physical therapists, counselors, volunteers, and educators who make a positive impact in the lives of those battling heart disease and undergoing cardiac rehabilitation.

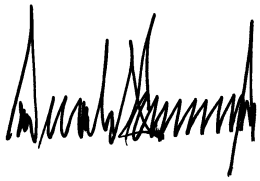
Every year, millions of Americans suffer from the healthcare costs, physical disabilities, and premature death caused by cardiovascular diseases and conditions. We can—and must—work to save lives and reverse the somber statistics and cruel grip that heart disease has on our Nation's families. Thanks to scientific research, medical advances, and healthy lifestyle choices, much of the power to combat this disease is within our grasp. During American Heart Month, I urge all men and women to prioritize their health and to take the necessary measures to lead a heart-healthy lifestyle.

In acknowledgement of the importance of the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved on December 30, 1963, as amended (36 U.S.C. 101), has requested that the President issue an annual proclamation designating February as American Heart Month.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim February 2020 as American Heart Month, and I invite all Americans to participate in National Wear Red Day on February 7, 2020. I also invite the Governors of the States, the Commonwealth

of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in recognizing and reaffirming our commitment to fighting cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 9986 of January 31, 2020

Career and Technical Education Month, 2020

By the President of the United States of America

A Proclamation

Our Nation's economy is booming, and Americans are thriving. To ensure that our country's workforce remains the best in the world, it is imperative that we equip students and workers with the skills necessary to fill the jobs our economy is creating at an incredible pace and to enable them to reap the benefits of successful careers. During Career and Technical Education Month, we reaffirm our commitment to expanding access to high-quality career and technical education for all Americans.

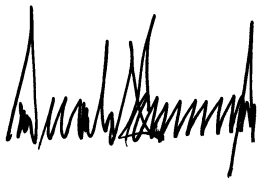
Career and technical education helps develop a 21st century workforce, providing students with the knowledge and technical skills needed to fill the jobs of the future. My Administration appreciates the value of career and technical education, which is why we continue to prioritize access to the best training and retraining opportunities for American students and workers. We are preparing our workforce to flourish amidst advances in technology and automation, and we are confident that with the right training, hardworking Americans can harness technology to do their jobs even better and faster than they do them today. In July 2018, I signed an Executive Order establishing the President's National Council for the American Worker to facilitate a much-needed partnership between education and business, which will help resolve pressing issues related to workforce development. As a part of the Council's work, my Administration is asking companies and trade groups throughout the country to sign our Pledge to America's Workers, committing themselves to refocusing resources to retrain our workforce and equip students and workers with the skills they need to be successful right here in the United States. Already, more than 400 businesses have signed the pledge and committed to creating 14.5 million enhanced employment, training, and education opportunities for American students and workers over the next 5 years.

We are living in an age of incredible progress, with an abundance of new career fields offering high-wage jobs, especially in science, technology, engineering, and mathematics. Career and technical education provides students with the in-demand skills required by these coveted positions, developing their talents and providing them with the tools to be successful in the modern economy. In July 2018, I was proud to sign the bipartisan reauthorization of the Carl D. Perkins Career and Technical Education Act, which is benefiting more than 11 million students. This critical legislation is modernizing and increasing access to career and technical education programs, providing students and workers with the necessary training that will strengthen our Nation's economic competitiveness. Given the importance of career and technical education, my fiscal year 2021 budget proposal to the Congress will include significant increases in funding for these programs.

This month, we draw attention to the importance of career and technical education in building a stronger American workforce. Our Nation's students and workers are helping to write the next chapter in our proud American legacy of ingenuity and innovation. We will continue to pursue approaches that best fit the needs of individual students and workers and prepare them to unlock their full potential.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim February 2020 as Career and Technical Education Month.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2020–02428
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Presidential Documents

Proclamation 9987 of January 31, 2020

National African American History Month, 2020

By the President of the United States of America

A Proclamation

Through bravery, perseverance, faith, and resolve—often in the face of incredible prejudice and hardship—African Americans have enhanced and advanced every aspect of American life. Their fight for equality, representation, and respect motivates us to continue working for a more promising, peaceful, and hopeful future for every American. During National African American History Month, we honor the extraordinary contributions made by African Americans throughout the history of our Republic, and we renew our commitment to liberty and justice for all.

The theme of this year's observance, ''African Americans and the Vote,'' coincides with the 150th anniversary of the 15th Amendment, which gave African American men the right to vote. This Amendment to the Constitution, ratified in 1870, prohibits the government from denying or abridging a citizen's right to vote based on ''race, color, or previous condition of servitude.'' Today, this guarantee is enforced primarily throughout the Voting Rights Act of 1965, an enduring legacy of Reverend Dr. Martin Luther King, Jr., and the Civil Rights movement.

This year also marks the 150th anniversary of the first African American to serve in the Congress. In 1870, Hiram Revels, a Mississippi Republican, served a 1-year term in the Senate, where he fought for justice and racial equality. During his lifetime, Senator Revels served as a military chaplain, a minister with the African Methodist Episcopal Church, and a college administrator. But it was Revels' tenure in the Congress that truly distinguished him as a trailblazer. He made history serving our Nation in a building that had been constructed by slave laborers just a decade earlier.

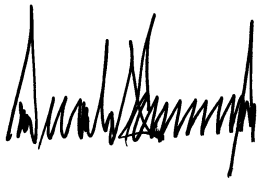
My Administration has made great strides in expanding opportunity for people of all backgrounds. Over the past 2 years, the poverty and unemployment rates for African Americans have reached historic lows. Through the transformative Tax Cuts and Jobs Act, more than 8,700 distressed communities battling economic hardship have been designated Opportunity Zones, creating a path for struggling communities to unlock investment resources and create much needed jobs and community amenities. I also signed into law the historic First Step Act, which rolled back unjust provisions of the Violent Crime Control and Law Enforcement Act of 1994, which disproportionately harmed African American communities. The First Step Act provides inmates with opportunities for job training, education, and mentorship. We want every person leaving prison to have the tools they need to take advantage of a second chance to transform their lives and pursue the American dream after incarceration. Additionally, last December, I was proud to sign into law the groundbreaking FUTURE Act, which ensures full support for historically black colleges and universities over the next 10 years.

Our great Nation is strengthened and enriched by citizens of every race, religion, color, and creed. This month, we celebrate the cultural heritage, diverse contributions, and unbreakable spirit of African Americans. We commend the heroes, pioneers, and common Americans who tirelessly fought for—and firmly believed in—the promise of racial equality granted by our

Creator, enshrined in our Constitution, and enacted into our laws. We pledge to continue to stand against the evils of bigotry, intolerance, and hatred so that we may continue in our pursuit of a more perfect Union.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim February 2020 as National African American History Month. I call upon public officials, educators, and all Americans to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2020–02429
Filed 2–4–20; 11:15 am]
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Presidential Documents

Executive Order 13903 of January 31, 2020

Combating Human Trafficking and Online Child Exploitation in the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trafficking Victims Protection Act, 22 U.S.C. 7101 *et seq.,* it is hereby ordered as follows:

Section 1. *Policy.* Human trafficking is a form of modern slavery. Throughout the United States and around the world, human trafficking tears apart communities, fuels criminal activity, and threatens the national security of the United States. It is estimated that millions of individuals are trafficked around the world each year—including into and within the United States. As the United States continues to lead the global fight against human trafficking, we must remain relentless in resolving to eradicate it in our cities, suburbs, rural communities, tribal lands, and on our transportation networks. Human trafficking in the United States takes many forms and can involve exploitation of both adults and children for labor and sex.

Twenty-first century technology and the proliferation of the internet and mobile devices have helped facilitate the crime of child sex trafficking and other forms of child exploitation. Consequently, the number of reports to the National Center for Missing and Exploited Children of online photos and videos of children being sexually abused is at record levels.

The Federal Government is committed to preventing human trafficking and the online sexual exploitation of children. Effectively combating these crimes requires a comprehensive and coordinated response to prosecute human traffickers and individuals who sexually exploit children online, to protect and support victims of human trafficking and child exploitation, and to provide prevention education to raise awareness and help lower the incidence of human trafficking and child exploitation into, from, and within the United States.

To this end, it shall be the policy of the executive branch to prioritize its resources to vigorously prosecute offenders, to assist victims, and to provide prevention education to combat human trafficking and online sexual exploitation of children.

Sec. 2. *Strengthening Federal Responsiveness to Human Trafficking.* (a) The Domestic Policy Council shall commit one employee position to work on issues related to combating human trafficking occurring into, from, and within the United States and to coordinate with personnel in other components of the Executive Office of the President, including the Office of Economic Initiatives and the National Security Council, on such efforts. This position shall be filled by an employee of the executive branch detailed from the Department of Justice, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, or the Department of Homeland Security.

(b) The Secretary of State, on behalf of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, shall make available, online, a list of the Federal Government's resources to combat human trafficking, including resources to identify and report instances of human trafficking, to protect and support the victims of trafficking, and to provide public outreach and training.

(c) The Secretary of State, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall, in coordination and consistent with applicable law:

(i) improve methodologies of estimating the prevalence of human trafficking, including in specific sectors or regions, and monitoring the impact of anti-trafficking efforts and publish such methodologies as appropriate; and

(ii) establish estimates of the prevalence of human trafficking in the United States.

Sec. 3. *Prosecuting Human Traffickers and Individuals Who Exploit Children Online.* (a) The Attorney General, through the Federal Enforcement Working Group, in collaboration with the Secretary of Labor and the Secretary of Homeland Security, shall:

(i) improve interagency coordination with respect to targeting traffickers, determining threat assessments, and sharing law enforcement intelligence to build on the Administration's commitment to the continued success of ongoing anti-trafficking enforcement initiatives, such as the Anti-Trafficking Coordination Team and the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiatives; and

(ii) coordinate activities, as appropriate, with the Task Force on Missing and Murdered American Indians and Alaska Natives as established by Executive Order 13898 of November 26, 2019 (Establishing the Task Force on Missing and Murdered American Indians and Alaska Natives).

(b) The Attorney General and the Secretary of Homeland Security, and other heads of executive departments and agencies as appropriate, shall, within 180 days of the date of this order, propose to the President, through the Director of the Domestic Policy Council, legislative and executive actions that would overcome information-sharing challenges and improve law enforcement's capabilities to detect in real-time the sharing of child sexual abuse material on the internet, including material referred to in Federal law as ''child pornography.'' Overcoming these challenges would allow law enforcement officials to more efficiently identify, protect, and rescue victims of online child sexual exploitation; investigate and prosecute alleged offenders; and eliminate the child sexual abuse material online.

Sec. 4. *Protecting Victims of Human Trafficking and Child Exploitation.* (a) The Attorney General, the Secretary of Health and Human Services, and the Secretary of Homeland Security, and other heads of executive departments and agencies as appropriate, shall work together to enhance capabilities to locate children who are missing, including those who have run away from foster care and those previously in Federal custody, and are vulnerable to human trafficking and child exploitation. In doing so, such heads of executive departments and agencies, shall, as appropriate, engage social media companies; the technology industry; State, local, tribal and territorial child welfare agencies; the National Center for Missing and Exploited Children; and law enforcement at all levels.

(b) The Secretary of Health and Human Services, in consultation with the Secretary of Housing and Urban Development, shall establish an internal working group to develop and incorporate practical strategies for State, local, and tribal governments, child welfare agencies, and faith-based and other community organizations to expand housing options for victims of human trafficking.

Sec. 5. *Preventing Human Trafficking and Child Exploitation Through Education Partnerships.* The Attorney General and the Secretary of Homeland Security, in coordination with the Secretary of Education, shall partner with State, local, and tribal law enforcement entities to fund human trafficking and child exploitation prevention programs for our Nation's youth in schools, consistent with applicable law and available appropriations.

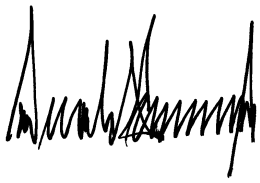
Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
January 31, 2020.

[FR Doc. 2020–02438
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Billing code 3295–F0–P

Presidential Documents

Executive Order 13904 of January 31, 2020

Ensuring Safe and Lawful E-Commerce for United States Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights Holders

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

Section 1. *Policy.* E-commerce, including transactions involving smaller express-carrier or international mail packages, is being exploited by traffickers to introduce contraband into the United States, and by foreign exporters and United States importers to avoid applicable customs duties, taxes, and fees.

It is the policy of the United States Government to protect consumers, intellectual property rights holders, businesses, and workers from counterfeit goods, narcotics (including synthetic opioids such as fentanyl), and other contraband now being introduced into the United States as a result of the recent growth in e-commerce. The United States Government must also protect the revenue of the United States from individuals and entities who evade customs duties, taxes, and fees.

It is the policy of the United States Government that any person who knowingly, or with gross negligence, imports, or facilitates the importation of, merchandise into the United States in material violation of Federal law evidences conduct of so serious and compelling a nature that it should be referred to U.S. Customs and Border Protection (CBP) of the Department of Homeland Security for a determination whether such conduct affects that person's present responsibility to participate in transactions with the Federal Government.

It is the policy of the United States Government, as reflected in Executive Order 12549 of February 18, 1986 (Debarment and Suspension), and elsewhere, to protect the public interest and ensure the integrity of Federal programs by transacting only with presently responsible persons. In furtherance of this policy, the nonprocurement debarment and suspension system enables executive departments and agencies to exclude from Federal programs persons who are not presently responsible. CBP implements this system by suspending and debarring persons who flout the customs laws, among other persons who lack present responsibility. To achieve the policy goals stated herein, the United States Government shall consider all appropriate actions that it can take to ensure that persons that CBP suspends or debars are excluded from participating in the importation of merchandise into the United States.

It is the policy of the United States Government that express consignment operators, carriers, hub facilities, international posts, customs brokers, and other entities, including e-commerce platform operators, should not facilitate importation involving persons who are suspended or debarred by CBP.

It is the policy of the United States Government to ensure that parcels containing contraband be kept outside of the United States to the greatest extent possible and that all parties who participate in the introduction or attempted introduction of such parcels into the United States be held accountable under the laws of the United States.

Sec. 2. *Criteria for the Importer of Record Program, Including Exclusion of Trade Violators.* (a) The Secretary of Homeland Security shall issue a

notice of proposed rulemaking to establish criteria importers must meet in order to obtain an importer of record number.

(b) Such criteria shall include a criterion providing that any person debarred or suspended by CBP for lack of present responsibility for reasons related to importation or trade shall be ineligible to obtain an importer of record number for the duration of such person's suspension or debarment by CBP.

Sec. 3. *Responsibilities of Express Consignment Operators, Carriers, Hub Facilities, and Licensed Customs Brokers.* (a) Consistent with applicable law, the Secretary of Homeland Security, through the Commissioner of CBP, shall take steps to ensure that, within 60 days of the publication in the System for Award Management by CBP of the name of any debarred or suspended person, express consignment operators, carriers, hub facilities, and licensed customs brokers notify CBP of any attempt, of which they know or have reason to believe, by any persons who may not obtain an importer of record number based on any criteria established by the Secretary under section 2 of this order, to re-establish business activity requiring an importer of record number through a different name or address associated with the debarred or suspended person.

(b) The Secretary of Homeland Security, through the Commissioner of CBP, shall consider appropriate measures, consistent with applicable law, to ensure that express consignment operators, carriers, hub facilities, and licensed customs brokers cease to facilitate business activity that requires an importer of record number by any person who may not obtain an importer of record number, as provided by any criteria established by the Secretary under section 2 of this order. Depending on the criteria established, such consideration shall include whether CBP may take any of the following measures: limiting an express consignment operator's, carrier's, or hub facility's participation in any CBP trusted trader programs; taking appropriate action with regard to an express consignment operator's, carrier's, or hub facility's operating privileges; or suspending or revoking a customs broker's license.

Sec. 4. *Items Sent to the United States through the International Postal Network.* (a) The United States Postal Service (USPS) should collaborate with the Secretary of State to notify the international postal network, via circular or the functional equivalent, of the policy of the United States Government set forth in section 1 of this order and the key provisions of this order. USPS should make all reasonable efforts to include provisions regarding any criteria for participating in the importer of record program established under section 2 of this order in any new contractual instruments it executes with international posts.

(b) Within 90 days from the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall submit to the President a report on any appropriate measures the Federal Government could take, including negotiating with international posts, to prevent the importation or attempted importation into the United States through the international postal network of shipments containing goods, when such importation or attempted importation is known to have been facilitated by any person who may not obtain an importer of record number under any criteria established by the Secretary under section 2 of this order.

Sec. 5. *Non-Compliant International Posts.* (a) The Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with the United States Trade Representative, shall develop an International Mail Non-Compliance metric, based on relevant factors, to formulate an overall compliance score for each international post. This score shall take into account rates of trafficking of counterfeit goods, narcotics (including synthetic opioids such as fentanyl), and other contraband through a particular international post, effectiveness of the international post in reducing such trafficking, including cooperation with CBP, as well as such other factors the Secretary, through the Commissioner, determines advisable. The Secretary shall update

overall compliance scores on a quarterly basis. The Secretary shall determine a minimum threshold compliance score for each quarter and shall deem non-compliant any international post that scores below such threshold in that quarter.

(b) The Secretary of Homeland Security shall prioritize targeted inspection of imports into the United States from any international post that for two or more consecutive quarters is deemed a non-compliant international post.

(c) Consistent with applicable law, the Secretary of Homeland Security, through the Commissioner of CBP, in consultation with USPS, may require additional information for any shipment from any international post that for six or more consecutive quarters is deemed a non-compliant international post. The Secretary of Homeland Security, through the Commissioner of CBP, shall, to the extent consistent with applicable law and international agreements, implement all appropriate measures to prevent importation into the United States of any shipments dispatched from any international post that is deemed a non-compliant international post for six or more consecutive quarters and for which the additional information required consistent with this subsection is not promptly provided. USPS should collaborate with CBP in implementing these measures.

(d) The Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall, to the maximum extent permitted by applicable law, take measures to protect the United States from shipments from any international post that for eight or more consecutive quarters is deemed a non-compliant international post. To the extent consistent with applicable law and as appropriate, such measures might include preventing the importation into the United States of shipments dispatched from such posts, regardless of whether additional information required by CBP is provided. Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall submit a report to the President analyzing what measures CBP may take consistent with its existing authorities.

(e) Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, shall publish and regularly update appropriate guidance related to CBP's implementation of this section, including the process by which an international post is deemed a non-compliant international post and the process by which an international post is removed from the list of non-compliant international posts.

Sec. 6. *Publication of Violation Information; Enhanced Enforcement Efforts.* (a) On a periodic basis, and consistent with Federal law and executive branch policy reflecting non-disclosure of sensitive information, the Secretary of Homeland Security, through the Commissioner of CBP and the Director of United States Immigration and Customs Enforcement, shall publish information about seizures arising in the international mail and express consignment environments that involve intellectual property rights violations, illegal drugs and other contraband, incorrect country of origin, under-valuation, or other violations of law of particular concern. In determining which information to publish, the Secretary shall give greatest consideration to repeat offenses affecting priority trade issues as defined in 19 U.S.C. 4322.

(b) Within 60 days of the date of this order, the Attorney General shall assign appropriate resources to ensure that Federal prosecutors accord a high priority to prosecuting offenses related to import violations as described in this order, including, as appropriate and within existing appropriations, increasing the number of Department of Justice officials who will enforce criminal or civil laws, as appropriate, related to the importation of merchandise.

Sec. 7. *Report on Sufficiency of Fees.* Within 210 days of the date of this order, the Secretary of Homeland Security, in coordination with the heads of other executive departments and agencies, as appropriate, shall submit a report to the President, through the Director of the Office of Management and Budget:

(a) analyzing whether the fees collected by CBP are currently set at a sufficient level to reimburse the Federal Government's costs associated with processing, inspecting, and collecting duties, taxes, and fees for parcels; and

(b) providing recommendations, consistent with applicable law, regarding any fee adjustments that are necessary to reimburse the Federal Government's costs associated with processing, inspecting, and collecting duties, taxes, and fees for parcels.

Sec. 8. *Definitions.* For the purposes of this order:

(a) ''Customs broker'' has the meaning given to that term in 19 U.S.C. 1641(a)(1).

(b) ''Express consignment operator, carrier, or hub facility'' has the meaning given to those terms in 19 CFR 128.1.

(c) ''International post'' means any foreign public or private entity providing various types of postal services, including mailing and delivery services.

(d) ''Contraband'' has the meaning given to that term in 49 U.S.C. 80302(a), and also means any goods or merchandise otherwise prohibited from importation or entry under the Tariff Act of 1930, as amended.

(e) ''E-commerce platform'' means any web-based platform that includes features primarily designed for arranging the sale, purchase, payment, or shipping of goods, or that enables sellers not directly affiliated with an operator of a web-based platform to sell physical goods through the web to consumers located in the United States.

(f) ''Person'' means any individual, corporation, partnership, association, or legal entity, however organized.

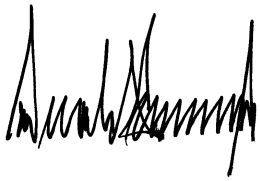
Sec. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
January 31, 2020.

[FR Doc. 2020–02439
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