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# Rules and Regulations

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## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Part 1281

**RIN 2590–AA82**

## Federal Home Loan Bank Housing Goals Amendments

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is amending the existing Federal Home Loan Bank (Bank) Housing Goals regulation. The final rule replaces the existing regulation's four separate retrospective housing goals with a single prospective mortgage purchase housing goal with a target level of 20 percent. The final rule also establishes a separate small member participation housing goal with a target level of 50 percent. The final rule provides that a Bank may request FHFA approval of alternative target levels for either or both of the goals. The final rule also establishes that housing goals apply to each Bank that acquires any Acquired Member Assets (AMA) mortgages during a year, eliminating the existing $2.5 billion volume threshold that previously triggered the application of housing goals for each Bank. Enforcement of the final rule will phase in over three years.

**DATES:** The final rule is effective August 24, 2020. Written requests from Banks proposing alternative target levels are due by September 15, 2020. The enforcement phase-in period applies to calendar years 2021, 2022, and 2023.

**FOR FURTHER INFORMATION CONTACT:** Ted Wartell, Manager, Housing & Community Investment, (202) 649–3157, *Ted.Wartell@fhfa.gov;* Ethan Handelman, Senior Policy Analyst, Housing and Community Investment, (202) 649–3264, *Ethan.Handelman@fhfa.gov;* or Marshall Adam Pecsek, Assistant General Counsel, Office of General Counsel, (202) 649–3380, *Marshall.Pecsek@fhfa.gov.* These are not toll-free numbers. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339. The mailing address for each contact is: Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

## I. Issuing This Rule During COVID–19 National Emergency

The COVID–19 national emergency is creating unprecedented economic disruption to the economy, including the mortgage market. FHFA recognizes the substantial public and private sector efforts in responding to the pandemic and considered the ongoing uncertainty and regulatory burden created by the existing, outdated Bank housing goals regulation. FHFA has concluded that issuing this final rule is an important priority to provide greater certainty for the Banks and other market participants. In addition, features of the final rule such as the three-year enforcement phase-in (discussed in Section IV.D.) and the option to propose alternative target levels (discussed in Section VIII.) will make the housing goals more adaptable during disruptions such as the COVID–19 national emergency.

## II. Background

### *A. The Federal Home Loan Bank System*

The eleven Federal Home Loan Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act (Bank Act).[1] The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (nonmember borrowers such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[2] Any eligible institution (generally, a federally insured depository institution or state-regulated insurance company) may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock.[3]

As government-sponsored enterprises, the Banks have certain privileges under federal law, which allow them to borrow funds at spreads over the rates on U.S. Treasury securities of comparable maturity that are narrower than those available to corporate borrowers generally. The Banks pass along their funding advantage to their members and housing associates—and ultimately to consumers—by providing advances and other financial services at rates that would not otherwise be available to these institutions.[4] Among those financial services are the Banks' Acquired Member Assets (AMA) programs, under which the Banks provide financing for members' housing finance activities by purchasing mortgage loans.

### *B. AMA Programs*

FHFA's AMA regulation authorizes the Banks to acquire eligible mortgages from their members and housing associates as a means of advancing their housing finance mission, and it prescribes the parameters within which the Banks may do so.[5] Through the acquisition of AMA mortgages, the Banks provide a source of liquidity to their members and housing associates to further mission-related lending.

FHFA's AMA regulation authorizes each Bank, at its discretion, to purchase assets that qualify as AMA subject to the requirements of the AMA regulation. Currently, each of the Banks except the Atlanta Bank offers an AMA program for the purchase of single-family mortgages, though the size of their programs varies. As of December 31, 2018, the Banks' total outstanding AMA mortgages were $63 billion,[6] representing less than 6 percent of their total assets. In contrast, the eleven Banks' total outstanding advances, their primary business line, represented 68 percent of total assets. Outstanding mortgages relative to total assets at the Banks offering AMA programs ranged from a high of 18 percent and 17 percent at the Indianapolis and Topeka Banks, respectively, to a low of 2 percent or less at the New York and Atlanta Banks. Further, as a point of comparison, in

[1] *See* 12 U.S.C. 1421 *et seq.*

[2] *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b.

[3] *See* 12 U.S.C. 1424; 12 CFR part 1263. The Bank Act also authorizes membership for community development financial institutions and non-federally-insured credit unions.

[4] Members are required to pledge specific types of eligible collateral, mainly mortgages or other real estate-related assets, to secure any advance taken down from a Bank. *See* 12 CFR 1266.7.

[5] *See* 12 CFR part 1268.

[6] *See* ''Federal Home Loan Banks, Combined Financial Report for the Year Ended December 31, 2018,'' 43 (Mar. 27, 2019), *available at http://www.fhlb-of.com/ofweb_userWeb/resources/2018Q4CFR.pdf.*

2018, the mortgage purchases of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), represented 63 percent of the secondary mortgage market comprising Fannie Mae, Freddie Mac, the Government National Mortgage Association (Ginnie Mae), and the Banks. The Banks' combined mortgage purchases represented less than 1 percent of that secondary market.

The AMA programs that the Banks currently offer are the Mortgage Purchase Program (MPP) and the Mortgage Partnership Finance (MPF) program. The Banks generally acquire 15- to 30-year conventional, conforming fixed-rate mortgage loans secured by 1- to 4-unit properties. The Banks also acquire single-family mortgage loans guaranteed or insured by a department or agency of the federal government (*i.e.,* non-conventional mortgages).

### *C. Overview of the Existing Bank Housing Goals Regulation*

The existing Bank housing goals regulation has been in effect since January 2011.[7] The regulation implements section 10C(a) of the Bank Act, which requires the Director of FHFA to ''establish housing goals with respect to the purchase of mortgages, if any, by the [Banks].'' [8] Section 10C(b) requires that the Bank housing goals be ''consistent with'' the housing goals established by FHFA for the Enterprises under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act), taking into consideration ''the unique mission and ownership structure of the [Banks].'' [9]

The regulation establishes three single-family owner-occupied purchase money mortgage goals and one single-family refinancing mortgage goal applicable to the Banks' purchases under their AMA programs. The goals for purchase money mortgages separately measure the percentage of purchase money mortgages acquired by a Bank that serve low-income families, families in low-income areas, and very low-income families.[10] The goal for refinancing mortgages measures the percentage of refinancing mortgages acquired by a Bank that serve low-income families. The target levels of the housing goals are established retrospectively by FHFA in the year following the year of the Banks' AMA mortgage purchases, using Home Mortgage Disclosure Act (HMDA) data to calculate the percentage of single-family mortgage originations in the Bank's district that qualify for each of the housing goals.

The existing regulation provides that a Bank is subject to the housing goals if its AMA mortgage purchases in a given year exceed a volume threshold of $2.5 billion in unpaid principal balance. Each year, FHFA determines whether any Banks have exceeded the volume threshold. For each Bank that has exceeded the volume threshold, FHFA determines the Bank's performance under the housing goals by calculating the percentage share of the Bank's AMA mortgage purchases that qualify for each housing goal. A Bank meets a housing goal if its performance is equal to or greater than the target level of the housing goal established by FHFA based on HMDA data for that year.

## III. Proposed Rule and Comments

### *A. Proposed Rule*

On November 2, 2018, FHFA published in the **Federal Register** a proposed rule to amend the existing Bank housing goals regulation.[11] The 90-day public comment period on the proposed rule ended January 31, 2019. FHFA proposed replacing the existing regulation's four single-family housing goals with a new, combined prospective single-family housing goal that would measure the affordable share of AMA mortgage purchases by each Bank. FHFA also proposed establishing a new, separate prospective housing goal that would measure the extent to which small members and housing associates sell loans to the Banks under the AMA programs. The prospective housing goals set forth in the proposed rule would provide certainty for the Banks by informing them of the housing goal target levels in advance and would provide clarity and flexibility for the Banks by consolidating multiple goals.

### *B. Overview of Comments on Proposed Rule*

FHFA received 23 comment letters in response to the proposed rule. This number includes a joint comment letter from the presidents of the eleven Banks. One comment letter was unrelated to the proposed rule. FHFA also held a number of meetings, including webinars, with Bank representatives and other stakeholders to describe the contents of the proposed rule, discuss issues raised by the proposed rule, and obtain clarifications of specific comments made in the letters.

Overall, commenters supported FHFA's proposed rule because it would make the housing goals more effective at encouraging affordable housing and easier to implement for the Banks. The comments on particular provisions of the proposed housing goals rule are discussed in more detail starting in Section VI. below.

## IV. Summary of Final Rule

### *A. Elimination of Volume Threshold*

The final rule eliminates the current $2.5 billion volume threshold, such that all Banks are subject to the new housing goals, regardless of their AMA mortgage purchase volume, consistent with the proposed rule.

### *B. New Prospective Housing Goal for Mortgage Purchases*

As proposed, the final rule establishes a new single combined prospective mortgage purchase housing goal in advance that replaces the four existing retrospective housing goals for home-purchase mortgages for low-income families, home-purchase mortgages for low-income areas, home-purchase mortgages for very low-income families, and refinancing mortgages for low-income families.[12] The new housing goal includes each of these four categories, but does not include separate target levels for each category. The final rule establishes one overall target level for the new housing goal at 20 percent of the number of a Bank's total AMA mortgage purchases. The final rule also permits a Bank to request FHFA approval of an alternative target level for the goal. The final rule further provides that no more than 25 percent of the mortgages counted toward the housing goal may be mortgages for families with incomes above 80 percent of area median income (AMI).

### *C. New Prospective Small Member Participation Housing Goal*

As proposed, the final rule establishes a new prospective housing goal that measures the extent of participation by small members and housing associates in a Bank's AMA program. Specifically, the final rule requires that at least 50 percent of a Bank's total AMA users must be community-based AMA users. ''Community-based AMA user'' is a new

[7] 12 CFR part 1281.

[8] 12 U.S.C. 1430c(a).

[9] 12 U.S.C. 1430c(b).

[10] ''Low-income'' and ''very low-income'' are defined in the final rule, as in the current regulation, as income not in excess of 80 percent and 50 percent of area median income, respectively. For a discussion of the definition of ''families in low-income areas'' see Section VI.D.

[11] 83 FR 55114.

[12] Because the housing goals will no longer be based on retrospective HMDA data, the final rule, as proposed, removes the definition of ''HMDA'' from § 1281.1.

term defined to mean any user whose average total assets over the three-year period culminating in the year preceding the one being measured are no greater than the applicable community-based AMA user asset cap, which itself is a new term meaning $1,224,000,000, subject to annual adjustments by FHFA, beginning in 2021, to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the U.S. Department of Labor. The final rule retains the proposed asset cap but incorporates it directly into the housing goals regulation and delinks the housing goals regulation from the Bank members regulation. Accordingly, these new terms replace ''community financial institution or CFI'' and ''CFI asset cap,'' which were proposed as new terms but neither of which appears in the final rule. ''AMA user'' is a newly defined term in § 1281.1 that means a participating financial institution from which the Bank purchased at least one AMA mortgage during the year for which the housing goals are being measured. If a Bank is unable to meet the 50 percent target level, the Bank may still meet the small member participation housing goal if the percentage of its total AMA users that are community-based AMA users is at least 3 percentage points greater than the percentage in the preceding year. The final rule permits a Bank to request FHFA approval of an alternative target level for this goal.

*D. Phase-In Period for Enforcement of the New Housing Goals*

Consistent with the proposed rule, the final rule establishes a three-year phase-in period for enforcement of the two new housing goals, starting with the effective date of the final rule and ending on December 31, 2023. During the phase-in period, FHFA will monitor and report the Banks' housing goals performance but will not impose a housing plan remedy in the event that a Bank fails to meet either or both of the housing goal target levels.

*E. Other Changes*

Consistent with the proposed rule, the final rule revises and simplifies the criteria and requirements under which mortgages are either included or excluded from FHFA's measurement of a Bank's performance under the housing goals. The final rule also revises the housing goals reporting requirements to reflect the new structure of the Bank housing goals.

**V. Elimination of the Volume Threshold**

The final rule eliminates the $2.5 billion volume threshold in the existing housing goals regulation. This means that all Banks acquiring any AMA mortgages are subject to the housing goals regardless of their AMA mortgage purchase volume. The elimination of the volume threshold is consistent with the proposed rule and addresses the fact that the threshold has operated as an upper limit on Bank AMA programs.

All eleven commenters who addressed the volume threshold supported its proposed elimination. Some commenters regarded the volume threshold as an artificial cap on liquidity. Others characterized it as a way for the Banks to avoid the goals entirely by keeping mortgage purchases below the threshold. No commenter opposed the proposed elimination of the threshold.

Thirty-six state or local advocacy and community development organizations, in a joint comment letter, supported the proposed elimination of the volume threshold, stating that it had served to effectively exempt the vast majority of Banks from the housing goals. A nonprofit consumer advocacy group commented that FHFA had made a strong argument for elimination of the volume threshold.

A trade association for credit unions, in support of the proposed elimination of the volume threshold, commented that the threshold operated as an upper limit on Bank AMA programs. A lender trade association asserted that as a result of removing the volume threshold, the Banks would be expected to either increase their total purchases, including affordable housing loans, or shift more of their total mortgage purchases towards affordable housing mortgages in order to comply with the housing goal, and characterized either result as desirable. This commenter urged close monitoring of the Banks to ensure they do not cease their AMA mortgage purchases to avoid noncompliance with the housing goal if the volume threshold were eliminated, although the commenter described that as an unlikely outcome.

A U.S. Senator stated that the volume threshold is inconsistent with the Banks' mission responsibility to meet the affordable housing needs in their districts. A trade association representing state housing finance agencies commented that the volume threshold has effectively exempted most Banks from the housing goals and served as a *de facto* upper limit on Banks' AMA purchases, resulting in less liquidity for affordable mortgage lending. Similarly, a nationwide nonprofit community development organization asserted that the volume threshold creates a ''perverse incentive'' for the Banks to limit their mortgage purchases, also claiming that removal of the threshold will encourage more AMA participation. An individual credit union commented that it supported all changes FHFA proposed.

In their joint comment letter, the Banks requested clarity on FHFA's intent concerning the final rule's effect on the Banks' overall AMA activity, noting that the proposed rule would allow a Bank to reduce its overall AMA activity as a means of increasing the percentage of its AMA purchases that qualify for the goal. FHFA notes that the final rule does not prohibit a Bank from managing its volume of AMA activity as a means of meeting the housing goal, nor does the existing regulation. FHFA recently issued an Advisory Bulletin [13] addressing FHFA's expectations for Banks' management of the risks of their AMA programs. FHFA also expects that the Banks will comply with the final rule by prioritizing purchases of AMA mortgages for low- and very low-income families, and for families in low-income areas.

As discussed in the proposed rule, the volume threshold was originally adopted to allow smaller Bank AMA programs to operate without meeting housing goal target levels, particularly programs focused on providing liquidity for smaller Bank members. Over time, however, the volume threshold has instead operated as an upper limit on Bank AMA programs. Banks below the volume threshold in effect avoid the housing goals, while Banks above the threshold face application of housing goals that AMA programs were not designed to, and typically did not, meet.

Housing goals will better serve their public purpose if they are flexible enough to be meaningful and achievable for a variety of Bank AMA programs. The final rule creates a mechanism for the housing goals to apply to all Banks while allowing flexibility to address unique situations for particular Banks if necessary. The new process for setting the target levels of the housing goals should help address issues faced by smaller AMA programs by allowing the Banks to propose meaningful and achievable alternative target levels based on the nature of the AMA program at each Bank.

Accordingly, as proposed, the final rule eliminates the existing $2.5 billion volume threshold, making the housing

[13] ''Acquired Member Assets Risk Management Advisory Bulletin,'' AB 2020–01 (January 31, 2020).

goals applicable to all Banks regardless of their AMA purchase volume. Banks may propose alternative target levels to FHFA for approval, as discussed below in Section VIII.

## VI. Prospective Mortgage Purchase Housing Goal

### *A. Single Combined Goal With Multiple Categories for Eligibility*

Section 1281.11(a) of the final rule replaces the four existing separate retrospective mortgage purchase housing goals with a single prospective mortgage purchase housing goal that includes all single-family, first lien AMA mortgages purchased by a Bank, with limited exceptions. Purchase money or refinancing mortgages meeting the income or geographic eligibility requirements for any of the existing four housing goals would count toward performance under this new combined goal. This includes mortgages for low- or very low-income borrowers and mortgages for borrowers living in low-income areas.

Refinancing mortgages for low-income borrowers, which previously counted only for the separate low-income families refinancing goal, are now included in the new combined goal. By combining the different categories into a single, combined goal, the final rule also counts refinancing mortgages for families of any income level who reside in low-income areas, subject to the cap on counting loans to higher-income borrowers in low-income areas, discussed in Section VI.D. below.

FHFA's proposal to consolidate the four existing housing goals into a single combined goal received support from a number of commenters. A bank trade association, a credit union trade association, and a credit union generally emphasized the additional flexibility the proposal would provide the Banks in serving specific needs within their districts. A lenders trade association commented that given the relatively small historical sizes of AMA programs, there is little value in segregating AMA mortgage purchases into more granular categories, and that a single, consolidated goal would reduce the Banks' compliance burden.

An organization representing state housing finance agencies also favored consolidating the goals, noting that, unlike the Enterprises' mortgage purchases, the Banks' AMA programs are limited in scope and resources, making it harder for the Banks to develop products or programs designed to serve each separate goal. It also commented that, unlike the Enterprises, the Banks generally operate with a regional focus, and that each Bank district has different needs.

Thirty-six state or local advocacy and community development organizations, in a joint comment letter, opposed combining the four existing housing goals into one goal. These commenters stated that the four housing goals align with the statutory requirement that the Banks' housing goals be consistent with the Enterprises' housing goals. The commenters also asserted that the four housing goals target different populations and neighborhoods, each with unique needs. The commenters expressed concern that the Banks could satisfy the new single combined housing goal by purchasing mortgages targeting certain easier-to-serve populations while providing little support for other populations, such as very low-income borrowers, that may prove more difficult to serve.

A consumer advocacy organization shared these concerns about service to very low-income borrowers under the proposal. The commenter also observed that the proposed rule preamble did not provide analysis of the past or trending distribution of purchase money and refinance loans in AMA mortgage acquisitions. It expressed concern about potential underrepresentation of refinance loans in the Banks' AMA programs if the final rule adopted the proposed combined goal for purchase money and refinance loans. The commenter stated that the combined goal is likely to have less impact in the current and immediate past rate environments where refinances were at very low levels, but that this may not always be the case. This commenter did not object to the proposal but expressed concern that a consolidated housing goal might reduce access to credit for some categories of low-income borrowers. The commenter urged FHFA to monitor Bank housing goals performance closely under the final rule and be prepared to return to more granular housing goals if AMA mortgage purchases skew away from serving very low-income borrowers.

After considering the comments, FHFA has concluded that the proposed new single, combined mortgage purchase housing goal is appropriate for the Banks' AMA programs. The Banks' AMA programs are voluntary and serve a small fraction of the secondary market. The new combined goal draws from the same categories used in the Enterprise and Bank housing goals regulations,[14] while giving the Banks additional flexibility to meet the needs of each of their districts. FHFA also recognizes that, due to the voluntary nature of the Banks' AMA programs, requiring AMA programs to serve all the categories of borrowers at precise target levels, as under the existing Bank housing goals, may be more likely to discourage Bank participation in AMA programs than to increase service to underserved borrowers. In addition, concerns that combining the four existing housing goals categories would result in certain populations being neglected are at least partially addressed by the final rule's cap on counting loans to higher-income borrowers in low-income areas, discussed in Section VI.D. below.

Accordingly, for the foregoing reasons, and consistent with the proposed rule, the final rule establishes a single, combined mortgage purchase housing goal for low- and very low-income borrowers and borrowers in low-income areas and counts purchase money and refinance mortgages identically under the goal. Although the final rule does not establish specific target levels for each of the four categories under the new combined goal, FHFA will continue to require the Banks to report data allowing FHFA to identify and monitor AMA activity under each of the four categories.

### *B. Twenty (20) Percent Target Level for the New Mortgage Purchase Housing Goal*

Section 1281.11 of the final rule sets the target level for the new combined mortgage purchase housing goal at 20 percent of the total number of AMA mortgage loans purchased by a Bank, consistent with the proposed rule. This means that a Bank meets the housing goal if 20 percent or more of the AMA mortgage loans it purchases serve some combination of low-income households, very low-income households, or households in low-income areas, subject to a 25 percent cap on loans purchased by the Bank that serve higher-income borrowers in low-income areas. Consistent with the approach in the existing regulation and the proposed rule, the mortgage purchase goal is denominated as a percentage of number of loans, not unpaid principal balance. Also consistent with the proposed rule, the final rule provides the Banks with the option to propose alternative Bank district-specific target levels, discussed further in Section VII. below.

#### 1. Comments Received

Commenters provided mixed responses to the proposed 20 percent target level for the new mortgage purchase housing goal. A U.S. Senator supported the proposed target level, noting that many of the targeted

[14] *See* 12 CFR part 1282.

borrowers have difficulty obtaining financing and that serving them is consistent with the mission of the Banks. A credit union also supported the proposed target level, stating that it would not appear to add any risk to the Banks or do anything other than improve on what already works well. A lenders trade association commented that the proposed target level would strike an appropriate balance between rigor and feasibility, but also recommended that, should any Banks discontinue their AMA programs as a result of the target level, FHFA be prepared to reevaluate the target level or work with those Banks on developing alternative Bank-specific target levels.

Several advocacy organizations recommended a different target level for the new mortgage purchase housing goal. Thirty-six state or local advocacy and community development organizations, in a joint comment letter, opposed the imposition of the same percentage target level on all Banks, instead recommending Bank district-specific target levels at levels unspecified in the comment letter. A nonprofit community revitalization organization regarded the proposed target level as too low, stating that eight of the eleven Banks already met this target level each year since 2011. A nonprofit consumer advocacy organization expressed concern that the proposed target level could encourage at least six Banks to reduce their AMA mortgage purchase efforts because their historical performance exceeded the proposed target level. The commenter favored setting the target level between 25 and 30 percent, which it noted several Banks had exceeded in the past and which it believed the Banks could meet in the future. A trade association representing state housing finance agencies similarly observed that several Banks have exceeded the proposed target level in recent years, suggesting that it could prompt some Banks to lower their purchases of mortgages for low- and moderate-income borrowers.

A credit union trade association took the opposite view, favoring an initial target level that all Banks have already met. The commenter stated that the Banks could then focus on building their AMA purchase volumes overall without fear of missing the goal. The commenter stated that this would help in assessing the impact of removing the $2.5 billion volume threshold, and that FHFA could then evaluate the data and set a new incremental target level at the end of the initial three-year period.

In their joint comment letter, the Banks stated that while a 20 percent target level might be achievable in favorable economic times, it might also be hard to sustain over the long term. The Banks indicated that such a level may be difficult to achieve during economic downturns, which might compromise Banks' prudent management of their AMA programs. A community bankers trade association similarly commented that a Bank's ability to reach a 20 percent target level likely depends on the macroeconomic climate at the time.

Several commenters offered alternative formulations of the goal that would change the target level. For instance, a nonprofit community revitalization organization suggested starting with a lower, unspecified target level and gradually increasing it each year, culminating in an unspecified target level above 20 percent. The commenter also suggested establishing specific subgoals based on Bank district needs and on the types of small member institutions or geographic areas, *e.g.,* small members located in rural areas.

The Banks jointly recommended that the proposed 20 percent target level decrease to 10 percent in two situations. First, the 20 percent target level would drop if, in a single year, one or more AMA users who had individually or collectively provided 10 percent or more of the AMA mortgages ceased being a member of the Bank. Second, the 20 percent target level would drop upon a material increase in mortgage delinquencies (defined as delinquencies exceeding 90 days), as measured in either FHFA's published mortgage-backed securities statistics or in a Bank's AMA mortgage portfolio.

A community bankers trade association recommended that FHFA set an alternate floor that would be triggered upon an unexpected economic downturn that made the 20 percent target level too onerous, providing 10 percent as an example of such a floor. The commenter stated that members need to view the AMA programs as consistent and reliable, and doubts about the reliability of a Bank as an outlet for their mortgage production may result in members limiting their AMA activity.

The Banks jointly commented that any new housing goal should be established such that each Bank is in compliance as of the effective date. Accordingly, the Banks recommended having a separate percentage floor for any Bank performing below the 20 percent target level from the outset. Alternatively, the Banks suggested that a Bank that has submitted an alternative target level for FHFA approval should not be subject to the 20 percent target level while the review process is pending. The Banks further suggested, as an alternative to a percentage floor, that FHFA could establish a range of possible target levels in the regulation, and then periodically set a specific target level within the range by way of a supervisory letter to the Banks.

2. FHFA Determination on the Target Level for the Mortgage Purchase Housing Goal

The final rule establishes the target level for the prospective mortgage purchase housing goal at 20 percent, the same level as in the proposed rule. In determining the target level for the new mortgage purchase goal, FHFA considered the comments received, as well as national housing needs, the past performance of the Banks under the housing goal, the ability of the Banks to lead the industry in making mortgage credit available, and the size of the mortgage market for affordable loans relative to the overall mortgage market. The factors considered by FHFA in setting the Bank housing goal are similar to the factors that FHFA is required by statute to consider in setting the Enterprise housing goals.[15] Those factors include: (1) National housing needs; (2) economic, housing, and demographic conditions; (3) past performance on the housing goals; (4) ability to lead the industry in making mortgage credit available; (5) the size of the affordable market relative to the overall market; and (6) the financial condition of the Enterprises.

a. National Housing Needs, Including Underserved Borrowers

In determining the target level for the new mortgage purchase housing goal, FHFA considered the nation's affordable housing needs, which affect both homeowners and renters, while focusing on homeownership as the policy area most directly connected to the Bank housing goals. The national homeownership rate declined every year from 2004 to 2017, with particularly sharp declines for younger households and African American households.[16] Tight access to mortgage credit is an ongoing factor in the lack of access to homeownership, particularly in places with lower-cost homes.[17] Workers in essential sectors like construction often cannot afford to purchase even modestly priced homes in most metropolitan statistical areas.

[15] *See* 12 U.S.C. 4562(e).

[16] *See* Joint Center for Housing Studies of Harvard University, ''The State of the Nation's Housing 2017,'' 21 (2017), *available at http://www.jchs.harvard.edu/sites/default/files/harvard_jchs_state_of_the_nations_housing_2017_0.pdf.*

[17] *Id.* at 23.

As an example, a typical carpenter could afford the median home price with a three percent down payment in only 40 percent of metropolitan statistical areas in a recent analysis.[18] Workers in less well-paid professions struggle even more. Improved financing opportunities can help mitigate homeownership difficulties for underserved borrowers. FHFA recognizes these affordable housing challenges and has considered them in selecting a target level for the prospective mortgage purchase housing goal.

b. Past Performance on the Prospective Mortgage Purchase Housing Goal

In setting the target level for the mortgage purchase housing goal at 20 percent, FHFA also analyzed what the Banks' past performance under the goal would have been if the goal had been in effect at that time (including all loans that would have been counted under the proposed rule). Chart 1 below replicates and extends the proposed rule preamble analysis to include 2018 performance and to reflect the formulation of the prospective mortgage purchase housing goal in the final rule, which excludes non-conventional loans sold by AMA users with assets above the community-based AMA user asset cap. A full color version of Chart 1 and the other charts below appear in this preamble to the final rule as published on FHFA's website. The tables and charts in this preamble mask the identity of individual Banks by using letters instead of names to maintain confidentiality of Bank data. The letters identifying the Banks have been randomized for each table and chart (*e.g.,* Bank A may refer to different Banks in different tables).

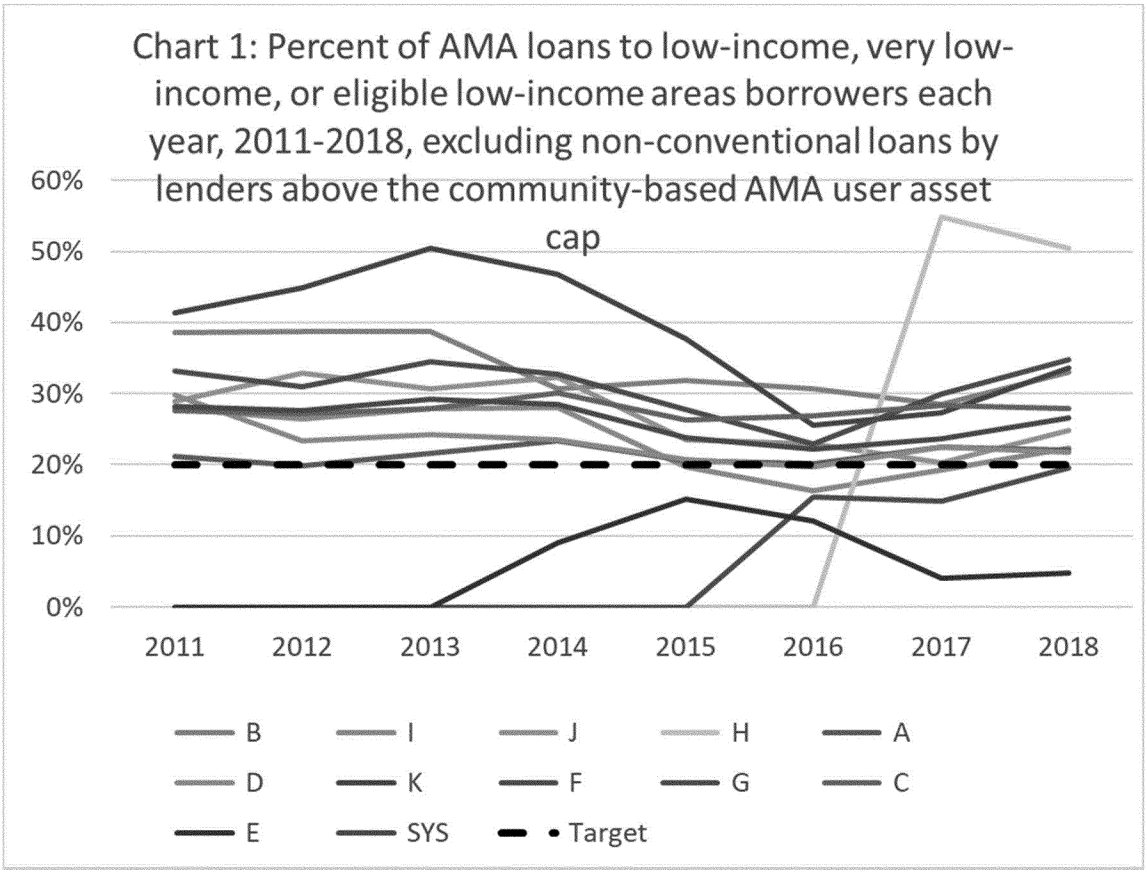



Chart 1 shows generally that Bank AMA performance as measured by the new prospective mortgage purchase housing goal was above the 20 percent target level for most Banks in most years since 2011. Bank I would have met or exceeded the 20 percent target level in 2015–2017 if all non-conventional loans were included (as in the proposed rule), but Bank I performed below 20 percent in 2015–2017 based on exclusion of non-conventional loans from institutions exceeding the community-based AMA user asset cap (as in the final rule). Bank I's 2018 performance was back above 20 percent.

Three Banks—E, G and H—show performance of zero for some years in the chart. These Banks were not purchasing AMA loans at the beginning of the time series and began building their AMA programs over time. In addition, Bank H purchased only non-conventional AMA loans for several years in the series, so the exclusion of such loans sold by institutions above the community-based AMA user asset cap has large effects on both the numerator and denominator of the goals performance percentage. Hence, Bank H performance is zero in some years and very high in others. Bank H did not have an active AMA program in 2019.

c. Ability of the Banks To Lead the Industry in Making Mortgage Credit Available

FHFA has also considered the ability of the Banks to lead the industry in making mortgage credit available. To assess the ability of the Banks to lead the industry, FHFA started by

[18] National Housing Conference, ''Paycheck to Paycheck 2018,'' 3 (Apr. 2018), *available at https://www.nhc.org/wp-content/uploads/2019/04/P2P2018_Final.pdf.*

comparing how the Banks would have performed under the prospective mortgage purchase housing goal in 2018 with how Fannie Mae and Freddie Mac would have performed if they had been subject to the same goal in 2018. Table 1 below shows performance percentages for each Enterprise, applying the same calculation method applicable under the Bank housing goals established in this final rule.

**Table 1: FHLBank housing goal if applied to Enterprise purchases 2018**

| | *Fannie Mae* | *Freddie Mac* |
|---|---|---|
| Denominator: purchase money and refinancing loans | 1,700,722 | 1,180,874 |
| Numerator components: | | |
| a. Loans to low-income borrowers, including very low-income borrowers | 461,648 | 291,811 |
| b. Loans to borrowers with incomes above 80% AMI but that qualify because of the low-income areas (LIA loans) | 222,882 | 148,492 |
| Includes: | | |
| Borrowers > 80% AMI in low-income census tracts | | |
| Borrowers > 80% and <=100% AMI in minority census tracts | | |
| Borrowers > 80% and <=100% AMI in disaster census tracts | | |
| c. Maximum allowable LIA loans (capped at 25% of the numerator) | 153,883 | 97,270 |
| Numerator: Low-income loans + maximum allowable LIA loans (c) | 615,531 | 389,081 |
| Performance percentage: | 36% | 33% |

As shown in Table 1, the Enterprise performance under the Bank housing goals would have exceeded the performance of most Banks in 2018. Fannie Mae's performance under the prospective mortgage purchase housing goal would have been 36 percent, and Freddie Mac's performance would have been 33 percent. As discussed above, all but two Banks would have exceeded the 20 percent target level in 2018, but only four Banks would have had performance levels above 30 percent (including one Bank whose performance has varied widely). The average performance for all Banks combined in 2018 would have been 26.6 percent.

There are a number of factors that help explain the difference between the performance of the Banks and the performance of the Enterprises. FHFA, through the AMA regulation, requires that if the Banks establish AMA programs, AMA users must bear a substantial portion of the credit risk associated with the loans they sell by providing a credit enhancement obligation, which the PFI must fully secure. Additionally, some Banks, through their capital structure plans, have AMA stock purchase requirements for members selling loans to the Bank. Taken together, the credit enhancement obligation, collateral requirement and potential member stock purchase requirement result in loans for which the Bank AMA program is the best execution qualifying for the mortgage purchase housing goal at a lower rate than loans sold to the Enterprises.

Other factors that help explain the difference in performance include the vast difference between the size of the Enterprises' mortgage portfolios and the Banks' mortgage portfolios. The Enterprises together serve more than 60 percent of the single-family secondary market, while the Banks' AMA programs serve less than one percent. Further, Banks are permitted to purchase AMA mortgages only from members in their districts, while the Enterprises serve a national market. In 2018, Bank System members totaled 6,863, of which only 861 sold mortgages to the Banks. Additionally, the Enterprises are chartered to provide stability and liquidity in the secondary market for residential mortgages by purchasing and making commitments to purchase residential mortgages. The Banks, in contrast, operate AMA programs at their discretion.

In setting the target level for the mortgage purchase housing goal at 20 percent, FHFA recognizes that the Banks' AMA programs have little ability to lead the industry due to their limited size relative to the overall mortgage market. The mortgage credit enhancement requirements of AMA programs and the supervisory expectations in the AMA Advisory Bulletin address safety and soundness considerations. These factors further explain the difference between the historical performance of the Banks on the new mortgage purchase housing goal and the nationwide market level for the mortgage market as a whole.

d. Size of the Affordable Market Relative to the Overall Market

The Banks' AMA mortgage purchases represent less than one percent of secondary mortgage market purchases by Ginnie Mae, Fannie Mae, and Freddie Mac, as discussed above and in the proposed rule preamble. Using a target level based on a market-wide measure would not be appropriate for the housing goals applicable to the AMA programs, which are currently a set of niche programs for Bank members and housing associates [19] due to the Banks' unique structure and role in the market.

[19] Eligible, non-member housing associates may participate in a Bank's AMA program. However, since 2000, no housing associate has sold an AMA loan to a Bank.

e. Target Level Set at 20 Percent in Final Rule

Based upon FHFA's consideration of the comments, the serious affordable housing challenges nationwide, the past performance of the Banks, the affordable market levels, and the other factors discussed above, § 1281.11(a)(1) of the final rule sets the target level for the new mortgage purchase housing goal at 20 percent of the total number of AMA mortgage loans purchased by a Bank in the year being measured. This target level will encourage the Banks to continue to make meaningful contributions to affordable housing while recognizing the limited ability of the Banks to affect the overall housing market.

In considering an appropriate target level, FHFA evaluated whether to set specific target levels by Bank district, as recommended by some commenters. Bank districts vary widely, ranging from two to sixteen states or territories in one district. Available national data do not enable FHFA to set district-specific target levels with sufficient accuracy to be effective for housing goals. However, the option requested by the Banks for FHFA approval of alternative district-specific target levels, which is included in the final rule, will allow Banks to propose alternative target levels supported by data and subject to public comment.

The final rule addresses concerns raised by several commenters about how the new mortgage purchase housing goal will function under unexpected market conditions or other adverse circumstances through a combination of the following mechanisms:

1. *Enforcement period.* Section 1281.15(a) of the final rule provides for an initial three-year period during which FHFA will not impose a housing plan if a Bank fails to meet a housing goal. During this period, FHFA will still measure the Banks' performance under both housing goals and make determinations of Bank compliance with those goals. This period will provide the Banks time to adjust their AMA programs as needed to ensure that purchase of affordable housing mortgages is an integral, ongoing part of their business plans. It will also provide FHFA with an opportunity to collect data on Bank performance under the housing goals to guide implementation going forward. The proposed rule described this period as a ''three-year'' period, but the proposed rule text would have provided for the imposition of a housing plan only for ''any year after 2021,'' rather than ''2022.'' The final rule corrects this drafting error and extends the phase-in period to account for the initial application of the final rule in 2021 by providing for the possible imposition of a housing plan for ''any year after 2023.'' FHFA received no comments specifically addressing the extension of a phase-in period through 2021 as opposed to any other year.

2. *Alternative target levels.* Section 1281.11(a)(1)(ii) of the final rule provides a Bank with the option to propose, for FHFA approval, an alternative district-specific target level for the new mortgage purchase housing goal. Banks concerned about their ability to meet the 20 percent target level may pursue this option.

3. *Infeasibility determination.* Because the target level is calculated as a percentage of a Bank's total AMA mortgage purchases, the same way it is calculated in the current regulation, the target level should remain feasible under a range of market conditions, particularly changes that affect the volume of mortgage activity overall. If unexpected market conditions arise that make achievement of the target level infeasible for a Bank, FHFA has the discretion to determine that the goal was infeasible under § 1281.15(a) of the regulation. If FHFA determines that the goal was infeasible, the Bank would not be required to submit a housing plan. The regulation requires FHFA to consider market and economic conditions and the financial condition of the Bank in determining whether a goal was infeasible. These factors are similar to the factors suggested in the Banks' comment as possible criteria for setting a lower target level.

*C. Treatment of Non-Conventional Mortgages Under the New Mortgage Purchase Housing Goal*

Section 1281.13(c) of the final rule allows single-family mortgages guaranteed or insured by a department or agency of the federal government (*i.e.,* non-conventional mortgages) to count toward the mortgage purchase housing goal only if the mortgages were acquired by the Bank from a community-based AMA user (*i.e.,* an AMA user with assets not in excess of the community-based AMA user asset cap). This is a change from the current regulation, which excludes all non-conventional loans from counting towards a Bank's housing goals performance regardless of the size of the selling institution. It is also a change from the proposed rule, which would have allowed all non-conventional mortgage loans to count towards a Bank's housing goal performance if the loans met the other applicable criteria.

A rural-focused nonprofit organization, a nonprofit national organization, a nonprofit consumer advocacy organization, a banker's trade association, and a U.S. Senator supported the proposal to count all non-conventional mortgage loans toward the mortgage purchase housing goal. The nonprofit consumer advocacy organization urged FHFA to monitor closely how this new housing goal treatment would affect the mix of AMA mortgages purchased by the Bank. No commenter opposed the proposal.

The final rule represents a middle ground between the current regulation (excluding all non-conventional loans) and the proposed rule (including all non-conventional loans). The current Bank housing goals regulation is consistent with the Enterprise housing goals regulation in excluding non-conventional single-family loans from counting toward the Enterprise housing goals. Loans backed by the federal government have been excluded from the Enterprise single-family housing goals for many years. The exclusion is intended to avoid giving housing goals credit to the Enterprises for loans where the primary form of support comes from the federal government rather than the Enterprises.

The final rule allows non-conventional loans to count towards the Bank housing goals only in limited circumstances. The Banks' unique mission and ownership structure address the limited liquidity available in particular to small AMA users. The final rule, therefore, allows non-conventional loans purchased from small AMA users to count toward the performance of the Banks under the housing goals. This approach will allow non-conventional loans from small AMA users to count without creating an incentive for the Banks to purchase a high volume of non-conventional loans from larger members in order to improve their performance under the housing goals.

Non-conventional loans will be excluded from the numerator and the denominator in the housing goal calculation unless purchased from a small AMA user. The final rule only addresses whether and how non-conventional loans count for purposes of the housing goals. It does not prevent the Banks from purchasing such loans through their AMA programs. Eligibility for purchase is governed by the AMA regulation.

*D. Cap on Loans to Higher-Income Borrowers Counting Toward the Mortgage Purchase Goal*

Section 1281.11(a)(2) of the final rule provides that no more than 25 percent of the mortgages purchased by a Bank that are counted towards the mortgage purchase housing goal may be for higher-income borrowers, defined as borrowers with incomes above 80 percent of area median income, in low-income areas. As discussed above, the final rule combines each of the four current Bank housing goals into a single housing goal incorporating the categories in the four goals. One of the four goals categories focuses on mortgages for families in low-income areas, which may include some mortgages for families with incomes above 80 percent of area median income. The 25 percent cap will limit the extent to which a Bank may rely on mortgages for such higher-income families in low-income areas to meet the mortgage purchase housing goal. The cap does not prohibit the purchase of such mortgages by a Bank, although purchases of loans to higher-income borrowers in low-income areas that exceed the cap will have the effect of lowering the housing goal performance number that is calculated for the Bank.

The definition of ''families in low-income areas'' remains unchanged in the final rule from the current regulation, other than one technical, conforming revision included in the proposed rule.[20] The definition includes (1) families in low-income census tracts regardless of family income, (2) moderate-income families in minority census tracts (*i.e.,* census tracts with minority population of at least 30 percent and a median income less than the area median income), and (3) moderate-income families in designated disaster areas. ''Moderate income'' is defined in the regulation as income not in excess of area median income. These criteria are summarized in Table 2 below:

**Table 2: Low-Income Areas Components**

| | Income Requirement | Geographic Requirement |
|---|---|---|
| Path 1 | None | Low-Income Census Tract (Census Tract Median Income ≤ 80% AMI) |
| Path 2 | ≤ 100% AMI | Minority Census Tract (≥30% minority + Census Tract Median Income <100% AMI) |
| Path 3 | ≤ 100% AMI | Designated Disaster Area |

The definition of ''families in low-income areas'' is different from the other components included in the housing goal because it does not include an income limitation for borrowers. For properties located in low-income census tracts, each mortgage purchase counts toward a Bank's achievement of the housing goal, regardless of family income. For properties in minority census tracts and for properties in designated disaster areas, mortgage purchases count if family income is less than or equal to the area median income, which would include families with incomes above 80 percent up to 100 percent of area median income.

As a result, it is possible for loans to higher-income households in low-income areas to count toward achievement of the housing goal. The final rule does not exclude such mortgages for higher-income families from counting entirely; rather, it limits the extent to which a Bank may rely on loans in low-income areas for families with incomes above 80 percent of area median income to be counted for purposes of meeting the housing goal. Loans to higher-income borrowers in low-income areas that exceed the cap will still be counted in the denominator when calculating the performance for the Bank, with the effect that loans above the cap will effectively lower the Bank's calculated housing goals performance. The 25 percent cap is intended to balance the need for homeownership investment in

[20] In its 2015 final rule amending the Enterprise housing goals regulation, FHFA removed the reference to ''block numbering areas'' under the first prong of the ''families in low-income areas'' definition to conform to the terminology used by the U.S. Census Bureau. As proposed, § 1281.1 of the final rule makes a similar conforming revision to the definition of ''families in low-income areas'' in the Bank housing goals regulation by removing the reference to ''block numbering areas.''

communities that have lacked consistent, large-scale homeownership investment, on the one hand (which would support counting all loans that meet the criteria for low-income areas), and concern about the impact of an influx of higher-income households on existing residents, on the other hand (which would support excluding all loans to higher-income borrowers in low-income areas).[21]

The final rule therefore caps the percentage of mortgages to higher-income borrowers that a Bank can count toward the housing goal at 25 percent. Note that the cap does not prevent Banks from purchasing these loans to higher-income borrowers pursuant to the AMA rule. The cap limits the extent to which such loans count toward the goal, but includes all such loans in the denominator when calculating the Bank's housing goals performance. This means that if the number of mortgages purchased by a Bank that are for families with incomes exceeding 80 percent of area median income who are located in low-income areas would contribute more than 25 percent of a Bank's performance on the housing goal, then any such mortgages above the 25 percent cap will be excluded from the numerator in calculating a Bank's performance under the goal. Those mortgages above the 25 percent cap will still be included in the denominator.

Commenters generally favored the proposed 25 percent cap. A U.S. Senator supported the proposed cap, as did advocacy organizations, nonprofits, and a lenders trade association. The Banks did not oppose the establishment of a cap, but they requested that FHFA set it at 30 percent instead of 25 percent.

Thirty-six state or local advocacy and community development organizations, in a joint comment letter, supported the proposed 25 percent cap. They pointed to evidence of gentrification and displacement of lower-income borrowers in low-income areas and in high-minority census tracts, including in markets where housing has become very expensive and affordable housing is scarce, and stated that the proposed cap would preserve housing opportunities for low-income families in those areas without reducing lending for non-low-income families generally.

A nonprofit consumer advocacy group strongly supported the proposed 25 percent cap, stating that community revitalization of historically underserved areas requires support from households with a mix of incomes but that the goals should primarily benefit low- and moderate-income borrowers.

A nationwide nonprofit community development organization supported the proposed 25 percent cap, and also stated that higher-income borrowers in low-income areas are important for ensuring that new investment flows into historically disinvested communities. A trade association representing state housing finance agencies commented that the proposed 25 percent cap would ensure that AMA programs continue to support lending to low- and moderate-income borrowers while not neglecting underserved communities.

A lenders trade association commented that the proposed 25 percent cap would mitigate against the risk that AMA mortgage purchases would be concentrated among higher-income households in low-income areas, stating that allowing those mortgages to constitute the majority of a Bank's affordable loan purchases would limit the effectiveness of the housing goal.

A credit union trade association commented that the proposed 25 percent cap would help balance the benefit of new investment with the impact on existing residents, but also expressed concern that it could burden credit unions, which have defined fields of membership that limit the scope of localities and persons they may serve. This commenter also noted that the proposed rule preamble did not present data on the benefits that mortgages to higher-income borrowers living in low-income areas have on those areas and described the proposed 25 percent cap as arbitrary and in need of additional justification. Nevertheless, the commenter wrote that the cap would help to balance the benefit of new investment with the impact on existing residents.

FHFA recognizes that mortgages for higher-income borrowers in low-income areas may provide indirect benefits to neighboring communities and homeowners, but such effects, by their nature, are difficult to quantify. In addition, the market is already providing mortgages to borrowers with incomes exceeding 80 percent of AMI in low-income areas at increasing levels, as discussed in the proposed rule preamble.[22] The potential positive effects from Bank purchases of mortgages for higher income borrowers are also limited by the relatively limited size of the Banks' AMA programs as a share of overall secondary market activity. FHFA has determined that concerns about the Banks relying excessively on loans to higher income borrowers outweigh the possible benefits, and therefore the final rule establishes the 25 percent cap on counting mortgages for higher-income borrowers in low-income areas.

To help determine the appropriate level for a cap on loans to borrowers with incomes above 80 percent of area median income counting toward the mortgage purchase housing goal, FHFA analyzed whether there would have been a difference in how many Banks met the mortgage purchase goal's target level under a 25 percent cap as opposed to a 30 percent cap. From 2011 to 2018, a 30 percent cap would have twice allowed an additional Bank (once in 2018 and once in 2015) to count more loans toward the goal and therefore exceed the 20 percent target level, as compared to a 25 percent cap. Table 3 below summarizes the results of the analysis and shows, for context, the number of Banks with active AMA programs each year.

[21] For information on the effects of gentrification, *see generally* Federal Reserve Bank of Philadelphia, ''Research Symposium on Gentrification and Neighborhood Change'' (May 25, 2016), *available at https://www.philadelphiafed.org/community-development/events/2016/research-symposium-on-gentrification;* Diane K. Levy, Jennifer Comey & Sandra Padilla, ''IN THE FACE OF GENTRIFICATION: Case Studies of Local Efforts to Mitigate Displacement'' (Urban Institute 2006), *available at https://www.urban.org/sites/default/files/publication/50791/411294-In-the-Face-of-Gentrification.PDF.*

[22] *See* Federal Home Loan Bank Housing Goals Amendments, 83 FR 55114, 55120, Table 3 (Nov. 2, 2018), *available at https://www.govinfo.gov/content/pkg/FR-2018-11-02/pdf/2018-23890.pdf.*

**Table 3: Bank performance under different caps**

| | | *Proposed rule* | *Banks' comment* | *Banks with AMA programs* |
|---|---|---|---|---|
| Cap on counting loans to borrowers above 80% AMI | | 25% | 30% | |
| Number of Banks that would have met the goal in: | 2018 | 9 | 10 | 11 |
| | 2017 | 9 | 9 | 11 |
| | 2016 | 6 | 7 | 11 |
| | 2015 | 8 | 8 | 10 |
| | 2014 | 8 | 8 | 9 |
| | 2013 | 8 | 8 | 8 |
| | 2012 | 7 | 7 | 8 |
| | 2011 | 8 | 8 | 8 |

FHFA also analyzed the number of Banks that would have had mortgages excluded from counting toward the mortgage purchase housing goal due to the cap. For this analysis, FHFA measured whether each Bank purchased more loans to higher-income borrowers in low-income areas than would have counted toward the goal at both the 25 percent cap and 30 percent cap levels. This analysis found that more Banks would have had loans excluded from counting toward the goal under the 25 percent cap than under the 30 percent cap. Under the 25 percent cap, most Banks in most years would have had mortgages to higher-income borrowers in low-income areas excluded from consideration for the mortgage purchase housing goal. Under the 30 percent cap, the number of Banks with mortgages excluded due to the cap would have been significantly lower. Table 4 below summarizes the analysis of Banks that would have had loans excluded due to the cap.

**Table 4: Banks constrained under different caps**

| | | *Proposed rule* | *Banks' comment* | *Banks with AMA programs* |
|---|---|---|---|---|
| Cap on counting loans to borrowers above 80% AMI | | 25% | 30% | |
| Number of Banks constrained by the cap in: | 2018 | 10 | 6 | 11 |
| | 2017 | 8 | 6 | 11 |
| | 2016 | 8 | 5 | 11 |
| | 2015 | 6 | 5 | 10 |
| | 2014 | 6 | 4 | 9 |
| | 2013 | 4 | 3 | 8 |
| | 2012 | 4 | 3 | 8 |
| | 2011 | 5 | 4 | 8 |

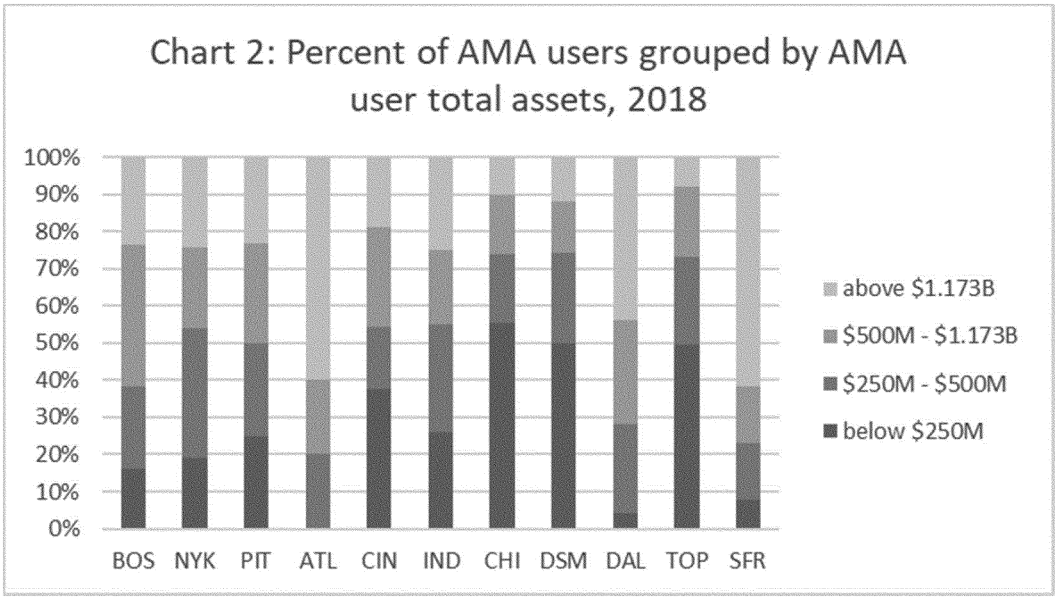
As illustrated by Table 3 and Table 4, the 25 percent cap would have had little impact on the performance of the Banks under the mortgage purchase housing goal, but it would have limited the incentive for Banks to purchase mortgages for borrowers with incomes in excess of 80 percent of AMI in low-income areas in order to meet the goal. FHFA therefore has concluded that the 25 percent cap is an appropriate level to encourage the Banks to focus efforts on meeting the goal by purchasing loans to low-income borrowers, while recognizing that loans to higher-income borrowers in low-income areas are valuable and will continue to occur.

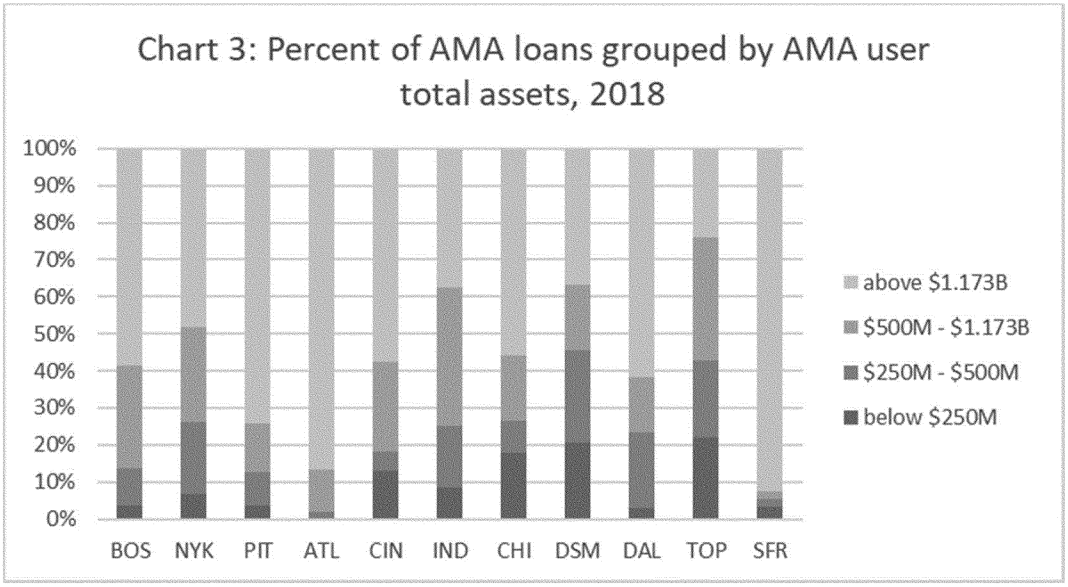
## VII. New Small Member Participation Housing Goal

Consistent with the proposed rule, § 1281.11(b) of the final rule establishes a new small member participation housing goal that requires each Bank annually to ensure that the percentage of total AMA users that are community-based AMA users meets at least one of the following: (1) 50 percent, (2) a percentage that is three percentage points higher than the percentage from the preceding year, or (3) an alternative target level approved by FHFA. This new small member participation housing goal reflects the cooperative structure of the Banks and the recognition that smaller lenders are well-positioned to reach borrowers with affordable housing needs.

A majority of the AMA users participating in AMA programs are small when measured by asset size, but a larger portion of the number of AMA mortgages purchased by the Banks come from AMA users of greater asset size. In 2018, 83 percent of individual AMA users had total assets below $1.173 billion, the applicable 2018 CFI asset cap, established pursuant to 12 U.S.C.

1422(10)(B). Those AMA users sold 51 percent of the total number of AMA mortgages purchased by the Banks. Charts 2 and 3 below show the distribution of each Bank's AMA users by asset size and share of the number of loans purchased by the Bank from them.




*A. Purpose of the Small Member Participation Housing Goal*

The new small member participation housing goal should encourage Banks to maintain a focus in their AMA programs on small AMA users. As discussed in the proposed rule preamble, loans purchased from community-based AMA users (referred to generally as ''small AMA users'' or ''small members'' in the proposed rule) are more likely to be affordable home loans to low-income households than loans purchased from large AMA users. Table 5 below illustrates that in 2018, small (*i.e.,* community-based) AMA users sold low-income or very low-income AMA loans to the Banks at a rate four percentage points greater than large AMA users. The proposed rule preamble reported the same difference using 2017 data.

**Table 5: Comparison of low-income and very low-income loans by AMA user size, 2018**

| | <=50% AMI loans | % of all loans | >=50% <=80% AMI loans | % of all loans | <=80% AMI loans | % of all loans | Total loans |
|---|---|---|---|---|---|---|---|
| Small AMA users | 1,370 | 4% | 5,165 | 16% | 6,535 | 20% | 33,152 |
| Large AMA users | 1,042 | 3% | 4,218 | 13% | 5,260 | 16% | 32,551 |
| Total | 2,412 | 4% | 9,383 | 14% | 11,795 | 18% | 65,703 |

* Small / large distinction defined by the community-based AMA user asset cap

Small lenders often rely on selling loans to the Banks as their connection to the secondary mortgage market, whereas larger lenders may have multiple secondary market executions available.[23] The small member participation goal should encourage the Banks to continue to support small AMA users that might otherwise have difficulty accessing national capital markets, rather than primarily to augment the financial results of large AMA users that have no such difficulty.[24] Small lenders are also an important source of credit access for rural areas, places of persistent poverty, and other underserved populations.

The Banks already serve many small AMA users, so the small member participation housing goal should encourage the Banks to maintain that focus over time. FHFA anticipates that the working relationships between Banks and small AMA users will result in ongoing purchases of AMA mortgages to benefit borrowers in need of financing for affordable housing.

*B. Target Level for the Small Member Participation Housing Goal*

Section 1281.11(b)(1) of the final rule establishes the target level for the small member participation housing goal as 50 percent for community-based AMA users relative to total AMA users for each Bank, consistent with the proposed rule. Section 1281.11(b)(2) of the final rule, as proposed, also provides that a Bank may satisfy the goal by showing improvement in its community-based AMA user participation of 300 basis points (for example, from 36 percent to 39 percent) over the previous year's performance. In addition, as proposed, § 1281.11(b)(3) of the final rule allows a Bank to propose an alternative target level for FHFA approval.

Many commenters supported the proposed small member participation goal, and no commenters opposed it although, as discussed below, several commenters requested changes to the proposed target level, and some expressed concerns about whether certain types of AMA users would satisfy the proposed CFI asset cap-based size requirements. As noted in Section IV.C., the final rule retains the quantitative standard for the proposed cap but incorporates the standard directly to the Bank housing goals regulation. Several commenters supported, for purposes of determining community-based AMA user status, the use of the three-year-average standard used to determine CFI eligibility.[25] The language in the final rule adopts that standard. Comments from a trade association representing state housing finance agencies, a lenders trade association, a credit union, a nonprofit, a community bankers trade association, and a U.S. Senator supported the proposed 50 percent target level on the basis that it would encourage small AMA user participation. The U.S. Senator specifically expressed support for the proposal allowing a Bank to meet the goal by demonstrating improvement over the previous year's performance.

The Banks recommended that the rule establish a range of specific target levels and that FHFA make periodic determinations of a specific target level within the range for the Banks to meet, based on data reported by a national trade organization. The Banks did not specify this range, but they suggested a target level of 40 percent, rather than 50 percent, on the basis that they expect declines in Bank membership.

In contrast, a consumer advocacy group and a community revitalization organization recommended setting a target level higher than 50 percent for the goal. The consumer advocacy group stated that the data in the proposed rule preamble suggest that a 50 percent target level is too low since 9 of the 11 Banks are far above that level. The community revitalization organization stated that a 50 percent target level would not motivate the Banks to do the outreach necessary to increase participation by small members, particularly community development financial institutions (CDFIs).

A credit union trade association requested more information to better understand the proposed 50 percent target level. It requested more data, including additional background on trends in the market and overall small member participation in the market.

FHFA found that the small member participation rates in 2018 were quite similar to the 2017 participation rates described in the proposed rule preamble. As shown in Table 6 below, most of the Banks had shares of small (*i.e.,* community-based) AMA users well above the proposed 50 percent target level. Incremental progress for the two Banks below the 50 percent target level would require adding only a single new community-based AMA user.

[23] *See generally* ''Housing Finance Reform: Protecting Small Lender Access to the Secondary Mortgage Market, Hearing Before the S. Comm. on Banking, Housing and Urban Affairs,'' 113th Cong., 1st Sess. (2013) (website), *available at https://www.banking.senate.gov/hearings/housing-finance-reform-protecting-small-lender-access-to-the-secondary-mortgage-market.*

[24] For this reason, FHFA grounds the small member participation housing goal not just in the housing goals section of the Bank Act, 12 U.S.C. 1430c, but also in the statutory basis for the AMA program more generally. *See* 12 U.S.C. 1430, 1430b, 1431; *Texas Savings & Community Bankers Ass'n* v. *Federal Housing Finance Board,* 201 F.3d 551 (5th Cir. 2000).

[25] *See* 12 U.S.C. 1422(10)(A)(ii); 12 CFR 1263.1 (par. (2), definition of ''community financial institution or CFI'').

**Table 6: Small AMA User Participation 2018**

| Bank | Small AMA users as percent of total AMA users | Additional small AMA users if needed to meet 3% incremental progress in 2019 | Comparison: Small AMA users as percent of total members |
|---|---|---|---|
| A | 92% | met target | 22% |
| B | 40% | 1 | 0% |
| C | 91% | met target | 16% |
| D | 76% | met target | 8% |
| E | 81% | met target | 11% |
| F | 56% | met target | 2% |
| G | 76% | met target | 12% |
| H | 89% | met target | 11% |
| I | 38% | 1 | 2% |
| J | 74% | met target | 20% |
| K | 77% | met target | 13% |
| System | 83% | met target | 10% |

| | |
|---|---|
| Target percentage | 50% |
| Data year | 2018 |

Note: Bank B purchased AMA loans from only a few AMA users in 2018, so the percentage of total members rounds to zero.

The Enterprise housing goals regulation does not include any goal similar to the small member participation housing goal. FHFA is establishing the goal for the Banks, which are cooperatives owned by their members and which place high value on supporting small members. Maintaining and improving small member participation in the AMA programs supports liquidity for affordable housing. As discussed above, small members of the Banks have originated mortgages to low-income borrowers at a higher rate than larger members.

In response to the comment seeking additional data on small institutions, FHFA considered whether other data sources such as HMDA data and banking regulator-published data could be used to provide comparisons regarding small institution performance in lending to low-income and very low-income borrowers. FHFA did not find readily accessible market-wide data linking institution asset size to mortgage origination data that would allow FHFA to analyze market-wide trends.

For the above reasons, FHFA has concluded that 50 percent is an appropriate target level for the small member participation housing goal. It is demonstrably achievable for most Banks, while motivating them to maintain or expand efforts to recruit small member participation in AMA programs. Banks expecting a substantial decline in membership or other unusual circumstances may propose an alternative target level for FHFA approval, as further discussed in Section VIII. below. The provision allowing a Bank to meet the goal instead by demonstrating progress of 300 basis points in small AMA user participation addresses the needs of Banks with small AMA programs that are still building member participation.

*C. Standard for AMA Users With Assets Not in Excess of the CFI Asset Cap/ Community-Based AMA User Asset Cap*

FHFA received comments from several commenters, including two credit union trade associations, that the final rule should not preclude credit unions, CDFIs, state housing finance agencies, and others from being counted as small AMA users for purposes of the small member participation housing goal. These comments appear to stem from a misreading of the proposed rule. Under the proposed and final rules, a certain percentage of each Bank's AMA users would need to be institutions with assets not in excess of the CFI asset cap. The final rule does not require, nor would the proposed rule have required, that any particular percentage of AMA users be CFIs. CFIs are treated no differently than other types of institutions for purposes of the small member participation housing goal. Further, as noted in Section IV.C. above, the final rule retains the proposed quantitative CFI asset cap standard but adopts the relevant standard directly rather than via cross-reference to the Bank membership regulation. The final rule adopts the three-year average of total assets and a determination of total assets relative to the cap once per year, as is used for the CFI asset cap.

A trade association for state housing finance agencies recommended that the final rule treat all state housing finance agencies as small AMA users regardless of their total asset size, to encourage interaction between the Banks and state housing finance agencies. Designation as a small AMA user would not provide any significant incentive to a state housing finance agency to sell mortgages through the AMA programs, as the designation would not change the terms of the AMA programs. Because the Banks generally meet the 50 percent target level already, the only incentive provided by such a designation would be a small incentive to a Bank to do outreach and solicit mortgages from such entities. Therefore, FHFA has concluded that providing a special designation of state housing finance agencies as community-based AMA users regardless of their total asset size is not warranted.

## VIII. Alternative Target Levels for Housing Goals

Section 1281.11(c)(1) of the final rule provides each Bank, upon approval of its board of directors, the opportunity to submit for FHFA prior approval an alternative target level for either or both of the housing goals. A Bank's request must include proposed target levels for three consecutive years following the calendar year in which the proposal is submitted. A Bank is not required to propose the same target level for each of the three years. In the absence of FHFA's approval of a Bank's proposed alternative target level, the Bank is subject to the target level established in the final rule.

Section 1281.11(c)(2) requires that a Bank's submission include a detailed explanation of: (i) Why the applicable target level (20 percent for the mortgage purchase housing goal and 50 percent for the small member participation housing goal) is infeasible; (ii) why the Bank's proposed alternative target level is achievable; and (iii) how the Bank's proposed alternative target level will meaningfully further affordable housing mortgage lending in its district.

A significant number of commenters expressed support for allowing the Banks to submit requests for alternative target levels. These commenters included a credit union, the Banks, a bank trade association, a U.S. Senator, a credit union trade association, a consumer advocacy organization, and a nonprofit. No commenters opposed the proposal.

Thirty-six state or local advocacy and community development organizations, in a joint comment letter, recommended that FHFA require well-reasoned justification that a Bank's proposed alternative target level is a stretch for the Bank. A lenders trade association commented that Bank proposals for alternative target levels should be informed by thorough data analysis and compelling evidence in order to receive FHFA approval.

The Banks expressed concern that the lack of a detailed timeline in the proposed rule for FHFA's review and response would create uncertainty for Banks whose past performance was well below the target level for a housing goal and who propose an alternative target level. A credit union trade association expressed similar concern.

FHFA believes that the final rule's submission deadline of September 15 should allow sufficient time for review, discussions as needed, and response to the Bank before the start of the applicable calendar year. In addition, the Banks may propose alternative target levels at any time before the annual deadline of September 15, subject to the three-year waiting period.

### *A. Frequency of Bank Requests*

Section 1281.11(c) of the final rule allows a Bank to request an alternative target level no more than once every three years, subject to two exceptions discussed below. The request must be submitted by September 15 of the year preceding the year in which the alternative target level would apply. The September 15 deadline is earlier than the October 31 deadline in the proposed rule. The earlier deadline will allow time for any comments to be submitted by the public on the proposed alternative target levels, as discussed further in Section VIII.C. below.

Section 1281.11(c)(1) of the final rule provides that each request for an alternative target level must be approved by the Bank's board of directors. The proposed rule was silent on the level of approval needed for a Bank's request for an alternative target level. The final rule clarifies that the Bank's board of directors must approve any request for an alternative target level, which is consistent with other regulatory requirements and established practice regarding similar Bank requests.

Also in contrast to the proposed rule, which would have allowed a Bank submission only in the year the final rule becomes effective, and every three years thereafter, the final rule does not restrict a submission to any particular calendar years. For example, under the final rule, a Bank could make a submission on or before September 15, 2022, and would then be prohibited from making an additional submission until 2025 (three years from the date of the previous submission). The Bank could submit its 2025 request at any time until the September 15, 2025 deadline. If a Bank made its first request for alternative target levels on or before September 15, 2023, the Bank would then be prohibited from making another submission until 2026, with a deadline of September 15, 2026.

A community bankers trade association suggested that Banks be allowed to propose alternative target levels every year to allow Banks to better adapt to market conditions. FHFA notes, however, that the housing goals, by their nature, are a long-term planning tool rather than a year-to-year steering mechanism. Their aim is to ensure that the Banks make affordable housing part of their ongoing business planning for their AMA programs. Too frequent steering adjustment could lead either to overly ambitious target levels attempting to maximize support for affordable home lending, or overly pessimistic target levels anticipating weak market activity. The target levels in the final rule are designed to be more stable over time and somewhat flexible to market volume. Should markets take a sudden turn, FHFA retains the flexibility to determine a goal infeasible for a particular Bank.

Accordingly, in light of the long-term nature of the housing goals and the Banks' desire for additional flexibility, the final rule allows a Bank to submit a proposed alternative target level once every three years and does not limit the submission to any particular calendar years.

### *B. Exceptions to Three-Year Waiting Period*

Notwithstanding the three-year waiting period, § 1281.11(c)(3)(ii) of the final rule provides that FHFA may at any time require a Bank to submit a request for an alternative target level to address discontinuation of an AMA product or program or approval of a new AMA product or program. This provision is largely consistent with the proposed rule, with the addition of the reference to ''product'' in the final rule. Both terms ''AMA program'' and ''AMA product'' are defined in § 1268.1 of the AMA regulation.

In addition, § 1281.11(c)(3)(iii) of the final rule adds an exception to the three-year waiting period that allows a Bank's board of directors to submit a request to FHFA at any time for an alternative target level if warranted given particular economic, operational, or other circumstances. FHFA does not intend this provision to be used frequently or regularly.

*C. Public Notice and Comment on Proposed Alternative Target Levels*

Section 1281.11(c)(4) of the final rule provides that FHFA will make each request for alternative target levels available for public comment on FHFA's website for at least 30 days. This provision was not included in the proposed rule but has been added in the final rule in response to comments received on the proposed rule. Thirty-six state or local advocacy and community development organizations, in a joint comment letter, as well as a nonprofit consumer advocacy organization, suggested that requests for alternative target levels be subject to public comment before FHFA's approval. A bank trade association emphasized that proposals for alternative target levels should be based on thorough data analysis and compelling evidence. FHFA is persuaded by these comments. While public comment will add time to the review process, information beyond what a proposing Bank submits will aid FHFA in evaluating proposed alternative target levels, especially if that information is rooted in knowledge of district housing and economic conditions.

Materials posted for public comment will not include any confidential or proprietary information submitted by a Bank. The final rule requires that a Bank submit information that it considers to be confidential or proprietary as a separate document, clearly designated as confidential or proprietary, to facilitate posting for public comment.

**IX. Participation Interests in AMA Mortgages**

The final rule, as proposed, addresses participations under two different scenarios. Under the first scenario, a Bank purchases a mortgage and later sells a participation interest in the mortgage to another Bank. Section 1281.13(b)(1) provides that participations among Banks that are executed after the mortgage was first acquired by a Bank will not be counted as mortgage purchases by a Bank purchasing such a participation for purposes of the mortgage purchase housing goal. This is consistent with FHFA's practice under the current regulation. This exclusion applies even if the participation is executed on the same day as the original mortgage acquisition by a Bank.

Under the second scenario, two or more Banks each purchase participation interests in the same mortgage simultaneously. Section 1281.13(e) of the final rule provides that participations among Banks that are entered simultaneously pursuant to an existing participation agreement will be counted as mortgage purchases on a *pro rata* basis toward the mortgage purchase housing goal for each Bank according to each Bank's percentage interest. This provision codifies existing FHFA practice on the treatment of participations under this scenario. FHFA received no comments on this proposal and the final rule adopts this change as proposed.

**X. Other Comments Received**

FHFA received several other comments that are addressed below, grouped by topic.

*A. Adjustment to Target Levels for Unexpected Adverse Events*

Several commenters asked how FHFA could adjust the housing goals or its evaluations of Bank performance in case of unexpected adverse events. The final rule provides several flexibilities in the case of such events. First, as under the current regulation, the goal target levels are based on a percentage of total mortgage purchases, so they have some inherent ability to remain applicable even as overall market volume expands or contracts, unlike a numerical target level.

Second, the Banks may propose alternative target levels, no more frequently than every three years. FHFA may allow a Bank to submit more frequently if unexpected circumstances warrant.

Third, as under the current regulation, when FHFA makes its annual determination of housing goals performance, it takes into account the feasibility of achieving the housing goals. If FHFA determines that a housing goal was infeasible for a particular Bank, the Bank is not required to submit a housing plan to FHFA. Even if FHFA determines that a housing goal was feasible for a particular Bank, FHFA has the option to forego requiring a housing plan from the Bank if warranted.

*B. Counting Rules*

The Banks asked whether loans purchased through the MPF Government product while held on balance sheet for eventual deployment into an MPF Government MBS count toward the housing goals. Since these loans are purchased through an AMA program, they count if they otherwise meet the criteria for the mortgage purchase housing goal and were sold to the Bank by a community-based AMA user, *i.e.,* an AMA user with assets not in excess of the community-based AMA user asset cap.

The Banks also asked how MPF loans facilitated by other Banks but technically purchased directly by the Chicago Bank from a member or housing associate of another Bank would count toward the mortgage purchase goal. For housing goals purposes, FHFA will count such loans toward the performance of the Bank of which the seller is a member or housing associate, continuing current practice.

*C. Manufactured Housing*

A nonprofit affordable housing advocacy organization with an interest in expanding access to manufactured housing noted that the proposed rule would allow chattel loans on manufactured housing to count for purposes of the housing goals and requested that FHFA ensure such loans do not originate from predatory lending practices. A nonprofit manufactured housing community trade association and a national nonprofit manufactured housing intermediary recommended that FHFA issue more detailed guidance on the purchase of loans secured by manufactured housing generally. To date, there have been few, if any, purchases of chattel loans by the Banks. Accordingly, the final rule does not add housing goals restrictions specific to the Banks' purchases of loans secured by manufactured housing.

Section 1281.13 of the final rule, consistent with the proposed rule, eliminates a provision of the regulation that precludes ''HOEPA mortgages'' and ''mortgages with unacceptable terms and conditions'' from counting towards the housing goals. As discussed in the proposed rule preamble, guidance issued by FHFA to the Banks generally on the purchases of mortgages with certain predatory features rendered this provision in the housing goals regulation redundant. None of the comments caused FHFA to determine that this guidance is inadequate. Moreover, one of the purposes of the final rule, as discussed in the proposed rule preamble, is to better align the housing goals with the AMA regulation so that limitations on the types of loans eligible for Bank purchase are specified in the AMA regulation, not in the Bank housing goals regulation. In addition, FHFA did not propose any amendments to the AMA regulation.

*D. Monitoring*

Many commenters requested that FHFA monitor various aspects of the Banks' housing goals activity closely, especially in the first years of activity

under the revised housing goals, including:

- Monitoring for any Banks' disincentive to participate in AMA programs;
- Monitoring the AMA loan composition over time;
- Monitoring whether any Banks require members to meet the mortgage purchase goal individually in loans sold to the Bank; and
- Monitoring Bank performance on the small member participation housing goal.

FHFA will monitor for these and other factors to ensure that the housing goals function as intended.

## XI. Other Provisions in the Final Rule

The final rule also revises other provisions of the Bank housing goals regulation, as discussed below.

### *A. Changes to Definitions—§ 1281.1*

As proposed, § 1281.1 of the final rule adds, revises, or removes certain definitions of terms used in the current Bank housing goals regulation. Specifically, the final rule adds definitions of ''AMA mortgage,'' ''AMA program,'' and ''AMA user.'' The final rule revises the definitions of ''dwelling unit,'' ''families in low-income areas,'' ''median income,'' ''metropolitan area,'' ''mortgage,'' and ''non-metropolitan area.'' The final rule removes the definitions of ''Acquired Member Assets (AMA) program,'' ''AMA-approved mortgage,'' ''conforming mortgage,'' ''HMDA,'' ''HOEPA mortgage,'' ''HUD,'' ''mortgage data,'' ''mortgage with unacceptable terms or conditions,'' ''owner-occupied housing,'' ''residential mortgage,'' and ''second mortgage. In contrast to the proposed rule, the final rule does not remove the definition of ''conventional mortgage'' for the reasons discussed under Section VI.D. above. Also in contrast to the proposed rule, the final rule does not add ''CFI asset cap'' or ''community financial institution or CFI'' as defined terms, instead adding new terms ''community-based AMA user'' and ''community-based AMA user asset cap.'' In response to the proposed revisions to § 1281.1, other than those addressed in Section VII.C. above regarding the proposed rule's use of ''CFI asset cap'' and ''CFI,'' FHFA did not receive any comments. The changes to these definitions not discussed elsewhere in the preamble are discussed below.

1. Definition of ''AMA mortgage''

As proposed, the final rule replaces the term ''AMA-approved mortgage,'' with ''AMA mortgage'' as a technical, non-substantive change. The Bank housing goals regulation currently defines ''AMA-approved mortgage'' to mean a mortgage that meets the requirements of an AMA program, with cross-references to the AMA regulation and the New Business Activities regulation.[26] Section 1281.1 of the final rule replaces the term ''AMA-approved mortgage'' with ''AMA mortgage'' and defines it to mean a mortgage that was purchased by a Bank under an AMA program.

2. Definition of ''AMA Program''

The final rule replaces the term ''Acquired Member Assets (AMA) program,'' with ''AMA program'' as a technical change. The current Bank housing goals regulation defines ''Acquired Member Assets (AMA) program'' as a program that authorizes a Bank to hold assets acquired from a member or housing associate by a purchase or funding transaction subject to the requirements of the AMA regulation and New Business Activities regulation. At the time the current Bank housing goals regulation was adopted, the term ''AMA program'' was not a defined term in the AMA regulation. A definition for the term ''AMA program'' was subsequently added to the AMA regulation in 2016.[27] There is no substantive difference between the definition of ''Acquired Member Assets (AMA) program'' in the Bank housing goals regulation and the definition of ''AMA program'' in the AMA regulation. Accordingly, for consistency in terminology between the two regulations, § 1281.1 of the final rule replaces the definition of ''Acquired Member Assets (AMA) program'' in the housing goals regulation to conform it to the definition of ''AMA program'' in the AMA regulation.

3. Definition of ''AMA User''

As proposed, § 1281.1 of the final rule adds a number of new definitions to implement the small member participation housing goal. The final rule adds ''AMA user'' as a participating financial institution (which can be a member or housing associate)[28] under the AMA regulation[29] from which a Bank purchased at least one AMA mortgage during the year for which the housing goal is being measured.

4. Definition of ''conforming mortgage''

The current Bank housing goals regulation defines ''conforming mortgage'' as a conventional, AMA-approved single-family mortgage with an original principal obligation that does not exceed the dollar limitation under the AMA regulation or under the Freddie Mac conforming loan limits. Only purchases of mortgages under AMA programs count for purposes of the housing goals, and the AMA programs include limits on the size of mortgages that may be purchased by a Bank. Thus, it is not necessary for the housing goals regulation to include a separate limit on the size of mortgages that may be counted for purposes of the housing goals. Accordingly, as proposed, the final rule removes the definition of ''conforming mortgage'' from the housing goals regulation as unnecessary.

5. Definition of ''conventional mortgage''

The current Bank housing goals regulation defines ''conventional mortgage'' as any mortgage that does not include a guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities. This definition was included in the regulation because only conventional mortgages counted towards the Bank housing goals. The proposed rule would have expanded the coverage of the Bank housing goals to include both conventional mortgages and non-conventional mortgages. Therefore, under the proposed rule, there would have been no need to distinguish between conventional mortgages and non-conventional mortgages so the definition of ''conventional mortgage'' was no longer necessary.

However, because the final rule provides that non-conventional mortgages purchased from community-based AMA users will count towards the mortgage purchase goal, § 1281.1 of the final rule retains ''conventional mortgage'' as a defined term.

6. Definition of ''dwelling unit''

The current Bank housing goals regulation defines ''dwelling unit'' to mean a room or unified combination of rooms intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property. In the 2015 final rule amending the Enterprise housing goals regulation, FHFA revised the analogous definition to exclude a combination of rooms that does not have plumbing or

[26] 12 CFR part 1272.

[27] 12 CFR 1268.1.

[28] Although eligible housing associates may participate in a Bank's AMA program and the participation of a housing associate may count towards the small member participation housing goal, as noted above, since 2000, no housing associate has sold an AMA mortgage loan to a Bank.

[29] 12 CFR 1268.1.

kitchen facilities.[30] Accordingly, to align the definitions in the two regulations, as proposed, § 1281.1 of the final rule revises the definition of ''dwelling unit'' in the Bank housing goals regulation to exclude a combination of rooms that does not have plumbing or kitchen facilities.

7. Definition of ''HOEPA mortgage''

The current Bank housing goals regulation defines ''HOEPA mortgage'' as a mortgage covered by the definition of ''high-cost mortgage'' under the Truth in Lending Act. This definition was included because the housing goals regulation excludes HOEPA mortgages from counting toward achievement of the Bank housing goals. However, the final rule removes the provision excluding HOEPA mortgages from counting for purposes of the Bank housing goals. Therefore, the final rule removes the definition of ''HOEPA mortgage'' as no longer necessary.

8. Definitions of ''median income,'' ''metropolitan area,'' ''non-metropolitan area,'' and ''HUD''

The current Bank housing goals regulation defines ''median income,'' with respect to an area, as the unadjusted median family income for the area as determined by the Department of Housing and Urban Development (HUD). The current definition further provides that FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan areas are to be applied for the purposes of determining median family income. FHFA's practice is to calculate the applicable median income figures for both metropolitan and non-metropolitan areas and to provide the median income information to the Banks. Accordingly, as proposed, § 1281.1 of the final rule aligns the definition of ''median income'' with FHFA's practice, by revising it to mean, with respect to an area, the unadjusted median family income for the area as determined by FHFA. The final rule also revises the definition to provide that FHFA will provide the Banks annually with information specifying how the median family income estimates for both metropolitan and non-metropolitan areas are to be applied for purposes of determining median income.

The current Bank housing goals regulation defines ''metropolitan area'' as a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median family income estimates are determined by HUD. The regulation defines ''non-metropolitan area'' as a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area for which median family income estimates are published annually by HUD. As proposed, § 1281.1 of the final rule aligns the definition of ''metropolitan area'' with FHFA's practice by revising it to mean an MSA, or a portion of such an area, including Metropolitan Divisions, for which median incomes are determined by FHFA. The final rule aligns the definition of ''non-metropolitan area'' with FHFA's practice by revising it to mean a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area, for which median incomes are determined by FHFA.

The current Bank housing goals regulation defines ''HUD'' as the United States Department of Housing and Urban Development. Because the term ''HUD'' was used only in the definitions of ''median income,'' ''metropolitan area,'' and ''non-metropolitan area'' and the final rule removes the references to ''HUD'' from those definitions, the definition of ''HUD'' is no longer necessary and is removed, as proposed.

9. Definition of ''Mortgage''—Inclusion of Chattel Loans on Manufactured Housing

The current Bank housing goals regulation includes a detailed definition of ''mortgage'' which includes all loans secured by real estate and any interests in such mortgages. The definition is based on the definition of ''mortgage'' in the Enterprise housing goals regulation and excludes chattel loans on manufactured housing. As proposed, § 1281.1 of the final rule revises the definition of ''mortgage'' in the Bank housing goals regulation to include chattel loans on manufactured housing. While the Banks have purchased few, if any, chattel loans on manufactured housing, the AMA regulation does not prohibit such purchases. Adding chattel loans on manufactured housing to the definition of ''mortgage'' in the Bank housing goals regulation simplifies the Bank housing goals by removing a potential difference between the coverage of the Bank housing goals and the AMA regulation.

10. Definition of ''mortgage with unacceptable terms or conditions''

The current Bank housing goals regulation defines ''mortgage with unacceptable terms or conditions'' as a mortgage that has one or more of a series of terms or conditions that FHFA determined to be harmful to borrowers. This definition was included in the regulation because the regulation excludes such mortgages from counting toward achievement of the Bank housing goals. Because the final rule removes the provision excluding mortgages with unacceptable terms or conditions from counting for purposes of the Bank housing goals, this definition is no longer necessary and is also removed, as proposed.

11. Definition of ''owner-occupied housing''

The current Bank housing goals regulation defines ''owner-occupied housing'' as single-family housing in which a mortgagor resides, including two- to four-unit owner-occupied properties where one or more units are used for rental purposes. The definition of ''owner-occupied housing'' was included in the regulation because the Bank housing goals are currently limited to mortgages on owner-occupied housing. As proposed, the final rule expands the coverage of the Bank housing goals to include all AMA mortgages, including mortgages not only on owner-occupied single-family properties but also investor-owned single-family properties. The final rule does not establish separate criteria for evaluating whether a mortgage on an investor-owned property could be counted for purposes of the housing goals. Any such mortgages will be evaluated based on the income of the mortgagor in the same manner as the evaluation of a mortgage on an owner-occupied property. Because the regulation will no longer limit the Bank housing goals to mortgages on owner-occupied housing, the final rule removes the definition of ''owner-occupied housing'' from the Bank housing goals regulation as unnecessary.

12. Definition of ''residential mortgage''

The current Bank housing goals regulation defines ''residential mortgage'' as a mortgage on single-family housing. The term ''residential mortgage'' is not used anywhere else in the regulation or in the final rule. Accordingly, as proposed, the final rule removes the definition of ''residential mortgage'' as unnecessary.

13. Definition of ''second mortgage''

The current Bank housing goals regulation defines ''second mortgage'' as any mortgage that has a lien position subordinate only to the lien of the first mortgage. This term is used in § 1281.13(b)(8), which provides that

[30] *See* 80 FR 53392 (Sept. 3, 2015), codified at 12 CFR 1282.1.

''purchases of subordinate lien mortgages (second mortgages),'' do not count for purposes of the housing goals. The final rule clarifies that this prohibition applies to all mortgages that are subordinate to the first mortgages, not only second mortgages. Because ''second mortgage'' will no longer appear in the regulation, as proposed, the final rule removes this definition as unnecessary.

*B. General—§ 1281.10*

Consistent with the proposed rule, the final rule revises § 1281.10 to reflect the new structure of the housing goals and removal of the volume threshold.

*C. Changes to Bank Housing Goals—§§ 1281.11 and 1281.14*

The final rule also adopts a proposed conforming change to § 1281.14(a) by eliminating the Bank volume threshold as a consideration in determining whether the Director evaluates annual performance of Bank performance under each housing goal.

In addition, the final rule requires that no more than 25 percent of the mortgages that are counted toward a Bank's achievement of the prospective mortgage purchase housing goal may be mortgages for families with incomes above 80 percent of area median income. This is consistent, in substance, with the proposed rule, which would have established the same requirement, but which would have characterized it as a requirement that at least 75 percent of the mortgages that are counted toward a Bank's achievement of the prospective mortgage purchase housing goal must be for low-income or very low-income families. The final rule also includes language clarifying that any purchases of mortgages for families with incomes above 80 percent of area median income in excess of the 25 percent cap shall be treated as a mortgage purchase for purposes of the housing goals and shall be included in the denominator for the housing goal, but such mortgages shall not be included in the numerator in calculating a Bank's performance under the housing goals.

*D. General Counting Requirements—§ 1281.12*

The final rule adopts all proposed revisions to § 1281.12. The current Bank housing goals regulation defines the ''numerator'' and ''denominator'' used to calculate performance under the current housing goals. The final rule deletes paragraph (a) as unnecessary in light of the mortgage goal calculation standards reflected in § 1281.11 of the final rule.

The current Bank housing goals regulation also provides that mortgages with missing data or information necessary for counting are included in the denominator when calculating a Bank's performance, but not in the numerator. This effectively penalizes a Bank's performance by treating mortgages with missing data or information as if they were loans that did not meet the applicable criteria. Accordingly, the final rule also removes paragraph (b)(1), so that mortgages with missing data or information are disregarded (*i.e.,* not included in the numerator or denominator) for purposes of measuring a Bank's performance on the housing goals.

Finally, paragraph (c), which provides that a mortgage may only count once towards achievement of a housing goal even if it satisfies more than one goal, is redesignated as paragraph (b) and revised to permit each mortgage to be counted only once toward achievement of the prospective mortgage purchase housing goal, even if it satisfies multiple categories under the goal.

The final rule also makes conforming redesignations of paragraphs throughout the remainder of § 1281.12.

*E. Special Counting Requirements—§ 1281.13*

Paragraph (b) of § 1281.13 currently enumerates categories of transactions or activities that are not counted for purposes of the housing goals and are not included in the numerator or the denominator in calculating a Bank's housing goals performance. The proposed rule would have removed references to ''numerator'' and ''denominator'' as unnecessary in light of the simplified calculation methodology reflected in § 1281.11. However, the final rule retains clarifying language to specify that loans which are ''not counted for purposes of the housing goals'' are excluded from both the numerator and denominator.

*F. Determination of Compliance With Housing Goals; Notice of Determination—§ 1281.14*

The final rule adopts all proposed revisions to § 1281.14. The final rule amends § 1281.14(a) by removing the reference to the volume threshold, which is no longer applicable. The final rule also amends § 1281.14(a) to require that FHFA publish its annual determinations of Bank housing goals compliance and specifies the types of data to be included in the published determinations.

*G. Housing Plans—§ 1281.15*

The final rule revises § 1281.15 to provide that the Director may only require that a Bank submit a housing plan for any year after 2023. As discussed in Section IV.D. above, this is in contrast to the proposed rule, which would have extended this period only through 2021. This reflects the phase-in period for the new housing goals, eliminating possibility of a housing plan during the first three years in which the prospective mortgage purchase and small member participation housing goals are operative. Because a Bank may be required to submit a housing plan while awaiting FHFA's response to a proposal by the Bank for an alternative goal target level, the final rule amends § 1281.15 by adding new paragraph (b)(5) to require that the housing plan address any alternative target levels the Bank is requesting. This is generally consistent with the proposed rule, with certain technical revisions including replacing the reference to ''Bank-specific housing goals'' with ''alternative target levels'' for consistency and clarity.

*H. Reporting Requirements—§§ 1281.1 and 1281.20*

Consistent with the proposed rule, the final rule amends Subpart C of the current regulation to simplify and clarify the reporting requirements for the Banks under the new housing goals. The final rule, as proposed, revises the reporting requirements to reflect the new housing goals structure and to eliminate provisions that are either duplicative of, or potentially inconsistent with, the existing Bank reporting requirements in FHFA's Data Reporting Manual (DRM). The DRM, which is amended from time to time, includes detailed requirements about the data elements that the Banks must report and the timing and format of the required reporting.

The final rule, as proposed, consolidates the four sections that currently exist in Subpart C of the Bank housing goals regulation into a single section. Accordingly, §§ 1281.21, 1281.22 and 1281.23 are removed from the regulation. Section 1281.20 includes the new reporting requirements. Section 1281.20(a) requires the Banks to submit to FHFA any data that FHFA determines to be necessary to evaluate transactions and activities under the Bank housing goals. Section 1281.20(b) and (c) set out the data reporting requirements for the prospective mortgage purchase housing goal and the small member participation housing goal, respectively, and require such submissions to be made in

accordance with the DRM. Section 1281.20(d) continues to permit FHFA to require a Bank to provide such additional reports, information, and data as FHFA may request from time to time.

Consistent with the proposed rule, the final rule also removes the provision in the current regulation that addresses errors, omissions or discrepancies in the data reported by a Bank. This provision is unnecessary in light of FHFA's existing supervisory and regulatory authorities and procedures.

Finally, consistent with the proposed rule, the final rule removes the definition of ''mortgage data'' from the regulation. The regulation defines ''mortgage data'' as data obtained from the Banks under the DRM. The final rule's revisions to the reporting requirements in Subpart C remove all references to the term ''mortgage data,'' making the definition unnecessary.

## XII. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Safety and Soundness Act requires the Director of FHFA to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure, mission of providing liquidity to members, affordable housing and community development mission, capital structure, and joint and several liability. FHFA requested comments from the public about whether these differences should result in any revisions to the proposed rule, but no significant, relevant comments were received. FHFA, in preparing this final rule, considered the differences between the Banks and the Enterprises as they relate to the above factors and determined these amendments to the Bank Housing Goal regulation to be appropriate and reflect the unique differences between the Banks and Enterprises. FHFA also considered these differences in light of section 10C of the Bank Act, which requires that the Bank housing goals be consistent with the Enterprise housing goals, with consideration of the unique mission and ownership structure of the Banks, and similarly determined these amendments to be appropriate in light of relevant factors.[31]

## XIII. Paperwork Reduction Act

The final rule does not contain any information collection requirement that would require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

## XIV. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. (5 U.S.C. 605(b)). FHFA has considered the impact of the final rule under the Regulatory Flexibility Act. The General Counsel of FHFA certifies that the final rule is not likely to have a significant economic impact on a substantial number of small entities because the final rule applies to the Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

## XV. Congressional Review Act

In accordance with the Congressional Review Act (5 U.S.C. 801 *et seq.*), FHFA has determined that this final rule is a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

## List of Subjects in 12 CFR Part 1281

Credit, Federal home loan banks, Housing, Mortgages, Reporting and recordkeeping requirements.

## Authority and Issuance

For the reasons stated in the **SUPPLEMENTARY INFORMATION**, under the authority of 12 U.S.C. 4526, 1430, 1430b, 1430c, and 1431, FHFA is amending part 1281 of Title 12 of the Code of Federal Regulations as follows:

**CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY**

**SUBCHAPTER E—HOUSING GOALS AND MISSION**

## PART 1281—FEDERAL HOME LOAN BANK HOUSING GOALS

■ 1. Revise the authority citation for part 1281 to read as follows:

**Authority:** 12 U.S.C. 1430, 1430b, 1430c, 1431.

■ 2. Amend § 1281.1 by:

■ a. Removing the definitions of ''Acquired Member Assets (AMA) program'' and ''AMA-approved mortgage'';

■ b. Adding definitions for ''AMA mortgage'', ''AMA program'', and ''AMA user'' in alphabetical order;

■ c. Removing the definition of ''Conforming mortgage'';

■ d. Adding in alphabetical order the definitions for ''Community-based AMA user'' and ''Community-based AMA user asset cap'';

■ e. Revising the definition of ''Dwelling unit'' and paragraph (1) of the definition of ''Families in low-income areas'';

■ f. Removing the definitions of ''HMDA'', ''HOEPA mortgage'', and ''HUD'';

■ g. Revising the definitions of ''Median income'', ''Metropolitan area'', and ''Mortgage'';

■ h. Removing the definitions of ''Mortgage data'' and ''Mortgage with unacceptable terms or conditions'';

■ i. Revising the definition of ''Non-metropolitan area''; and

■ j. Removing the definitions of ''Owner-occupied housing'', ''Residential mortgage'', and ''Second mortgage''.

The revisions and additions read as follows:

### § 1281.1 Definitions.

* * * * *

*AMA mortgage* means a mortgage that was purchased by a Bank under an AMA program.

*AMA program* has the meaning set forth in § 1268.1 of this chapter.

*AMA user* means any participating financial institution, as defined in § 1268.1 of this chapter, from which the Bank purchased at least one AMA mortgage during the year for which the housing goals are being measured.

* * * * *

*Community-based AMA user* means any AMA user whose average total assets over the three-year period culminating in the year preceding the one being measured are no greater than the applicable community-based AMA user asset cap.

*Community-based AMA user asset cap* means $1,224,000,000, subject to annual adjustments by FHFA, beginning in 2021, to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the U.S. Department of Labor.

* * * * *

*Dwelling unit* means a room or unified combination of rooms with plumbing and kitchen facilities intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

[31] *See* 12 U.S.C. 1430c.

*Families in low-income areas* * * *

(1) Any family that resides in a census tract in which the median income does not exceed 80 percent of the area median income;

* * * * *

*Median income* means, with respect to an area, the unadjusted median family income for the area as determined by FHFA. FHFA will provide the Banks annually with information specifying how the median family income estimates for metropolitan and non-metropolitan areas are to be applied for purposes of determining median income.

*Metropolitan area* means a metropolitan statistical area (MSA), or a portion of such an area, including Metropolitan Divisions, for which median incomes are determined by FHFA.

* * * * *

*Mortgage* means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, or a manufactured home that is personal property under the laws of the State in which the manufactured home is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. *Mortgage* includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

* * * * *

*Non-metropolitan area* means a county, or a portion of a county, including those counties that comprise Micropolitan Statistical Areas, located outside any metropolitan area, for which median incomes are determined by FHFA.

* * * * *

■ 3. Amend § 1281.10 by revising paragraphs (a) and (b) to read as follows:

**§ 1281.10 General.**

* * * * *

(a) A prospective mortgage purchase housing goal;

(b) A small member participation housing goal;

* * * * *

■ 4. Revise § 1281.11 to read as follows:

**§ 1281.11 Bank housing goals.**

(a) *Prospective mortgage purchase housing goal*—(1) *Target levels.* For each calendar year, the percentage of a Bank's AMA mortgages acquired during the calendar year that are for very low-income families, low-income families, or families in low-income areas must meet or exceed either:

(i) A target level of 20 percent; or

(ii) An alternative target level proposed by the Bank and approved by FHFA under paragraph (c) of this section.

(2) *Cap on low-income areas loans counted toward goal.* No more than 25 percent of the mortgages that are counted toward a Bank's achievement of the prospective mortgage purchase housing goal may be mortgages for families with incomes above 80 percent of area median income. Any purchases of mortgages for families with incomes above 80 percent of area median income in excess of the 25 percent cap shall be treated as mortgage purchases for purposes of the housing goals and shall be included in the denominator for the housing goal, but such mortgages shall not be included in the numerator in calculating a Bank's performance under the housing goal.

(b) *Small member participation housing goal.* For each calendar year, the percentage of a Bank's total AMA users that are community-based AMA users must meet or exceed one of the following:

(1) A target level of 50 percent;

(2) A percentage that is three percentage points greater than the percentage from the preceding calendar year; or

(3) An alternative target level proposed by the Bank and approved by FHFA under paragraph (c) of this section.

(c) *Alternative target levels*—(1) *Submission of Bank requests.* A Bank, upon approval of its board of directors, may submit a written request to FHFA for approval of different target levels for the prospective mortgage purchase housing goal, the small member participation housing goal, or both. A Bank's request under this paragraph must include proposed target levels for three consecutive years following the calendar year in which the request is submitted. A Bank is not required to propose the same target level for each of the three years.

(2) *Content of Bank request.* A Bank's request under paragraph (c)(1) of this section for an alternative target level must include a detailed explanation of:

(i) Why the target level for the goal in paragraphs (a) and (b) of this section, as applicable, is infeasible;

(ii) Why the Bank's proposed alternative target level is achievable; and

(iii) How the Bank's proposed alternative target level will meaningfully further affordable housing mortgage lending in its district.

(3) *Frequency of Bank requests*—(i) *Three-year period.* A Bank may not submit a request under paragraph (c)(1) of this section for an alternative target level more frequently than once every three years, except as provided in paragraphs (c)(3)(ii) or (c)(3)(iii) of this section. The deadline for submitting a request under paragraph (c)(1) of this section is September 15 of the calendar year preceding the calendar year in which the alternative target level would apply. FHFA will review each Bank request that is received by the deadline and will notify the Bank in writing if its request is approved. If FHFA does not notify a Bank that its request is approved, the Bank will remain subject to the target levels in paragraphs (a) and (b) of this section, as applicable.

(ii) *Exception for changes in AMA products or programs.* FHFA may require a Bank to submit a request under paragraph (c)(1) of this section for an alternative target level to address discontinuation of an AMA product or program or approval of a new AMA product or program.

(iii) *Exception for special circumstances.* A Bank may submit a request under paragraph (c)(1) of this section for an alternative target level more frequently than once every three years if warranted given economic, operational, or other circumstances.

(4) *Public comment.* FHFA will publish each request that is submitted under paragraph (c)(1) of this section for an alternative target level on FHFA's public website for a period of at least 30 days, to provide the public an opportunity to comment on the request. FHFA will publish each request without redactions or other changes, except that FHFA will not publish any confidential or proprietary material. A Bank must submit any material supporting its request under paragraph (c)(1) of this section that it considers to be confidential or proprietary as a separate document, clearly designated as confidential or proprietary.

■ 5. Revise § 1281.12 to read as follows:

**§ 1281.12 General counting requirements.**

(a) *General.* Mortgage purchases financing single-family properties shall be evaluated based on the income of the mortgagors and the area median income

at the time the mortgage was originated. To determine whether mortgages may be counted under a particular family income level (*e.g.,* low- or very low-income), the income of the mortgagor is compared to the median income for the area at the time the mortgage was originated, using the appropriate percentage factor provided under § 1281.1.

(b) *No double-counting.* A mortgage may be counted only once toward the achievement of the prospective mortgage purchase housing goal, even if it satisfies multiple criteria for the prospective mortgage purchase housing goal.

(c) *Application of median income.* For purposes of determining an area's median income under § 1281.1, the area is:

(1) The metropolitan area, if the residence that secures the mortgage is in a metropolitan area; and

(2) In all other areas, the county in which the property is located, except that where the State non-metropolitan median income is higher than the county's median income, the area is the State non-metropolitan area.

(d) *Sampling not permitted.* Performance under the housing goals for each year shall be based on a tabulation of each mortgage during that year; a sampling of such purchases is not acceptable.

■ 6. Amend § 1282.13 by:

■ a. Revising paragraph (b)introductory text, (b)(1) and (8);

■ b. Adding paragraph (c)(4);

■ c. Removing paragraph (d);

■ d. Redesignating paragraph (e) as paragraph (d); and

■ e. Adding new paragraph (e).

The revisions and additions read as follows:

**§ 1281.13 Special counting requirements.**

* * * * *

(b) *Not counted.* The following transactions or activities shall not be counted for purposes of the housing goals, meaning that in calculating the applicable percentage target level, they shall be excluded from both the numerator (*i.e.,* AMA mortgages acquired during the calendar year that are for very low-income families, low-income families, or families in low-income areas) and the denominator (*i.e.,* total AMA mortgages acquired during the calendar year), even if the transaction or activity would otherwise be counted under paragraph (c) of this section:

(1) Purchases of participation interests in AMA mortgages from another Bank, except as provided in paragraph (e) of this section;

* * * * *

(8) Purchases of subordinate lien mortgages;

* * * * *

(c) * * *

(4) *Non-conventional mortgages.* The purchase of a non-conventional single-family mortgage shall be treated as a mortgage purchase for purposes of the housing goals only if the mortgage was acquired from a community-based AMA user.

* * * * *

(e) *Mortgage participation transactions.* Where two or more Banks acquire a participation interest in the same mortgage simultaneously, the mortgage will be counted on a *pro rata* basis for the prospective mortgage purchase housing goal for each Bank with a participation interest.

■ 7. Amend § 1281.14 by revising paragraph (a) to read as follows:

**§ 1281.14 Determination of compliance with housing goals; notice of determination.**

(a) *Determination of compliance with housing goals.* On an annual basis, FHFA will determine each Bank's performance under each housing goal and will publish the final determinations. FHFA will publish its final determination including the numbers and percentages for each Bank's AMA purchases that meet each of the housing goals criteria, including loans to low-income families, loans to very low-income families, and loans to families in low-income areas, including by each of the defined categories. FHFA's determination will include these numbers in total and separated into purchase money mortgages, refinancing mortgages, conventional mortgages, and non-conventional mortgages.

* * * * *

■ 8. Amend § 1281.15 by revising paragraphs (a) and (b) to read as follows:

**§ 1281.15 Housing plans.**

(a) *Housing plan requirement.* For any year after 2023, if the Director determines that a Bank has failed to meet any housing goal and that the achievement of the housing goal was feasible, the Director may require the Bank to submit a housing plan for approval by the Director.

(b) *Nature of plan.* If the Director requires a housing plan, the housing plan shall:

(1) Be feasible;

(2) Be sufficiently specific to enable the Director to monitor compliance periodically;

(3) Describe the specific actions that the Bank will take to achieve the housing goal for the next calendar year;

(4) Address any additional matters relevant to the housing plan as required, in writing, by the Director; and

(5) Address any alternative target levels for which the Bank has submitted a request under § 1281.11(c)(1).

* * * * *

■ 9. Revise Subpart C to read as follows:

## Subpart C—Reporting Requirements

**§ 1281.20 Reporting requirements.**

(a) *General.* Each Bank must collect and submit to FHFA any data that FHFA determines to be necessary for FHFA to evaluate transactions and activities under the Bank housing goals.

(b) *Reporting for prospective mortgage purchase housing goal.* Each Bank must collect data on each AMA mortgage purchased by the Bank. The data must include any data elements specified by FHFA. On no less frequent than an annual basis, each Bank must submit such data to FHFA in accordance with the Data Reporting Manual.

(c) *Reporting for small member participation housing goal.* Each Bank must collect data on AMA user asset size. On no less frequent than an annual basis, each Bank must submit such data to FHFA in accordance with the Data Reporting Manual.

(d) *Other reporting.* Each Bank must provide to FHFA such additional reports, information, and data as FHFA may request from time to time.

**Mark A. Calabria,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2020–12345 Filed 6–24–20; 8:45 am]

BILLING CODE 8070–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0568; Project Identifier MCAI–2020–00505–A; Amendment 39–21148; AD 2020–13–03]**

**RIN 2120–AA64**

## Airworthiness Directives; XtremeAir GmbH Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2018–07–15 for certain XtremeAir GmbH Model XA42 airplanes. This AD results from

mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the diagonal struts of the engine mount frame with potential detachment of the engine from the airplane. The FAA is issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective July 15, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 15, 2020.

The FAA must receive comments on this AD by August 10, 2020.

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

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

For service information identified in this AD, contact XtremeAir GmbH, Harzstrasse 2, Am Flughafen Cochstedt, D–39444 Hecklingen, Germany; phone: +49 39267 60999 0; fax: +49 39267 60999 20; email: *info@xtremeair.de;* internet: *https://www.xtremeair.com.* You may review copies of the referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for locating Docket No. FAA–2020–0568.

## Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0568; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

**SUPPLEMENTARY INFORMATION:**

## Discussion

The FAA issued AD 2018–07–15, Amendment 39–19246 (83 FR 15036; April 9, 2018) (''AD 2018–07–15'') to address an unsafe condition on XtremeAir GmbH Model XA42 airplanes equipped with an engine mount part number XA42–7120–151. AD 2018–07–15 required repetitive inspections of the engine mount strut junction for cracks and was based on MCAI originated by an aviation authority of another country. The FAA issued AD 2018–07–15 to detect and address cracking of the engine mount frame, which could lead to detachment of the engine in-flight and result in loss of control.

## Actions Since AD 2018–07–15 Was Issued

Since the FAA issued AD 2018–07–15, during a scheduled maintenance inspection of a Model XA42 airplane, an occurrence was reported of separation of both left-hand and right-hand diagonal struts of the engine mount frame.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, superseded its MCAI and issued EASA AD No. 2019–0239R1, dated December 18, 2019 (referred to after this as ''the MCAI''), to correct this unsafe condition for XtremeAir GmbH Model XA42 airplanes. The MCAI states:

> After that AD [EASA Emergency AD 2018–0050–E] was issued, during a scheduled maintenance inspection of an XA42 airplane, an occurrence was reported of separation of both left-hand and right-hand diagonal struts of the affected part.
>
> This condition, if not detected and corrected, could lead to in-flight detachment of the engine, possibly resulting in loss of control of the airplane.
>
> Prompted by this new finding, XtremeAir issued the SB [XtremeAir Service Bulletin SB–XA42–2019–008, Issue A.00] to provide limitations and inspection instructions. Consequently, EASA issued Emergency AD 2019–0239–E, retaining the requirements of EASA Emergency AD 2018–0050–E, which was superseded, reducing the inspection interval to each pre-flight check and requiring an Aircraft Flight Manual (AFM) limitation to prohibit aerobatic manoeuvers, and installation of a corresponding placard.
>
> Since that AD was issued, the investigations were completed, and based on the outcome, XtremeAir revised the SB (now at revision B.00), providing instructions to accomplish the repetitive inspections at a different regime.
>
> For the reason described above, this AD is revised accordingly to update the inspection interval, and to allow the removal of the prohibition to accomplish aerobatic manoeuvers.
>
> This AD is still considered an interim action and further AD action may follow.

You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0568.

## Relative Service Information Under 1 CFR Part 51

The FAA reviewed XtremeAir GmbH Mandatory Service Bulletin SB–XA42–2019–008, Issue B.00, dated December 4, 2019. The service information contains procedures for inspection of the area of the junction of the left-hand and right-hand diagonal struts of the engine mount, forward of the oil cooler, for cracks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because it evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracking of the engine mount frame could lead to in-flight detachment of the engine and result in loss of control of the airplane. AD 2018–07–15 only required an inspection of the left-hand diagonal strut. Since AD 2018–07–15 was issued, an occurrence was reported of separation of both the left-hand and right-hand diagonal struts of the engine mount frame. The

additional inspection required by this AD is necessary to detect cracks in the right-hand diagonal strut of the engine mount frame. Therefore, the FAA finds that notice and opportunity for public comment before issuing this AD are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0568; Project Identifier MCAI–2020–00505–A'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD because of those comments.

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

## Costs of Compliance

The FAA estimates that this AD will affect 16 products of U.S. registry. The FAA also estimates that it will take 0.5 work-hour per product per inspection cycle to inspect the diagonal struts of the engine mount. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product.

Based on these figures, the FAA estimates the cost of the inspection on U.S. operators to be $680.00 or $42.50 per product per inspection cycle.

In addition, the FAA estimates that replacing an engine mount, if necessary, will take 24 work-hours and require parts costing $5,000, for a cost of $7,040 per product. The FAA has no way of determining the number of products that may need this action.

## Authority for This Rulemaking

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

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

## Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

## Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2018–07–15, Amendment 39–19246 (83 FR 15036, April 9, 2018); and

■ b. Adding the following new AD:

**2020–13–03 XtremeAir GmbH Airplanes:** Amendment 39–21148; Docket No. FAA–2020–0568; Project Identifier MCAI–2020–00505–A.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective July 15, 2020.

**(b) Affected ADs**

This AD replaces AD 2018–07–15, Amendment 39–19246 (83 FR 15036, April 9, 2018).

**(c) Applicability**

This AD applies to XtremeAir GmbH Model XA42 airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 71: Power Plant.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracking of the diagonal struts of the engine mount frame. The FAA is issuing this AD to prevent the in-flight detachment of the engine, which could result in loss of control of the airplane.

**(f) Actions and Compliance**

For airplanes with an engine mount part number (P/N) XA42–7120–151 installed, unless already done, do the following actions in paragraphs (f)(1) and (2) of this AD.

(1) Before the next acrobatic flight after July 15, 2020 (the effective date of this AD) or before the engine mount accumulates 50 hours time-in-service (TIS), whichever occurs later, and thereafter at intervals not to exceed 10 acrobatic flights, visually inspect the junction of the left-hand and right-hand diagonal struts of the engine mount, forward of the oil cooler, for cracks in the area shown in the photographs in XtremeAir GmbH Mandatory Service Bulletin SB–XA42–2019–008, Issue B.00, dated December 4, 2019. For purposes of this AD, an acrobatic flight is counted for each flight during which a load factor of 6g is exceeded.

(i) If there is a crack, before further flight, replace the engine mount with an airworthy engine mount with zero hours TIS, an engine mount that has passed the inspection required by this AD, or an engine mount that is not P/N XA42–7120–151.

(ii) After completing the initial inspection, begin or continue to count the acrobatic flights and record in the maintenance records.

(2) As of July 15, 2020 (the effective date of this AD), do not install on the airplane an engine mount P/N XA42–7120–151 unless it is an airworthy engine mount with zero hours TIS or is an engine mount that has passed the inspection required by this AD.

**(g) Installation Prohibition**

For airplanes without engine mount P/N XA42–7120–151 installed, as of July 15, 2020 (the effective date of this AD), do not install engine mount P/N XA42–7120–151.

**(h) Alternative Methods of Compliance (AMOCs)**

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

**(i) Special Flight Permit**

Special flight permits are prohibited.

**(j) Related Information**

Refer to MCAI European Union Aviation Safety Agency AD No. 2019–0239R1, dated December 18, 2019, for related information. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0568.

**(k) Material Incorporated by Reference**

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

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

(i) XtremeAir GmbH Mandatory Service Bulletin SB–XA42–2019–008, Issue B.00, dated December 4, 2019.

(ii) [Reserved]

(3) For XtremeAir GmbH service information identified in this AD, contact XtremeAir GmbH, Harzstrasse 2, Am Flughafen Cochstedt, D–39444 Hecklingen, Germany; phone: +49 39267 60999 0; fax: +49 39267 60999 20; email: *info@xtremeair.de;* internet: *https://www.xtremeair.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for locating Docket No. FAA–2020–0568.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on June 10, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–13659 Filed 6–24–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0091; Product Identifier 2020–NM–012–AD; Amendment 39–19916; AD 2020–11–12]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–8 and 737–9 airplanes. This AD was prompted by a report that certain exterior fairing panels on the top of the engine nacelle and strut (the thumbnail fairing and mid strut fairing panels) may not have the quality of electrical bonding necessary to ensure adequate shielding of the underlying wiring from the electromagnetic effects of high intensity radiated fields (HIRF), which could potentially lead to a dual-engine power loss event and/or display of hazardously misleading primary propulsion parameters. This AD requires a detailed inspection of the thumbnail fairing panels and mid strut fairing panels for excessive rework of the metallic (aluminum foil) inner surface layer, replacement of any excessively reworked panels, and modification of the thumbnail fairing assembly to ensure adequate bonding. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 30, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 30, 2020.

**ADDRESSES:** For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0091.

**Examining the AD Docket**

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0091; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–8 and 737–9 airplanes. The NPRM published in the **Federal Register** on February 26, 2020 (85 FR 11000). The NPRM was prompted by a report that certain exterior fairing panels on the top of the engine nacelle and strut (the thumbnail fairing and mid strut fairing panels) may not have the quality of electrical bonding necessary to ensure adequate shielding of the underlying wiring from the electromagnetic effects of HIRF, which could potentially lead to a dual-engine power loss event and/or display of hazardously misleading primary propulsion parameters. The NPRM proposed to require a detailed inspection of the thumbnail fairing panels and mid strut fairing panels for excessive rework of the metallic (aluminum foil) inner surface layer, replacement of any excessively reworked panels, and modification of the thumbnail fairing assembly to ensure adequate bonding.

The FAA is issuing this AD to address this condition, which could result in a forced off-airport landing or excessive flightcrew workload.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received comments from several organizations and individuals. The following discussion presents the comments

received on the NPRM and the FAA's response to each comment.

**Support for the NPRM**

The Air Line Pilots Association, International (ALPA) and three individuals expressed support for the NPRM.

**Request To Exclude Certain Airplanes From the AD's Applicability**

United Airlines (UAL) requested that the proposed AD be revised to exclude airplanes that have not been delivered. UAL noted that the proposed AD would apply to all Model 737–8 and 737–9 airplanes included in line numbers 5602 through 7901, which is beyond the effectivity of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019. UAL reasoned that for airplanes that have not been delivered, Boeing would incorporate the intent of the service bulletin at the factory, which would provide an equivalent level of safety. UAL suggested that if those airplanes are not excluded from the proposed AD's applicability, the FAA should provide credit to prevent the need for future alternative method of compliance (AMOC) requests.

The FAA agrees with the commenter, for the reasons the commenter provided. The FAA has revised paragraph (c) of this AD to limit the applicability to those airplanes identified in Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019.

**Request To Refer To Correct Part Numbers**

American Airlines (AAL) and UAL requested that the proposed AD be revised to correct the part number for the thumbnail fairing. UAL noted that Figure 2 and Figure 8 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, specify certain thumbnail fairings, but those figures specify the incorrect part numbers. The commenters noted that Boeing issued Information Notice 737–54–1056 IN 01, dated January 29, 2020, to correct the part numbers. This Information Notice is in the docket for this rulemaking, attached to the comment of Hainan Airlines Aviation Technic (Hainan). UAL added that, although the Information Notice specifies the correct ''IS'' part numbers, it specifies the wrong ''WAS'' part numbers, and noted that Boeing plans to address this in a future Information Notice or service bulletin revision. UAL asked that the final rule include an exception to allow inspection and installation of thumbnail fairings having the correct part number.

The FAA agrees with the commenters' requests. The FAA has added paragraph (h) of this AD to include exceptions to the service information; this includes paragraph (h)(1) of this AD, which identifies the correct part numbers to be used when accomplishing the service instructions. Operators must use part number 313A6110–5, 313A6110–7, or 313A6110–9 in lieu of part number 311A6111–5, 311A6111–7, or 311A6111–9 when inspecting or installing affected thumbnail fairings. The FAA has also redesignated subsequent paragraphs accordingly.

**Request To Clarify Rivet Hole Size**

AAL suggested to the FAA that the proposed AD be revised to clarify the rivet hole size called out for installing a nutplate. AAL stated that note (d) to Figure 4 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, specifies to drill a hole with a diameter of ''0.192—0.196.'' AAL stated that Boeing confirmed the rivet hole size will be corrected with a revised service bulletin.

The FAA agrees that the rivet hole size specified in note (d) to Figure 4 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, is incorrect. SB 737–54–1056 Revision 1, corrects this hole size diameter with the following language: ''(d) Drill through Thumbnail Land Assembly with a hole Diameter of 0.097—0.101.'' The FAA has added paragraph (h)(2) to this AD to clarify the correct rivet hole size to use when installing a nutplate.

**Request To Clarify the Inspection and Replacement Criteria for Critical and Non-Critical Bonding Zones**

Hainan requested that the proposed AD be revised to provide clarification regarding the inspection and replacement criteria for critical and non-critical bonding zones (which are specified in Step 4 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019). Hainan noted that Boeing Information Notice 737–54–1056 IN 01, dated January 29, 2020, provides clarity regarding the inspection and the conditions that require replacement of the panels.

The FAA agrees with the commenter's request. The FAA has added paragraph (h)(3) of this AD to clarify the inspection and replacement criteria for critical bonding zones. The FAA has also added paragraph (h)(4) of this AD to clarify the inspection and replacement criteria for non-critical bonding zones.

**Request To Revise Certain Background Information**

Boeing requested that paragraph (e) of the proposed AD as well as the **SUMMARY** and the Discussion section in **SUPPLEMENTARY INFORMATION** of the NPRM be revised to be consistent with the potential aircraft system impacts Boeing communicated in reporting this issue to the FAA prior to issuance of the NPRM, and to remove any references to an unsafe condition resulting from lightning strikes. Boeing stated that the descriptions of the potential unsafe conditions in the proposed AD are inconsistent with its subject matter expert's evaluation of the safety issue. Boeing added that there is not a safety concern in the event of a lightning strike, because all of the electrical and electronic systems with wiring in the affected area retain sufficient margin between their design and qualification levels and the lightning-induced transient levels, even with the loss of electrical bonding of the foil-lined panels in the engine strut. Boeing further noted that the proposed AD does not mention the potential for displays of misleading primary propulsion parameters on the flight deck displays. Boeing stated that the proposed AD inaccurately describes a scenario where HIRF or lightning induced on one engine's wiring could cross-couple to the opposite engine's wiring via the common avionics system's connections. Boeing provided suggestions for revised wording.

The FAA agrees with the commenter's request for the reasons provided. Based on further analysis done after issuance of the NPRM, the FAA has determined that lightning strikes are not a safety concern for the unsafe condition identified in this AD. The FAA has revised the **SUMMARY** and the Discussion section in **SUPPLEMENTARY INFORMATION** of this final rule as well as paragraph (e) of this AD to incorporate the changes requested by Boeing.

**Request To Revise Special Flight Permit Conditions**

Boeing requested that the special flight permit language in paragraph (i) of the proposed AD be revised to provide guidance on the HIRF spectrum of concern to operators. Boeing noted that the potential for aircraft systems' exposure to HIRF levels higher than their original qualification levels is limited to the frequency range between 1 MHz and 100 MHz. Boeing stated that operators do not need to consider potential HIRF sources outside this frequency spectrum when assessing routes for special flight permit requests.

Boeing added that providing clarification on the frequency range of concern would reduce the burden on both operators and the FAA in submitting and reviewing special flight permit requests.

The FAA agrees with the request because the agency has determined that only the HIRF frequency range between 1 MHz and 100 MHz is of concern. The FAA has revised paragraph (i) of this AD to clarify the HIRF frequency range that must be identified when submitting a request for a special flight permit.

**Request To Change Compliance Time to Before Revenue Flight**

Boeing requested that the compliance time in the proposed AD be changed from ''before further flight'' to ''before revenue flight.'' Boeing noted that the compliance time in Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, is six months. Boeing added that it is revising the service bulletin and plans to change the compliance time to ''prior to revenue flight'' in the revised service bulletin. Boeing noted that ''prior to revenue flight'' aligns with the Boeing safety review board recommendation.

The FAA disagrees with the commenter's request. Without the safety features installed during the modification required by this AD, airplanes are exposed to potentially unsafe electromagnetic effects. The FAA has included provisions in paragraph (i) of this AD (paragraph (h) of the proposed AD) for operators who may need to relocate an airplane prior to accomplishing the actions required by this AD. The FAA has not changed this AD regarding this issue.

**Request To Revise Compliance Time To Include Options**

Hainan requested that the compliance time for the proposed AD be revised to ''within six months after the effective date of this AD or before further flight, whichever occurs first.'' Hainan noted that Boeing recommended a compliance time of within six months after the original issue date of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019. Hainan suggested that, due to the unknown return-to-service dates for the affected airplanes, a revised compliance time would allow airlines to plan for the actions required by this AD. Hainan pointed out that another recent AD on these same airplane models has a compliance time of 24 months.

The FAA disagrees with the commenter's request. Without the safety features installed during the modification required by this AD, airplanes are exposed to potentially unsafe electromagnetic effects. The FAA notes that the compliance time is designed to ensure the actions required by this AD are done before further flight (*i.e.,* before the affected airplanes are returned to service), and operators may do these actions at any time before further flight. The FAA has not changed this AD regarding this issue.

**Request To Include a Grace Period**

Hainan requested that the proposed AD be revised to provide a grace period for the required modification. Hainan stated that Boeing can only provide new panels based on the results of required inspections. Hainan suggested that due to the international transportation impacts caused by the 2019 Novel Coronavirus, new panels may not be available to operators in a timely manner.

As a result of Hainan's comment, the FAA confirmed in June 2020 that a sufficient number of required parts will be available from the manufacturer to modify the worldwide fleet within the compliance time of the NPRM, which is adopted as proposed. However, under the provisions of paragraph (j) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA has not changed this AD regarding this issue.

**Request To Clarify Certain Requirements**

Hainan requested that paragraph (g) of the proposed AD be revised to specify ''replacement and modification'' rather than ''modification.'' Hainan noted that the actions in the proposed AD include both modification and replacement.

Paragraph (g) of the proposed AD specified a detailed inspection and the modification as applicable. Replacement is one part of the modification, and is required only if excessive rework is found during that inspection. Thus, the FAA has determined that specifying ''replacement and modification'' in paragraph (g) of this AD is not necessary, and the agency has not changed this AD regarding this issue.

**Request To Revise Wording Regarding Required Steps**

Hainan requested that the wording in paragraph (g) of the proposed AD be revised to specify ''Steps 4., 6. or 7. through 9., . . .'' instead of ''Steps 4., 6. through 9., inclusive . . . .'' Hainan noted that Steps 6. and 7. of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, are two different options for one action.

The FAA acknowledges that Steps 6. and 7. of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, are two options for the same action. However, the FAA notes that this is clearly stated in Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, which labels Step 6. as ''ACTION 2 (OPTION 1)'' and Step 7. as ''ACTION 2 (OPTION 2).'' Operators are required to do only one of these options to show compliance with this AD. The FAA has not changed this AD regarding this issue.

**Request To Provide Steps for Deactivating Certain Slats**

AAL suggested to the FAA that the proposed AD be revised to include steps to deactivate the slats. AAL noted that Boeing recommended deactivating the slats and thrust reversers using the Aircraft Maintenance Manual (AMM) as an accepted procedure and stated such instructions would be included in a revision of the service information.

The FAA agrees that deactivating the slats prior to accomplishing the actions specified in the service bulletin would help to protect any maintenance personnel working on that area, and that the AMM provides acceptable procedures for deactivating the slats. However, the FAA does not agree with making slat deactivation a requirement of this AD, since this procedure is not needed to address the unsafe condition. The FAA has not changed this AD regarding this issue.

**Request To Account for Possible Service Information Revision in the Final Rule**

AAL suggested to the FAA that the proposed AD be updated to account for a revision of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, if one exists. AAL noted that Boeing stated that such a revision is in process and AAL asked if the FAA is aware of such a revision.

The FAA acknowledges that Boeing has informed the agency of its intent to issue revised service information. However, that revision has not yet been published by Boeing. As stated earlier, the FAA has added several exceptions to this AD to correct errors in Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019. With these exceptions, operators will be able to comply with this AD using Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019.

**Explanation of Additional Change to This AD**

The FAA clarifies that where the AD specifies to perform certain ''Steps'' of the Boeing service bulletin, such steps refer to the numbered actions specified within the Procedures section of the Accomplishment Instructions. The FAA has revised paragraph (g) of this AD to change the required procedures by not including steps 9 and 12 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019. The FAA has determined that these steps, while expected to be accomplished, are not required to address the unsafe condition identified in this AD and this change makes this AD consistent with revision 1 of the Boeing service information.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

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

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019. This service information describes procedures for a detailed inspection of the thumbnail fairing panels and mid strut fairing panels for excessive rework of the metallic (aluminum foil) inner surface layer (resulting in foil cuts), replacement of any excessively reworked panels, and modification of the thumbnail fairing assembly to ensure adequate bonding. Modification actions include doing a form-in-place gasket of the thumbnail land assemblies; preparing the mating surfaces between the thumbnail fairing panel and the left and right thumbnail land assemblies; and doing a bond check of the thumbnail fairing panel and the thumbnail land assemblies on the left and right side of the thumbnail fairing panel on both engines. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 128 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 5 work-hours × $85 per hour = $425 | $0 | $425 | $54,400 |

The FAA estimates the following costs to do any necessary modifications that would be required based on the results of the required inspection. The FAA has no way of determining the number of aircraft that might need these modifications:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Modification | Up to 7 work-hours × $85 per hour = Up to $595 | (*) | Up to $595.* |

*The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, all of the costs of this AD will be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2020–11–12 The Boeing Company:** Amendment 39–19916; Docket No. FAA–2020–0091; Product Identifier 2020–NM–012–AD.

**(a) Effective Date**

This AD is effective July 30, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 737–8 and 737–9 airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019.

**(d) Subject**

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

**(e) Unsafe Condition**

This AD was prompted by a report that certain exterior fairing panels on the top of the engine nacelle and strut (the thumbnail fairing and mid strut fairing panels) may not have the quality of electrical bonding necessary to ensure adequate shielding of the underlying wiring from the electromagnetic effects of high intensity radiated fields (HIRF), which could potentially lead to a dual-engine power loss event and/or display of hazardously misleading primary propulsion parameters. The FAA is issuing this AD to address this condition, which could result in a forced off-airport landing or excessive flightcrew workload.

**(f) Compliance**

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

**(g) Detailed Inspection and Modification**

Before further flight, do a detailed inspection of the thumbnail fairing panels and mid strut fairing panels for excessive rework of the metallic (aluminum foil) inner surface layer, and, before further flight, do the modification as applicable in accordance with Steps 4., 6. through 8. inclusive, and 11. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019.

**(h) Exceptions to Service Information Specifications**

(1) Where Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, specifies thumbnail fairings having part number ''311A6111–5 or 311A6111–7 or 311A6111–9,'' for this AD use part number ''313A6110–5 or 313A6110–7 or 313A6110–9.''

(2) Where note (d) to Figure 4 of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, specifies to drill a hole with a diameter of ''0.192–0.196,'' for this AD the hole diameter must be ''0.097–0.101.''

(3) For inspections of critical bonding areas, as specified in Step 4.a. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, any panel with cumulative foil cut lengths greater than 4.0 inches within any 12.0 inches in length must be replaced; any panel with a foil cut gap greater than 0.25 inch also must be replaced.

(4) For inspections of non-critical bonding areas, as specified in Step 4.b. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019, any panel with cumulative foil cut lengths greater than 12.0 inches within a 12.0-inch by 12.0-inch area must be replaced; any panel with a foil cut gap greater than 0.25 inch also must be replaced.

**(i) Special Flight Permit**

Special flight permits, as described in 14 CFR 21.197 and 21.199, may be issued to operate the airplane to a location where the requirements of this AD can be accomplished, but concurrence by the Manager, Seattle ACO Branch, FAA, is required before issuance of the special flight permit. Requests for a special flight permit must be submitted to the FAA with a description of the electromagnetic field radiation sources (type, location, frequency, and power level) along the planned route. Only electromagnetic field radiation sources operating in the frequency spectrum between 1 MHz and 100 MHz need to be identified when submitting a special flight permit request (common examples of such sources include, but are not limited to, short wave radio towers, FM radio towers, and some TV broadcast transmitters). Send requests for a special flight permit to the person identified in paragraph (k) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(k) Related Information**

For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Special Attention Service Bulletin 737–54–1056, dated December 11, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110 SK57, Seal Beach, CA 90740–5600; telephone 562 797 1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on June 11, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–13481 Filed 6–24–20; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[TD 9899]**

**RIN 1545–BP12**

## Qualified Business Income Deduction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations concerning the deduction for qualified business income (QBI) under section 199A of the Internal Revenue Code (Code). The regulations will affect certain individuals, partnerships, S corporations, trusts, and estates. The regulations provide guidance on the treatment of previously suspended losses included in qualified business income. The regulations also provide guidance on the determination of the section 199A deduction for taxpayers that hold interests in regulated investment companies, split-interest trusts, and charitable remainder trusts.

**DATES:**

*Effective Date:* These regulations are effective on August 24, 2020.

*Applicability Dates:* These regulations apply to taxable years beginning after August 24, 2020. Pursuant to section 7805(b)(7), taxpayers may choose to apply the amendments to §§ 1.199A–3 and 1.199A–6 set forth in this Treasury decision to taxable years beginning on or before August 24, 2020. Alternatively, taxpayers who chose to rely on the February 2019 Proposed Regulations for taxable years beginning on or before August 24, 2020 may continue to do so for such years. However, taxpayers who choose to apply any section of these regulations or continue to rely on any section of the February 2019 Proposed Regulations for taxable years beginning on or before August 24, 2020 must follow the rules of the applicable section in a consistent manner for each such year.

**FOR FURTHER INFORMATION CONTACT:** Concerning § 1.199A–3(d), Michael Y. Chin or Steven Harrison at (202) 317–6842; concerning §§ 1.199A–3(b) and 1.199A–6, Vishal R. Amin or Sonia Kothari at (202) 317–6850 or Robert D. Alinsky or Margaret Burow at (202) 317–5279.

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 199A of the Code.

Section 199A was enacted on December 22, 2017, by section 11011 of Public Law 115–97, 131 Stat. 2054, commonly referred to as the Tax Cuts and Jobs Act (TCJA), and was amended on March 23, 2018, retroactively to January 1, 2018, by section 101 of Division T of the Consolidated Appropriations Act, 2018, Public Law 115–141, 132 Stat. 348 (2018 Act). Section 199A applies to taxable years beginning after 2017 and before 2026.

Section 199A provides a deduction of up to 20 percent of QBI from a U.S. trade or business operated as a sole proprietorship or through a partnership, S corporation, trust, or estate (section 199A deduction). The section 199A deduction may be taken by individuals and by some trusts and estates. A section 199A deduction is not available for wage income or for income earned by a C corporation (as defined in section 1361(a)(2)). If the taxpayer's taxable income exceeds the statutorily defined amount in section 199A(e)(2) (threshold amount), the taxpayer's section 199A deduction may be limited based on (i) the type of trade or business conducted, (ii) the amount of W–2 wages paid with respect to the trade or business (W–2 wages), and/or (iii) the unadjusted basis immediately after acquisition (UBIA) of qualified property held for use in the trade or business (UBIA of qualified property). These statutory limitations are subject to phase-in rules in section 199A(b)(3)(B) based upon taxable income above the threshold amount (phase-in rules).

Section 199A also provides individuals and some trusts and estates, but not corporations, a deduction of up to 20 percent of their combined qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income, including qualified REIT dividends and qualified PTP income earned through passthrough entities. This component of the section 199A deduction is not limited by W–2 wages or UBIA of qualified property.

Overall, the section 199A deduction is the lesser of (1) the sum of the combined QBI and qualified REIT and PTP components described in the prior two paragraphs or (2) an amount equal to 20 percent of the excess (if any) of the taxpayer's taxable income for the taxable year over the taxpayer's net capital gain for the taxable year.

Additionally, section 199A(g) provides that specified agricultural or horticultural cooperatives may claim a special entity-level deduction that is substantially similar to the domestic production activities deduction under former section 199.

The statute expressly grants the Secretary of the Treasury or his delegate (Secretary) authority to prescribe such regulations as are necessary to carry out the purposes of section 199A (section 199A(f)(4)), and provides specific grants of authority with respect to certain issues including: The treatment of acquisitions, dispositions, and short taxable years (section 199A(b)(5)); certain payments to partners for services rendered in a non-partner capacity (section 199A(c)(4)(C)); the allocation of W–2 wages and UBIA of qualified property (section 199A(f)(1)(A)(iii)); restricting the allocation of items and wages under section 199A and such reporting requirements as the Secretary determines appropriate (section 199A(f)(4)(A)); the application of section 199A in the case of tiered entities (section 199A(f)(4)(B)); preventing the manipulation of the depreciable period of qualified property using transactions between related parties (section 199A(h)(1)); and determining the UBIA of qualified property acquired in like-kind exchanges or involuntary conversions (section 199A(h)(2)).

The Department of the Treasury (Treasury Department) and the IRS published final regulations (TD 9847) interpreting section 199A on February 8, 2019 (February 2019 Final Regulations) in the **Federal Register** (84 FR 2952). Along with the publication of the February 2019 Final Regulations, the Treasury Department and the IRS published a notice of proposed rulemaking (REG 134652–18) in the **Federal Register** (84 FR 3015) providing additional guidance under section 199A relating to the treatment of previously suspended losses included in qualified business income and determining the section 199A deduction for taxpayers that hold interests in regulated investment companies, split-interest trusts, and charitable remainder trusts (February 2019 Proposed Regulations). No public hearing on the February 2019 Proposed Regulations was requested or held. After full consideration of the comments received on the February 2019 Proposed Regulations, this Treasury decision adopts the proposed regulations with clarifying changes and additional modifications in response to comments as described in the Summary of Comments and Explanation of Revisions. Comments on issues related to the February 2019 Proposed Regulations that are beyond the scope of these final regulations are not discussed

in this preamble, but may be addressed in future guidance.

The Treasury Department and the IRS also received comments on the February 2019 Final Regulations. The Treasury Department and the IRS continue to study the issues raised in those comments and may address them in future guidance.

**Summary of Comments and Explanation of Revisions**

These final regulations contain amendments to two substantive sections of the February 2019 Final Regulations, §§ 1.199A–3 and 1.199A–6, each of which provides rules relevant to the calculation of the section 199A deduction. The amendments to § 1.199A–3(b)(1)(iv) provide additional rules and clarification on the treatment of suspended losses. Section 1.199A–3(d) provides guidance that allows a shareholder in a regulated investment company (RIC) within the meaning of section 851(a) to take a section 199A deduction with respect to certain income of, or distributions from, the RIC. The amendments to § 1.199A–6(d) include additional rules related to trusts and estates under section 663 of the Code. This Summary of Comments and Explanation of Revisions describes each of the final rules contained in this document in turn.

*I. Treatment of Previously Suspended Losses Included in QBI*

Section 1.199A–3(b)(1)(iv) of the February 2019 Final Regulations provides that previously disallowed losses or deductions (including under sections 465, 469, 704(d), and 1366(d)) allowed in the taxable year are generally taken into account for purposes of computing QBI, except to the extent the losses or deductions were disallowed, suspended, limited, or carried over from taxable years ending before January 1, 2018. These losses are used, for purposes of section 199A, in order from the oldest to the most recent on a first-in, first-out (FIFO) basis. The February 2019 Proposed Regulations expanded this rule to provide that previously disallowed losses or deductions are treated as losses from a separate trade or business in the year they are taken into account in determining taxable income. Further, the attributes of the previously disallowed losses or deductions, including whether they are attributable to a trade or business and whether they would otherwise be included in QBI, are determined in the year the loss or deduction is incurred.

The Treasury Department and the IRS are aware that taxpayers and practitioners have questioned whether the exclusion of section 461(l) from the list of loss disallowance and suspension provisions in § 1.199A–3(b)(1)(iv) means that losses disallowed under section 461(l) are not considered QBI in the year the losses are taken into account in determining taxable income. Generally, for taxable years beginning after December 31, 2020, and before January 1, 2026, section 461(l) disallows an excess business loss for taxpayers other than C corporations. *See* section 2304(a) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (2020). Any disallowed excess business loss is treated as a net operating loss carryover for the taxable year for purposes of determining any net operating loss carryover under section 172(b) in subsequent taxable years. *See* section 172(b) as amended by section 2304(b) of the CARES Act.

The list of loss disallowance and suspension provisions in § 1.199A–3(b)(1)(iv) is not exhaustive. If a loss or deduction that would otherwise be included in QBI under the rules of § 1.199A–3 is disallowed or suspended under any provision of the Code, such loss or deduction is generally taken into account for purposes of computing QBI in the year it is taken into account in determining taxable income. These final regulations clarify this point by amending § 1.199A–3(b)(1)(iv)(A) to specifically reference excess business losses disallowed by section 461(l) and treated as a net operating loss carryover for the taxable year for purposes of determining any net operating loss carryover under section 172(b) in subsequent taxable years.

The Treasury Department and the IRS are also aware that taxpayers and practitioners have questioned how the phase-in rules apply when a taxpayer has a suspended or disallowed loss or deduction from a Specified Service Trade or Business (SSTB). Whether an individual has taxable income at or below the threshold amount, within the phase-in range, or in excess of the phase-in range, the determination of whether a suspended or disallowed loss or deduction attributable to an SSTB is from a qualified trade or business is made in the year the loss or deduction is incurred. If the individual's taxable income is at or below the threshold amount in the year the loss or deduction is incurred, and such loss would otherwise be QBI, the entire disallowed loss or deduction is treated as QBI from a separate trade or business in the subsequent taxable year in which the loss is allowed. If the individual's taxable income is within the phase-in range, then only the applicable percentage of the disallowed loss or deduction is taken into account in the subsequent taxable year. If the individual's taxable income exceeds the phase-in range, none of the disallowed loss or deduction will be taken into account in the subsequent taxable year. These final regulations clarify this treatment and provide an example of a taxpayer with taxable income in the phase-in range and a suspended loss from an SSTB.

The Treasury Department and the IRS received one comment requesting further clarification of the FIFO ordering rule. The commenter questioned whether the FIFO ordering rule should continue to apply for losses incurred in taxable years beginning on or after January 1, 2018. The commenter also asked for clarification regarding whether the rule applied on an annual basis such that each year is tracked separately and FIFO is applied for losses that are incurred each year or whether FIFO applies such that there is a single bucket of losses no matter the year incurred. The commenter recommended additional supporting worksheets or other forms to assist in the calculation, particularly if every year must be tracked individually.

The Treasury Department and the IRS have determined that in order to properly calculate the deduction, it is necessary for the FIFO rule to apply for losses incurred in taxable years beginning on or after January 1, 2018, and that the rule must be applied on an annual basis by category (*i.e.,* sections 465, 469, etc.). Accordingly, these final regulations retain the FIFO rule as proposed. The Treasury Department and the IRS continue to consider whether new worksheets or forms are necessary to assist in the calculation.

The February 2019 Proposed Regulations also provide that if a loss or deduction is partially disallowed, QBI in the year of disallowance must be reduced proportionately. These final regulations retain this rule, but with slight modifications, and provide examples.

*II. RICs With Interests in REITs and PTPs*

If a RIC has certain items of income or gain, subchapter M of chapter 1 of the Code provides rules under which a RIC may pay dividends that a shareholder in the RIC may treat in the same manner (or a similar manner) as the shareholder would treat the underlying item of income or gain if the shareholder realized it directly. Like the preamble to the February 2019 Proposed Regulations, this preamble refers to this treatment as ''conduit treatment.'' The

February 2019 Proposed Regulations include rules providing conduit treatment for qualified REIT dividends earned by a RIC. The Treasury Department and the IRS received one comment requesting that the proposed rules providing this treatment be finalized. These final regulations adopt those proposed rules.

The February 2019 Proposed Regulations do not provide conduit treatment for qualified PTP income earned by a RIC. Instead, the preamble to the February 2019 Proposed Regulations requested comments on issues relating to whether and how to provide conduit treatment for qualified PTP income, including the treatment of items attributable to an SSTB of a PTP allocated to a RIC and the treatment of losses of a PTP allocated to a RIC. The Treasury Department and the IRS received several comments addressing conduit treatment for qualified PTP income earned by a RIC. Two commenters recommended that conduit treatment be extended to qualified PTP income earned by RICs, excluding any items attributable to SSTBs. Both commenters suggested that any losses allocated to RICs from PTPs could be carried forward by the RIC for purposes of section 199A. Another commenter suggested methods by which RICs could track, and pay dividends attributable to, an SSTB of a PTP.

Another commenter suggested that RICs, particularly business development companies that conduct lending activities, be allowed to pay ''QBI dividends'' to their shareholders in cases where the RIC had income from an activity that would generate QBI if conducted by a partnership or an S corporation.

The Treasury Department and the IRS continue to consider those comments and evaluate whether it is appropriate and practicable to provide conduit treatment for qualified PTP income or other income of a RIC to further the purposes of section 199A(b)(1)(B).

*III. Special Rules for Trusts and Estates*

Section 1.199A–6 provides guidance that certain specified entities (including trusts and estates) might need to compute the section 199A deduction of the entity and/or passthrough information to each of its owners or beneficiaries, so they may compute their section 199A deduction. Section 1.199A–6(d) contains special rules for applying section 199A to trusts and decedents' estates.

Under § 1.199A–6(d)(3)(ii), the QBI, W–2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income of a trust or estate are allocated to each beneficiary and to the trust or estate based on the relative proportion of the trust's or estate's distributable net income (DNI) for the taxable year that is distributed or required to be distributed to the beneficiary or is retained by the trust or estate. Proposed § 1.199A–6(d)(3)(iii) further provides that a trust described in section 663(c) with substantially separate and independent shares for multiple beneficiaries will be treated as a single trust for purposes of determining whether the taxable income of the trust exceeds the threshold amount.

The Treasury Department and the IRS received comments requesting guidance on the interaction between section 199A and the separate share rule in section 663(c). In particular, the commenters requested guidance on the allocation of QBI, W–2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income of a trust or estate to beneficiaries and the trust or estate based on DNI. The commenters noted differences in the allocation of overall DNI to beneficiaries of a trust or estate under sections 643(a) and 663(c) and asked about the allocation of these items in circumstances involving tax-exempt income and charitable deductions, as well as situations in which no DNI is allocated to a beneficiary. The commenters asserted that under § 1.663(c)–2(b)(5), deductions, including the section 199A deduction, attributable solely to one share are not available to any other separate share of the trust or estate. The commenters recommended that the allocation of QBI, W–2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income of a trust or estate should be based on the portion of such items that are attributable to the income of each separate share. In addition, the commenters recommended that § 1.663(c)–2(b) be amended to clarify how gross income not included in accounting income is allocated among separate shares.

After considering the comments and studying the separate share rule in more depth, the Treasury Department and the IRS have clarified the separate share rule in these final regulations to provide that, in the case of a trust or estate described in section 663(c) with substantially separate and independent shares for multiple beneficiaries, the trust or estate will be treated as a single trust or estate not only for purposes of determining whether the taxable income of the trust or estate exceeds the threshold amount but also in determining taxable income, net capital gain, net QBI, W–2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income for each trade or business of the trust or estate, and computing the W–2 wage and UBIA of qualified property limitations. Further clarification of the separate share rule under section 663 is beyond the scope of these final regulations, but the Treasury Department and the IRS intend to continue to study the issues raised by the commenters. Accordingly, these final regulations provide that the allocation of these items to the separate shares of a trust or estate described in section 663(c) will be governed by the rules under section 663(e) and such guidance as may be published in the Internal Revenue Bulletin (*see* § 601.601(d)(2)(ii)(*b*)).

Section 1.199A–6(d)(3)(v) of the February 2019 Proposed Regulations provides rules under which the taxable recipient of a unitrust or annuity amount from a charitable remainder trust described in section 664 can take into account QBI, qualified REIT dividends, or qualified PTP income for purpose of determining the recipient's section 199A deduction. The Treasury Department and the IRS received no comments on these rules and these final regulations adopt these rules as proposed.

**Special Analyses**

*I. Regulatory Planning and Review—Economic Analysis*

Executive Orders 13771, 13563, and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, of harmonizing rules, and of promoting flexibility.

These final regulations have been designated by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and OMB regarding review of tax regulations. OIRA has designated this final regulation as economically significant under section 1(c) of the Memorandum of Agreement. Accordingly, OIRA has reviewed these final regulations. For purposes of

Executive Order 13771 this rule is regulatory.

A. Background and Need for Final Regulations

Section 199A of the TCJA provides taxpayers other than corporations a deduction of up to 20 percent of QBI from domestic businesses plus up to 20 percent of their combined qualified REIT dividends and qualified publicly traded partnership income. Because the section 199A deduction had not previously been available, regulations are necessary to provide taxpayers with computational and definitional guidance regarding the application of section 199A.

The Treasury Department and the IRS previously issued the February 2019 Final Regulations regarding various items related to the calculation of the section 199A deduction. However, the February 2019 Final Regulations did not address treatment of REIT dividends received by RICs. Because RICs are taxed as C corporations, dividends paid by RICs are generally ineligible for the section 199A deduction under the statute, which excludes C corporation income from the definition of QBI. However, the statute also directs the Secretary to prescribe such regulations as are necessary to carry out the purposes of section 199A, including regulations for its application in the case of tiered entities. These final regulations establish rules under which RIC dividends associated with qualified REIT dividends may be eligible for a section 199A deduction.

In addition, these final regulations establish rules for the treatment of previously suspended losses in calculation of QBI and rules for applying section 199A to trusts and decedents' estates.

B. Economic Analysis

1. Baseline

The analysis in this section compares these final regulations (these regulations) to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these regulations.

2. Summary of Economic Effects

To assess the economic effects of these regulations, the Treasury Department and the IRS considered the economic effects of (i) rules for the treatment of previously suspended losses in calculation of QBI; (ii) rules providing conduit treatment for qualified REIT dividends earned by a RIC; and (iii) rules for applying section 199A to trusts and decedents' estates.

Regarding items (i) and (iii): These regulations provide certainty and clarity to taxpayers regarding terms and calculations necessary for taxpayers to determine their section 199A deduction. In the absence of this clarity, the likelihood would be exacerbated that different taxpayers would hold different interpretations of the tax treatment of previously suspended losses or the application of section 199A to trusts and decedents' estates. These regulations help taxpayers to hold more similar interpretations of the tax treatment of these items. In general, overall economic performance is enhanced when individuals and businesses face more uniform signals about tax treatment. Certainty and clarity over tax treatment also reduce compliance costs for taxpayers.

The Treasury Department and the IRS do not project meaningful changes in economic activity as a result of these provisions, relative to the no-action baseline.

Regarding item (ii): These regulations provide that an individual who is a shareholder of a RIC that has an ownership interest in a REIT may, for section 199A purposes, treat certain dividends received from a RIC in the same way the shareholder would treat dividends received directly from the REIT. Specifically, under these regulations RIC shareholders are generally eligible for the section 199A deduction on their section 199A dividends. In the absence of these regulations, dividends received from a RIC that has an ownership interest in a REIT would not qualify for the section 199A deduction while dividends received directly from that REIT would generally qualify for the deduction. Thus, in the absence of these regulations, direct ownership of REITs is tax-advantaged relative to indirect ownership of REITs through RICs even though the underlying economic activity is similar.

As a general principle, overall economic performance is improved to the extent that the tax consequences of investment through a financial intermediary (such as a RIC) are equivalent to the tax consequences of direct investment. In the absence of these regulations, a tax incentive would arise for individuals to invest directly in REITs rather than through RIC intermediaries. This would distort investment allocation relative to a tax-neutral treatment of financial intermediaries, leading investors to make decisions based on differential tax treatment rather than purely based on the value of investments. In particular, it would likely cause investors to hold less diversified portfolios.[1] The Treasury Department and the IRS therefore project that, under these regulations, individual investors seeking to invest in real estate would in general hold more diversified portfolios relative to the no-action baseline.

Another economic loss that would likely arise in the absence of these regulations is due to the costs of acquiring information. RICs, including mutual funds and exchange-traded funds, simplify decision-making for investors by finding, indexing, and vetting REITs. This is an efficient market organization due to economies of scale in gathering relevant information. In the absence of these regulations, individual investors face substantial incentives to invest directly in REITs due to asymmetric tax treatment, and face larger time costs to evaluate REIT investment options than RICs. The same level of investment can be achieved with substantially less resource use if research costs are incurred by RICs rather than individual investors, and therefore this rule will lead to more efficient resource use in making aggregate investment decisions.

On the basis of these effects, the Treasury Department and the IRS also project that these regulations will lead investors, on average, to hold more real estate in their portfolios (relative to the no-action baseline) and thus hold a smaller share of investment in other industries.

The Treasury Department and the IRS project that the economic effects of these regulations will exceed $100 million per year relative to the no-action baseline. The compliance costs alone are estimated to be approximately $149 million (excluding any compliance cost savings), as described in the Paperwork Reduction Act section of these analyses. These compliance costs arise because the regulations require a RIC to compute and report section 199A dividends to its shareholders in order for them to benefit from the section 199A deduction on qualified REIT dividends earned by the RIC. In some sense, these costs are optional since RICs that do not pay section 199A dividends, either because they do not receive qualified REIT dividends or because they choose not to take on the additional record-keeping, avoid these compliance costs entirely. Nonetheless, we expect that many RICs will choose to incur the compliance costs to facilitate their shareholders' section 199A deductions.

[1] RICs include mutual funds, which facilitate the diversification of an individual investor's financial portfolio.

Though many RICs keep detailed records of their investment portfolios, these regulations nonetheless create non-trivial administrative costs for any RICs that wish to provide section 199A dividends to their shareholders. However, this increase in compliance costs may be accompanied by a decrease in compliance costs for REITs who would otherwise see an influx of individual investors holding direct interest in REITs. The Treasury Department and the IRS have not estimated this compliance cost savings.

Beyond any potential compliance cost reduction, several other economic benefits result from these regulations, including those flowing from enhanced financial diversification and reduced information-gathering costs. While we have not attempted to quantify the economic benefits of these effects, we project that they are likely to be substantial as well. We estimate that up to $6.0 billion in REIT dividends accrued to individual taxpayers through RICs in taxable year 2018. Of this, $5.6 billion went to taxpayers with positive taxable income, who thus could potentially use section 199A deductions. This corresponds to aggregate potential deductions of up to $1.1 billion (20 percent of $5.6 billion). Under an assumption that the effective tax rate for these investors was 30 percent, then under the no-action baseline taxpayers would theoretically be willing to incur up to $336 million in economic costs in order to receive the section 199A deduction on their income derived from REITs that currently flows through RICs. Thus, relative to the no-action baseline, these regulations provide up to $336 million in annual benefits by allowing investors to avoid these costs.

Another way of gauging the potential economic benefits from these regulations is to consider them relative to the investment returns currently flowing to REIT investors through RICs. If RIC intermediaries provide economic benefits (relative to direct ownership of REITs) equal to five percent of investment returns, then the benefits of these regulations relative to the no-action baseline would be up to $280 million (five percent of $5.6 billion), assuming the same levels of economic activity as in taxable year 2018.

The Treasury Department and the IRS project that more taxpayers will claim the section 199A deduction under these regulations, reducing government revenue relative to the no-action baseline. On its own, this reduction in revenue itself would affect the United States economy. Either the deficit would increase or other taxes would need to be raised. This effect should be weighed against the enhanced efficiency arising from the regulations. We have not attempted to quantify these effects. Similarly, we have not attempted to quantify the efficiency effects of the shift in investment away from other industries and toward real estate that may result from these regulations, relative to the no-action baseline.

3. Number of Affected Taxpayers

The Treasury Department and the IRS estimate that the rules regarding RICs as financial intermediaries for REIT investors will affect up to 2,500 RICs and up to 4.8 million individual tax units. These estimates are derived from the universe of taxable year 2018 administrative tax records. For taxable year 2018, taxpayers were able to rely on the February 2019 Proposed Regulations, which meant that RICs could provide conduit treatment for REIT dividends for section 199A purposes (as in these regulations). Accordingly, 2,500 entities that did not file Form 1120–REIT issued at least one Form 1099–DIV with section 199A dividends. For comparison, approximately 1,400 REITs issued at least one Form 1099–DIV with section 199A dividends. Approximately 5.2 million tax units received at least one Form 1099–DIV with section 199A dividends from the 2,500 non-REIT entities. Among these tax units, roughly 4.8 million had positive taxable income and therefore could have potentially benefited from the section 199A deduction.[2]

*II. Paperwork Reduction Act (PRA)*

The collection of information contained in these regulations will be reviewed by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–0110. The collection of information required by this regulation is in § 1.199A–3. The collection of information in § 1.199A–3 is required for RICs that choose to report information regarding qualified REIT dividends to their shareholders. It is necessary to report the information to the IRS and relevant taxpayers to ensure that taxpayers properly report in accordance with the rules of these regulations the correct amount of deduction under section 199A. The collection of information in § 1.199A–3 is satisfied by providing information about section 199A dividends as Form 1099–DIV (OMB control number 1545–0110) and its instructions may prescribe.

For purposes of the PRA, the reporting burden associated with § 1.199A–3 will be reflected in the next revision to Form 1099–DIV. The burden associated with the information collection in the regulation represents 1.567 million hours and $149 million (2018 dollars) annually to comply with the information collection requirement in the regulation. These estimates capture both changes made by the TCJA and those that arise out of these regulations. The burden hours estimate was derived from IRS's legacy burden model and is discussed in further detail on Form 1099–DIV. The hourly rate is derived from the IRS's office of Research, Applied Analytics, and Statistics Business Taxpayer Burden model that relates time and out-of-pocket costs of business tax preparation, derived from survey data, to assets and receipts of affected taxpayers along with other relevant variables, and converted by the Treasury Department to $2017. The Treasury Department and the IRS request comment on all aspects of information collection burdens related to these regulations. Proposed revisions (if any) to these forms that reflect the information collections contained in these regulations will be made available for public comment at *www.irs.gov/draftforms* and will not be finalized until after the forms have been approved by OMB under the PRA.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

*III. Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities.

The final rule is not likely to affect a substantial number of small entities. Section 1.199A–3 applies to RICs that pay section 199A dividends. Congress created RICs to give small investors access to the professional management and asset diversification that are available only with very large investment portfolios. To insure appropriate non-tax regulation of these substantial investment portfolios,

[2] For this analysis, entities are proxied by Employer Identification Numbers (EINs). EINs are tax identification numbers that do not perfectly align with the relevant entity concept. In particular, it is possible that one REIT may operate using multiple EINs, one to file its Form 1120–REIT and one to issue its Form 1099–DIVs. In this case, we will misclassify the 1099-issuing EIN as a non-REIT. Therefore the estimates for the number of RICs, and the individuals receiving section 199A dividends from RICs, are upper bounds.

subchapter M of chapter 1 of the Code requires that such RICs must be eligible for registration, and must actually be registered with the Securities and Exchange Commission under the Investment Company Act of 1940. There are some small businesses that are publicly traded, but most publicly traded businesses are not small entities as defined by the Regulatory Flexibility Act. Thus, the Treasury Department and IRS expect that most RICs are not small entities for purposes of the Regulatory Flexibility Act. Accordingly, the Treasury Department and the IRS have determined that this Treasury decision will not affect a substantial number of small entities. Finally, no comments regarding the economic impact of these regulations on small entities were received.

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

**Drafting Information**

The principal authors of these regulations are Michael Y. Chin and Steven Harrison, Office of the Associate Chief Counsel (Financial Institutions and Products) and Robert Alinsky, Vishal Amin, Margaret Burow, and Sonia Kothari, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the Treasury Department and the IRS participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

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 * * *.

Section 1.199A–3 also issued under 26 U.S.C. 199A(c)(4)(C) and (f)(4).

* * * * *

Section 1.199A–6 also issued under 26 U.S.C. 199A(f)(1)(B) and (f)(4).

* * * * *

■ **Par. 2.** Section 1.199A–0 is amended by:

■ 1. Adding entries for § 1.199A–3(b)(1)(iv)(A) through (C), (b)(1)(iv)(C)(*1*) and (*2*), (b)(1)(iv)(D), (d), (d)(1) and (2), (d)(2)(i) through (iii), (d)(2)(iii)(A) and (B), (d)(3), (d)(3)(i) through (v), (d)(4), (d)(4)(i) and (ii), (d)(5), and (e)(2)(iii) and (iv).

■ 2. Adding entries for § 1.199A–6(d)(3)(iii) and (v) and (e)(2)(iii) and (iv).

The additions read as follows:

**§ 1.199A–0 Table of contents.**

* * * * *

*§ 1.199A–3 Qualified business income, qualified REIT dividends, and qualified PTP income.*

* * * * *

(b) * * *
(1) * * *
(iv) * * *
(A) In general.
(B) Partial allowance.
(C) Attributes of disallowed loss determined in year loss is incurred.
(*1*) In general.
(*2*) Specified service trades or businesses.
(D) Examples.

* * * * *

(d) Section 199A dividends paid by a regulated investment company.
(1) In general.
(2) Definition of section 199A dividend.
(i) In general.
(ii) Reduction in the case of excess reported amounts.
(iii) Allocation of excess reported amount.
(A) In general.
(B) Special rule for noncalendar-year RICs.
(3) Definitions.
(i) Reported section 199A dividend amount.
(ii) Excess reported amount.
(iii) Aggregate reported amount.
(iv) Post-December reported amount.
(v) Qualified REIT dividend income.
(4) Treatment of section 199A dividends by shareholders.
(i) In general.
(ii) Holding period.
(5) Example.
(e) * * *
(2) * * *
(iii) Previously disallowed losses.
(iv) Section 199A dividends.

* * * * *

*§ 1.199A–6 Relevant passthrough entities (RPEs), publicly traded partnerships (PTPs), trusts, and estates.*

* * * * *

(d) * * *
(3) * * *
(iii) Separate shares.

* * * * *

(v) Charitable remainder trusts.

* * * * *

(e) * * *
(2) * * *
(iii) Separate shares.
(iv) Charitable remainder trusts.

■ **Par. 3.** Section 1.199A–3 is amended by revising paragraph (b)(1)(iv) and adding paragraphs (d) and (e)(2)(iii) and (iv) to read as follows:

**§ 1.199A–3 Qualified business income, qualified REIT dividends, and qualified PTP income.**

* * * * *

(b) * * *
(1) * * *

(iv) *Previously disallowed losses*—(A) *In general.* Previously disallowed losses or deductions allowed in the taxable year generally are taken into account for purposes of computing QBI to the extent the disallowed loss or deduction is otherwise allowed by section 199A. These previously disallowed losses include, but are not limited to losses disallowed under sections 461(l), 465, 469, 704(d), and 1366(d). These losses are used for purposes of section 199A and this section in order from the oldest to the most recent on a first-in, first-out (FIFO) basis and are treated as losses from a separate trade or business. To the extent such losses relate to a PTP, they must be treated as a loss from a separate PTP in the taxable year the losses are taken into account. However, losses or deductions that were disallowed, suspended, limited, or carried over from taxable years ending before January 1, 2018 (including under sections 465, 469, 704(d), and 1366(d)), are not taken into account in a subsequent taxable year for purposes of computing QBI.

(B) *Partial allowance.* If a loss or deduction attributable to a trade or business is only partially allowed during the taxable year in which incurred, only the portion of the allowed loss or deduction that is attributable to QBI will be considered in determining QBI from the trade or business in the year the loss or deduction is incurred. The portion of the allowed loss or deduction attributable to QBI is determined by multiplying the total amount of the allowed loss by a fraction, the numerator of which is the portion of the total loss incurred during the taxable year that is attributable to QBI and the denominator of which is the amount of the total loss incurred during the taxable year.

(C) *Attributes of disallowed loss or deduction determined in year loss is incurred*—(*1*) *In general.* Whether a disallowed loss or deduction is attributable to a trade or business, and otherwise meets the requirements of this section, is determined in the year the loss is incurred.

(*2*) *Specified service trades or businesses.* If a disallowed loss or deduction is attributable to a specified service trade or business (SSTB), whether an individual has taxable income at or below the threshold amount as defined in § 1.199A–1(b)(12), within the phase-in range as defined in

§ 1.199A–1(b)(4), or in excess of the phase-in range is determined in the year the loss or deduction is incurred. If the individual's taxable income is at or below the threshold amount in the year the loss or deduction is incurred, the entire disallowed loss or deduction must be taken into account when applying paragraph (b)(1)(iv)(A) of this section. If the individual's taxable income is within the phase-in range, then only the applicable percentage, as defined in § 1.199A–1(b)(2), of the disallowed loss or deduction is taken into account when applying paragraph (b)(1)(iv)(A) of this section. If the individual's taxable income exceeds the phase-in range, none of the disallowed loss or deduction will be taken into account in applying paragraph (b)(1)(iv)(A) of this section.

(D) *Examples.* The following examples illustrate the provisions of this paragraph (b)(1)(iv).

(*1*) *Example 1.* A is an unmarried individual and a 50% owner of LLC, an entity classified as a partnership for Federal income tax purposes. In 2018, A's allocable share of loss from LLC is $100,000 of which $80,000 is negative QBI. Under section 465, $60,000 of the allocable loss is allowed in determining A's taxable income. A has no other previously disallowed losses under section 465 or any other provision of the Code for 2018 or prior years. Because 80% of A's allocable loss is attributable to QBI ($80,000/$100,000), A will reduce the amount A takes into account in determining QBI proportionately. Thus, A will include $48,000 of the allowed loss in negative QBI (80% of $60,000) in determining A's section 199A deduction in 2018. The remaining $32,000 of negative QBI is treated as negative QBI from a separate trade or business for purposes of computing the section 199A deduction in the year the loss is taken into account in determining taxable income as described in § 1.199A–1(d)(2)(iii).

(*2*) *Example 2.* B is an unmarried individual and a 50% owner of LLC, an entity classified as a partnership for Federal income tax purposes. After allowable deductions other than the section 199A deduction, B's taxable income for 2018 is $177,500. In 2018, LLC has a single trade or business that is an SSTB. B's allocable share of loss is $100,000, all of which is suspended under section 465. B's allocable share of negative QBI is also $100,000. B has no other previously disallowed losses under section 465 or any other provision of the Code for 2018 or prior years. Because the entire loss is suspended, none of the negative QBI is taken into account in determining B's section 199A deduction for 2018. Further, because the negative QBI is from an SSTB and B's taxable income before the section 199A deduction is within the phase-in range, B must determine the applicable percentage of the negative QBI that must be taken into account in the year that the loss is taken into account in determining taxable income. B's applicable percentage is 100% reduced by 40% (the percentage equal to the amount that B's taxable income for the taxable year exceeds B's threshold amount ($20,000 = $177,500 − $157,500) over $50,000). Thus, B's applicable percentage is 60%. Therefore, B will have $60,000 (60% of $100,000) of negative QBI from a separate trade or business to be applied proportionately to QBI in the year(s) the loss is taken into account in determining taxable income, regardless of the amount of taxable income and how rules under § 1.199A–5 apply in the year the loss is taken into account in determining taxable income.

* * * * *

(d) *Section 199A dividends paid by a regulated investment company*—(1) *In general.* If section 852(b) applies to a regulated investment company (RIC) for a taxable year, the RIC may pay section 199A dividends, as defined in this paragraph (d).

(2) *Definition of section 199A dividend*—(i) *In general.* Except as provided in paragraph (d)(2)(ii) of this section, a section 199A dividend is any dividend or part of such a dividend that a RIC pays to its shareholders and reports as a section 199A dividend in written statements furnished to its shareholders.

(ii) *Reduction in the case of excess reported amounts.* If the aggregate reported amount with respect to the RIC for any taxable year exceeds the RIC's qualified REIT dividend income for the taxable year, then a section 199A dividend is equal to—

(A) The reported section 199A dividend amount; reduced by

(B) The excess reported amount that is allocable to that reported section 199A dividend amount.

(iii) *Allocation of excess reported amount*—(A) *In general.* Except as provided in paragraph (d)(2)(iii)(B) of this section, the excess reported amount (if any) that is allocable to the reported section 199A dividend amount is that portion of the excess reported amount that bears the same ratio to the excess reported amount as the reported section 199A dividend amount bears to the aggregate reported amount.

(B) *Special rule for noncalendar-year RICs.* In the case of any taxable year that does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for that taxable year, paragraph (d)(2)(iii)(A) of this section is applied by substituting ''post-December reported amount'' for ''aggregate reported amount,'' and no excess reported amount is allocated to any dividend paid on or before December 31 of that taxable year.

(3) *Definitions.* For purposes of paragraph (d) of this section—

(i) *Reported section 199A dividend amount.* The term *reported section 199A dividend amount* means the amount of a dividend distribution reported to the RIC's shareholders under paragraph (d)(2)(i) of this section as a section 199A dividend.

(ii) *Excess reported amount.* The term *excess reported amount* means the excess of the aggregate reported amount over the RIC's qualified REIT dividend income for the taxable year.

(iii) *Aggregate reported amount.* The term *aggregate reported amount* means the aggregate amount of dividends reported by the RIC under paragraph (d)(2)(i) of this section as section 199A dividends for the taxable year (including section 199A dividends paid after the close of the taxable year and described in section 855).

(iv) *Post-December reported amount.* The term *post-December reported amount* means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

(v) *Qualified REIT dividend income.* The term *qualified REIT dividend income* means, with respect to a taxable year of a RIC, the excess of the amount of qualified REIT dividends, as defined in paragraph (c)(2) of this section, includible in the RIC's taxable income for the taxable year over the amount of the RIC's deductions that are properly allocable to such income.

(4) *Treatment of section 199A dividends by shareholders*—(i) *In general.* For purposes of section 199A, and §§ 1.199A–1 through 1.199A–6, a section 199A dividend is treated by a taxpayer that receives the section 199A dividend as a qualified REIT dividend.

(ii) *Holding period.* Paragraph (d)(4)(i) of this section does not apply to any dividend received with respect to a share of RIC stock—

(A) That is held by the shareholder for 45 days or less (taking into account the principles of section 246(c)(3) and (4)) during the 91-day period beginning on the date which is 45 days before the date on which the share becomes ex-dividend with respect to such dividend; or

(B) To the extent that the shareholder is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

(5) *Example.* The following example illustrates the provisions of this paragraph (d).

(i) X is a corporation that has elected to be a RIC. For its taxable year ending March 31, 2021, X has $25,000x of net long-term capital gain, $60,000x of qualified dividend income,

$25,000x of taxable interest income, $15,000x of net short-term capital gain, and $25,000x of qualified REIT dividends. X has $15,000x of deductible expenses, of which $3,000x is allocable to the qualified REIT dividends. On December 31, 2020, X pays a single dividend of $100,000x, and reports $20,000x of the dividend as a section 199A dividend in written statements to its shareholders. On March 31, 2021, X pays a dividend of $35,000x, and reports $5,000x of the dividend as a section 199A dividend in written statements to its shareholders.

(ii) X's qualified REIT dividend income under paragraph (d)(3)(v) of this section is $22,000x, which is the excess of X's $25,000x of qualified REIT dividends over $3,000x in allocable expenses. The reported section 199A dividend amounts for the December 31, 2020, and March 31, 2021, distributions are $20,000x and $5,000x, respectively. For the taxable year ending March 31, 2021, the aggregate reported amount of section 199A dividends is $25,000x, and the excess reported amount under paragraph (d)(3)(ii) of this section is $3,000x. Because X is a noncalendar-year RIC and the post-December reported amount of $5,000x exceeds the excess reported amount of $3,000x, the entire excess reported amount is allocated under paragraphs (d)(2)(iii)(A) and (B) of this section to the reported section 199A dividend amount for the March 31, 2021, distribution. No portion of the excess reported amount is allocated to the reported section 199A dividend amount for the December 31, 2020, distribution. Thus, the section 199A dividend on March 31, 2021, is $2,000x, which is the reported section 199A dividend amount of $5,000x reduced by the $3,000x of allocable excess reported amount. The section 199A dividend on December 31, 2020, is the $20,000x that X reports as a section 199A dividend.

(iii) Shareholder A, a United States person, receives a dividend from X of $100x on December 31, 2020, of which $20x is reported as a section 199A dividend. If A meets the holding period requirements in paragraph (d)(4)(ii) of this section with respect to the stock of X, A treats $20x of the dividend from X as a qualified REIT dividend for purposes of section 199A for A's 2020 taxable year.

(iv) A receives a dividend from X of $35x on March 31, 2021, of which $5x is reported as a section 199A dividend. Only $2x of the dividend is a section 199A dividend. If A meets the holding period requirements in paragraph (d)(4)(ii) of this section with respect to the stock of X, A may treat the $2x section 199A dividend as a qualified REIT dividend for A's 2021 taxable year.

(e) * * *

(2) * * *

(iii) *Previously disallowed losses.* The provisions of paragraph (b)(1)(iv) of this section apply to taxable years beginning after August 24, 2020. Taxpayers may choose to apply the rules in paragraph (b)(1)(iv) of this section for taxable years beginning on or before August 24, 2020, so long as the taxpayers consistently apply the rules in paragraph (b)(1)(iv) of this section for each such year.

(iv) *Section 199A dividends.* The provisions of paragraph (d) of this section apply to taxable years beginning after August 24, 2020. Taxpayers may choose to apply the rules in paragraph (d) of this section for taxable years beginning on or before August 24, 2020, so long as the taxpayers consistently apply the rules in paragraph (d) of this section for each such year.

■ **Par. 4.** Section 1.199A–6 is amended by adding paragraphs (d)(3)(iii) and (v) and (e)(2)(iii) and (iv) to read as follows:

**§ 1.199A–6 Relevant passthrough entities (RPEs), publicly traded partnerships (PTPs), trusts, and estates.**

* * * * *

(d) * * *

(3) * * *

(iii) *Separate shares.* In the case of a trust or estate described in section 663(c) with substantially separate and independent shares for multiple beneficiaries, such trust or estate will be treated as a single trust or estate for purposes of determining whether the taxable income of the trust or estate exceeds the threshold amount; determining taxable income, net capital gain, net QBI, W–2 wages, UBIA of qualified property, qualified REIT dividends, and qualified PTP income for each trade or business of the trust and estate; and computing the W–2 wage and UBIA of qualified property limitations. The allocation of these items to the separate shares of a trust or estate will be governed by the rules under §§ 1.663(c)–1 through 1.663(c)–5, as they may be adjusted or clarified by publication in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter).

* * * * *

(v) *Charitable remainder trusts.* A charitable remainder trust described in section 664 is not entitled to and does not calculate a section 199A deduction, and the threshold amount described in section 199A(e)(2) does not apply to the trust. However, any taxable recipient of a unitrust or annuity amount from the trust must determine and apply the recipient's own threshold amount for purposes of section 199A taking into account any annuity or unitrust amounts received from the trust. A recipient of a unitrust or annuity amount from a trust may take into account QBI, qualified REIT dividends, or qualified PTP income for purposes of determining the recipient's section 199A deduction for the taxable year to the extent that the unitrust or annuity amount distributed to such recipient consists of such section 199A items under § 1.664–1(d). For example, if a charitable remainder trust has investment income of $500, qualified dividend income of $200, and qualified REIT dividends of $1,000, and distributes $1,000 to the recipient, the trust would be treated as having income in two classes within the category of income, described in § 1.664–1(d)(1)(i)(*a*)(*1*), for purposes of § 1.664–1(d)(1)(ii)(*b*). Because the annuity amount first carries out income in the class subject to the highest income tax rate, the entire annuity payment comes from the class with the investment income and qualified REIT dividends. Thus, the charitable remainder trust would be treated as distributing a proportionate amount of the investment income ($500 / (1,000 + 500) * 1,000 = $333) and qualified REIT dividends ($1000 / (1,000 + 500) * 1000 = $667) because the investment income and qualified REIT dividends are taxed at the same rate and within the same class, which is higher than the rate of tax for the qualified dividend income in a separate class. The charitable remainder trust in this example would not be treated as distributing any of the qualified dividend income until it distributed all the investment income and qualified REIT dividends (more than $1,500 in total) to the recipient. To the extent that a trust is treated as distributing QBI, qualified REIT dividends, or qualified PTP income to more than one unitrust or annuity recipient in the taxable year, the distribution of such income will be treated as made to the recipients proportionately, based on their respective shares of total QBI, qualified REIT dividends, or qualified PTP income distributed for that year. The trust allocates and reports any W–2 wages or UBIA of qualified property to the taxable recipient of the annuity or unitrust interest based on each recipient's share of the trust's total QBI (whether or not distributed) for that taxable year. Accordingly, if 10 percent of the QBI of a charitable remainder trust is distributed to the recipient and 90 percent of the QBI is retained by the trust, 10 percent of the W–2 wages and UBIA of qualified property is allocated and reported to the recipient and 90 percent of the W–2 wages and UBIA of qualified property is treated as retained by the trust. However, any W–2 wages retained by the trust cannot be used to compute W–2 wages in a subsequent taxable year for section 199A purposes. Any QBI, qualified REIT dividends, or qualified PTP income of the trust that is unrelated business taxable income is subject to excise tax and that tax must

be allocated to the corpus of the trust under § 1.664–1(c).

* * * * *

(e) * * *

(2) * * *

(iii) *Separate shares.* The provisions of paragraph (d)(3)(iii) of this section apply to taxable years beginning after August 24, 2020. Taxpayers may choose to apply the rules in paragraph (d)(3)(iii) of this section for taxable years beginning on or before August 24, 2020, so long as the taxpayers consistently apply the rules in paragraph (d)(3)(iii) of this section for each such year.

(iv) *Charitable remainder trusts.* The provisions of paragraph (d)(3)(v) of this section apply to taxable years beginning after August 24, 2020. Taxpayers may choose to apply the rules in paragraph (d) of this section for taxable years beginning on or before August 24, 2020, so long as the taxpayers consistently apply the rules in paragraph (d)(3)(v) of this section for each such year.

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: May 12, 2020.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2020–11832 Filed 6–24–20; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Parts 100 and 165

**[Docket Number USCG–2020–0082]**

**RIN 1625–AA08; AA00**

# Special Local Regulations and Safety Zones; Coast Guard Sector Long Island Sound Annual and Recurring Safety Zone and Special Local Regulation Update

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is modifying the special local regulations and annual recurring marine events and safety zones regulations for firework displays and swim events in the Coast Guard Sector Long Island Sound Captain of the Port Zone. When enforced, these special local regulations and safety zones will restrict vessels from transiting regulated areas during certain annually recurring events. The special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain marine events.

**DATES:** This rule is effective July 27, 2020.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0082 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Marine Science Technician 2nd Class Melanie Hughes, Waterways Management Division, Sector Long Island Sound; telephone (203) 468–4583; email *Melanie.A.Hughes1@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

## II. Background Information and Regulatory History

Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Long Island Sound Captain of the Port (COTP) Zone. The Coast Guard has established special local regulations and safety zones for some of these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from potential hazards. In the past, the Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from regulations associated with these annually recurring events. Events were either added or deleted to the table of annual events based on their likelihood to recur in subsequent years. Additionally, minor changes to existing events such as position, date, or title, were made to ensure the accuracy of event details.

On April 21, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations and Safety Zones; Coast Guard Sector Long Island Sound Annual and Recurring Safety Zone and Special Local Regulation Update (85 FR 22049). There we stated why we issued the NPRM and invited comments on our proposed regulatory action. During the comment period that ended on May 21, 2020, we received five comments.

## III. Legal Authority and Need for Rule

The Coast Guard issues this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Sector Long Island Sound is amending 33 CFR 100.100 Special Local Regulations; Regattas and Boat Races in the Coast Guard Sector Long Island Sound Captain of the Port Zone, Table to § 100.100 and 33 CFR 165.151 Safety Zones; Fireworks Displays, Air Shows, and Swim Events in the Captain of the Port Long Island Sound Zone, Table to § 165.151.

The marine events listed therein include air shows, fireworks displays, and other marine related events requiring a limited access area restricting vessel traffic for safety purposes. The amendments to the tables will more accurately reflect the dates of marine events based on historical occurrences.

The rule applies to the annual recurring events listed in the Table to 100.100 and Table 165.151 in 33 CFR. The tables provide the event name and the locations of the events. Notifications will be made to the local maritime community through all appropriate means such as Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the events. If the event does not have a date listed, then exact dates and times of the enforcement period will be announced through a Notice of Enforcement in the **Federal Register**.

This rule expands date ranges for marine events listed in 33 CFR parts 100 and 165 with the goal of significantly reducing the administrative burden on personnel. This rule is also removes four marine events from 33 CFR 165.151.

## IV. Discussion of Comments, Changes, and the Rule

As noted above, we received five comments on our NPRM published April 21, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

Two comments were general questions regarding the marking of fireworks safety zones. This rule expands the date ranges for events that are published in 33 CFR parts 100 and 165. In past years, some of these events fell outside the date range published in the CFR. In those circumstances, the Coast Guard would have to publish a temporary rule in the **Federal Register** with the revised date. Making these changes will better align the date ranges with the events and will also reduce the Coast Guard's administrative burden associated with publishing a temporary

rule to reflect the revised date. Each marine event will have its own safety plan which will require the Coast Guard's review and validation. Each safety plan validated within the Sector Long Island Sound COTP Zone is unique to the individual event for which it has been submitted. Each event, therefore, will have individual methods and rules for marking boundaries, routes, and ensuring safe areas for their respective events.

A third comment questioned the mechanism for notifying the public of enforcement dates and the process for reviewing marine events and also communicated concerns related to COVID–19 and the associated challenges. This rule merely amends the date range for specific events listed in 33 CFR part 100 and 165. It is not a confirmation that the event will actually take place. For all marine events, including those listed in the CFR, the event sponsor is required to submit a marine event application. The Coast Guard reviews and considers each application individually and maintains the authority to approve or disapprove each event based on available and relevant information regardless of the event's listing in the CFR. If and when a marine event application is approved, the Coast Guard notifies the public of the event by a Broadcast Notice to Mariners, Local Notice to Mariners, and/or by Notice of Enforcement.

A fourth comment questioned the Coast Guard's consideration of small entities in the development of this rule. As stated above, this rule changes the date range only for specific events, all of which have already undergone the process of public review and notification. The regulations' effect on small entities was considered during the original comment period for each event.

A fifth comment was not relevant to this rulemaking.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the revisions only being administrative in nature.

### *B. Impact on Small Entities*

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

This rule is amending 33 CFR 100 and 165. The amendments in question will have no impact on any small businesses outside of those already noted (if any) in previous rulemaking. To ensure the public is aware of the enforcement of the any regulations, the Coast Guard will issue a notice of the time and location of each regulated area through a Notice of Enforcement, Local Notice to Mariners, or Broadcast Notice to Mariners, as appropriate.

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

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations for various one-day marine events and safety zones for fireworks displays and one day swimming events. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum for Record of Environmental Consideration supporting this determination is

available in the docket where indicated under **ADDRESSES**.

*G. Protest Activities*

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

**List of Subjects**

*33 CFR Part 100*

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

*33 CFR Part 165*

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

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

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Amend § 100.100 by revising the table to read as follows:

TABLE 1 TO § 100.100

| 5 | May |
|---|---|
| 5.1 Harvard-Yale Regatta, Thames River, New London, CT. | • Date: A single day event in May or June.<br>• Time: 8 a.m. until 5 p.m.<br>• Location: All waters of the Thames River at New London, Connecticut, between the Penn Central Draw Bridge at position 41°21′46.94″ N, 072°05′14.46″ W to Bartlett Cove at position 41°25′35.9″ N, 072°05′42.89″ W (NAD 83). All positions are approximate. |
| 5.2 Jones Beach Air Show | • Date: The Thursday through Sunday before Memorial Day each May.<br>• Time:<br>(1) The "No Entry Area" will be enforced each day from the start of the air show until 30 minutes after it concludes. Exact time will be determined annually.<br>(2) The "Slow/No Wake Area" and the "No Southbound Traffic Area" will be enforced each day for six hours after the air show concludes. Exact time will be determined annually.<br>• Location:<br>(1) "No Entry Area": Waters of the Atlantic Ocean off Jones Beach State Park, Wantagh, NY, contained within the following described area; beginning at a point on land at position 40°34′54″ N, 073°33′21″ W; then east along the shoreline of Jones Beach State Park to a point on land at position 40°35′53″ N, 073°28′48″ W; then south to a point in the Atlantic Ocean off of Jones Beach at position 40°35′05″ N, 073°28′34″ W; then west to position 40°33′15″ N, 073°33′09″ W; then north to the point of origin (NAD 83). All positions are approximate.<br>(2) "Slow/No Wake Area": All navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in position 40°35′49.01″ N, 73°32′33.63″ W; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in position 40°39′14″ N, 73°34′0.76″ W; then east along Merrick Road to its intersection with Wantagh State Parkway in position 40°39′51.32″ N, 73°30′43.36″ W; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in position 40°35′47.30″ N, 073°30′29.17″ W; then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin (NAD 83). All positions are approximate.<br>(3) "No Southbound Traffic Area": All navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay at position 40°36′29.20″ N, 073°29′22.88″ W and a point near the eastern entrance of Zach's Bay at position 40°36′16.53″ N, 073°28′57.26″ W (NAD 83). All positions are approximate. |
| 6 | June |
| 6.1 Swim Across America Greenwich | • Date: A single day event during June.<br>• Time: 5:30 a.m. until noon.<br>• Location: All navigable waters of Stamford Harbor within an area starting at a point in position 41°01′32.03″ N, 073°33′8.93″ W, then southeast to a point in position 41°01′15.01″ N, 073°32′55.58″ W; then southwest to a point in position 41°0′49.25″ N, 073°33′20.36″ W; then northwest to a point in position 41°0′58″ N, 073°33′27″ W; then northeast to a point in position 41°1′15.8″ N, 073°33′9.85″ W, then heading north and ending at point of origin (NAD 83). All positions are approximate. |
| 7 | July |
| 7.1 Connecticut River Raft Race, Middletown, CT. | • Date: A single day between the last Saturday in July through first Saturday of August.<br>• Time: 10 a.m. until 2 p.m.<br>• Location: All waters of the Connecticut River near Middletown, CT, between Gildersleeve Island (Marker no. 99) at position 41°36′02.13″ N, 072°37′22.71″ W; and Portland Riverside Marina (Marker no. 88) at position 41°33′38.3″ N, 072°37′36.53″ W (NAD 83). All positions are approximate. |

TABLE 1 TO § 100.100—Continued

| | |
|---|---|
| | • Additional Stipulations: Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas unless authorized by COTP or designated representative. |
| 7.2 Dolan Family Fourth Fireworks | • Date: A single day event in July.<br>• Time: To be determined annually.<br>• Locations:<br>(1) ''No Entry Area'': All waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY, within a 1,000 foot radius of the launch platform in approximate position 40°53′42.50″ N, 073°30′04.30″ W (NAD 83).<br>(2) ''Slow/No Wake Area'': All waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY, contained within the following area; beginning at a point on land in position at 40°53′12.43″ N, 073°31′13.05″ W near Moses Point; then east across Oyster Bay Harbor to a point on land in position at 40°53′15.12″ N, 073°30′38.45″ W; then north along the shoreline to a point on land in position at 40°53′34.43″ N, 073°30′33.42″ W near Cove Point; then east along the shoreline to a point on land in position at 40°53′41.67″ N, 073°29′40.74″ W near Cooper Bluff; then south along the shoreline to a point on land in position 40°53′05.09″ N, 073°29′23.32″ W near Eel Creek; then east across Cold Spring Harbor to a point on land in position 40°53′06.69″ N, 073°28′19.9″ W; then north along the shoreline to a point on land in position 40°55′24.09″ N, 073°29′49.09″ W near Whitewood Point; then west across Oyster Bay to a point on land in position 40°55′5.29″ N, 073°31′19.47″ W near Rocky Point; then south along the shoreline to a point on land in position 40°54′04.11″ N, 073°30′29.18″ W near Plum Point; then northwest along the shoreline to a point on land in position 40°54′09.06″ N, 073°30′45.71″ W; then southwest along the shoreline to a point on land in position 40°54′03.2″ N, 073°31′01.29″ W; and then south along the shoreline back to point of origin (NAD 83). All positions are approximate. |
| 7.3 Clam Shell Foundation Fireworks | • Date: A single day during July.<br>• Time: To be determined annually.<br>• Locations:<br>(1) ''No Entry Area'': All waters of Three Mile Harbor, East Hampton, NY, within a 1,000 foot radius of the launch platform in approximate position 41°01′15.49″ N, 072°11′27.5″ W (NAD 83).<br>(2) ''Northbound Traffic Only Area'': All waters of Three Mile Harbor, East Hampton, NY, contained within the following area; beginning at a point in position at 41°02′5.05″ N, 072°11′19.52″ W; then southeast to a point on land in position at 41°02′2.67″ N, 072°11′17.97″ W; then south along shoreline to a point on land in position at 41°01′35.26″ N, 072°11′9.56″ W; then southeast across channel to a point on land in position at 41°01′30.28″ N, 072°10″52.77″ W; then north along the shoreline to a point on land in position at 41°01′41.35″ N, 072° 10′52.57″ W; then north across channel to a point on land in position at 41°01′44.41″ N, 072°10′52.23″ W near the southern end of Sedge Island; then north along shoreline of Sedge Island to a point on land in position at 41°01′56.3″ N, 072°10′59.37″ W, near the northern end of Sedge Island; then northwest across the channel to a point on land in position 41°01′56.76″ N, 072°11′0.66″ W; then northwest along shoreline to a point on land in position 41°01′41.35″ N, 072°10′52.57″ W; then northwest to position at 41°02′5.92″ N, 072°11′16.73″ W; and then southwest to point of origin (NAD 83). All positions are approximate. |
| 7.4 Jones Beach State Park Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Locations:<br>(1) ''No Entry Area'': All waters off of Jones Beach State Park, Wantagh, NY, within a 1,000 foot radius of the launch platform in approximate position 40°34′56.68″ N, 073°30′31.19″ W (NAD 83).<br>(2) ''Slow/No Wake Area'': All navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in position at 40°35′49.01″ N, 073°32′33.63″ W; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in position at 40°39′14″ N, 073°34′0.76″ W; then east along Merrick Road to its intersection with Wantagh State Parkway in position at 40°39′51.32″ N, 073°30′43.36″ W; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in position at 40°35′47.30″ N, 073°30′29.17″ W; then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin (NAD 83). All positions are approximate.<br>(3) ''No Southbound Traffic Area'': All navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay in position at 40°36′29.20″ N, 073°29′22.88″ W and a point near the eastern entrance of Zach's Bay in position at 40°36′16.53″ N, 073°28′57.26″ W (NAD 83). All positions are approximate. |
| 7.5 Maggie Fischer Memorial Great South Bay Cross Bay Swim. | • Date: A single day during July.<br>• Time: To be determined annually. |

TABLE 1 TO § 100.100—Continued

| | |
|---|---|
| | • Location: Waters of the Great South Bay, NY, within 100 yards of the race course. Starting Point at the Fire Island Lighthouse Dock in position at 40°38′01″ N, 073°13′07″ W; then north-by-northwest to a point in position at 40°38′52″ N, 073°13′09″ W; then north-by-northwest to a point in position at 40°39′40″ N, 073°13′30″ W; then north-by-northwest to a point in position at 40°40′30″ N, 073°14′00″ W; and then north-by-northwest, finishing at Gilbert Park, Brightwaters, NY at position 40°42′25″ N, 073°14′52″ W (NAD 83). All positions are approximate. |
| 7.6 Aquapalooza, Zach's Bay | • Date: A single day during July.<br>• Time: 11:30 a.m. to 8 p.m.<br>• Location: All navigable waters of Zach's Bay, Wantagh, NY, south of the line connecting a point near the western entrance to Zach's Bay in approximate position 40°36′29.20″ N, 073°29′22.88″ W and a point near the eastern entrance of Zach's Bay in approximate position 40°36′16.53″ N, 073°28′57.26″ W.<br>• Additional stipulations: During the enforcement period vessel speed in the regulated area is restricted to no wake speed or 6 knots, whichever is slower. On the day of the event from 3 p.m. to 5:30 p.m. vessels may only transit the regulated area in the northbound direction or outbound direction. |
| 7.7 Fran Schnarr Open Water Championship Swim. | • Date: A single day during July.<br>• Time: To be determined annually.<br>• Location: Waters of Huntington Bay, NY, within 100 yards of the race course. Starting in position at 40°54′25.3″ N, 073°24′27.9″ W; then northeast to a position at 40°54′32″ N, 73°23′57.7″ W; then northwest to a position at 40°54′37.9″ N, 073°23′57.2″ W; then southwest to a position at 40°54′33.2″ N, 073°25′28.1″ W; then southeast to a position at 40°54′25.5″ N, 073°25′25.7″ W; and then southeast to point of origin (NAD 83). All positions are approximate. |
| 8 | August |
| 8.1 Riverfront Dragon Boat and Asian Festival | • Dates: A two day event in August.<br>• Time: 8 a.m. until 4:30 p.m. each day.<br>• Regulated area: All waters of the Connecticut River in Hartford, CT, between the Bulkeley Bridge at 41°46′10.10″ N, 072°39′56.13″ W and the Wilbur Cross Bridge at 41°45′11.67″ N, 072°39′13.64″ W (NAD 83). All positions are approximate. |
| 8.2 Swim Across the Sound | • Date: A single day during August.<br>• Time: To be determined annually.<br>• Location: Waters of Long Island Sound from Port Jefferson, NY, in approximate position 40°58′11.71″ N, 073°05′51.12″ W; then northwest to Captain's Cove Seaport, Bridgeport, CT, in approximate position 41°09′25.07″ N, 073°12′47.82″ W (NAD 83). |
| 8.3 Stonewall Swim | • Date: A single day event in August.<br>• Time: 8:30 a.m. until 12:30 p.m.<br>• Location: All navigable waters of the Great South Bay within a three miles long and half mile wide box connecting Snedecor Avenue in Bayport, NY, to Porgie Walk in Fire Island, NY. Formed by connecting the following points. Beginning at 40°43′40.24″ N, 073°03′41.50″ W; then to 40°43′40.00″ N, 073°03′13.40″ W; then to 40°40′04.13″ N, 073°03′43.81″ W; then to 40°40′08.30″ N, 073°03′17.70″ W; and then back to point of origin (NAD 83). |
| 8.4 Island Beach Two Mile Swim | • Date: A single day during August.<br>• Time: To be determined annually.<br>• Location: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N, 073°36′42.05″ W; then northwest to 40°59′51.04″ N, 073°37′57.32″ W; then southwest to 40°59′45.17″ N, 073°38′01.18″ W; then southeast to 40°59′17.38″ N, 073°36′45.9″ W; then northeast to the point of origin (NAD 83). All positions are approximate. |
| 8.5 Waves of Hope Swim | • Date: A single day during August.<br>• Time: To be determined annually.<br>• Location: All waters of the Great South Bay off Amityville, NY, shoreward of a line created by connecting the following points. Beginning at a point at 40°39′22.38″ N, 073°25′31.63″ W; then south to a point at 40°39′2.18″ N, 073°25′31.63″ W; then east to a point at 40°39′2.18″ N, 073°24′3.81″ W; then north to a point at 40°39′18.27″ N, 073°24′3.81″ W; and then west back to point of origin (NAD 83). All positions are approximate. |
| 8.6 Smith Point Triathlon | • Date: A single day event in August.<br>• Time: To be determined annually. |

TABLE 1 TO § 100.100—Continued

| | |
|---|---|
| | • Location: All waters of Narrow Bay near Smith Point Park in Mastic Beach, NY, within the area bounded by land along its southern edge and points in position at 40°44′14.28″ N, 072°51′40.68″ W; then north to a point at position 40°44′20.83″ N, 072°51′40.68″ W; then east to a point at position 40°44′20.83″ N, 072°51′19.73″ W; then south to a point at position 40°44′14.85″ N, 072°51′19.73″ W; and then southwest along the shoreline back to the point of origin (NAD 83). All positions are approximate. |
| 9 | September |
| 9.1 Head of the Tomahawk | • Date: A single day during September.<br>• Time: To be determined annually.<br>• Location: All navigable waters of the Connecticut River off South Glastonbury, CT. Beginning at position 41°41′18.88″ N; 072°37′16.26″ W; then downriver along the west bank to a point at position 41°38′49.12″ N, 072°37′32.73″ W; then across the Connecticut River to a point at position 41°38′49.5″ N, 072°37′19.55″ W; then upriver along the east bank to a point at position 41°41′25.82″ N, 072°37′9.08″ W; then across the Connecticut River to the point of origin (NAD 83).<br>• Additional Stipulations: Non-event vessels transiting through the area during the enforcement period are to travel at no wake speeds or 6 knots, whichever is slower and that non-event vessels shall not block or impede the transit of event participants, event safety vessels or official patrol vessels in the regulated area unless authorized by COTP or designated representatives. |
| 10 | October |
| 10.1 Head of the Riverfront Rowing Regatta, Hartford, CT. | • Date: A single day event in October.<br>• Time: 5:30 a.m. until 5:30 p.m.<br>• Location: All water of the Connecticut River, Hartford, CT, between at point North of Wethersfield Cove at 41°43′52.17″ N, 072°38′40.38″ W and the Riverside Boat House 41°46′30.98″ N, 072°39′54.35″ W (NAD 83). |

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 4. Amend § 165.151 by revising table 1 to read as follows:

TABLE 1 TO § 165.151

| | |
|---|---|
| 2 | February |
| 2.1 Sag Harbor COC Winter Harbor Frost Fireworks. | Date: A single day event in February.<br>Location: Waters of Sag Harbor off Long Wharf St. Pier, Sag Harbor, NY, in approximate position 41°00′16.82″ N, 072°17′43.78″ W (NAD 83). |
| 4 | April |
| 4.1 Bridgeport Bluefish April Fireworks | • Location: Waters of the Pequannock River's Lower Reach surrounding Steel Point, Bridgeport, CT, in approximate position 41°10′35″ N, 073°10′58″ W (NAD 83). |
| 5 | May |
| 5.1 Jones Beach Air Show | • Date: The Thursday through Sunday before Memorial Day each May from 9:30 a.m. until 3:30 p.m. each day.<br>• Location: Waters of the Atlantic Ocean off Jones Beach State Park, Wantagh, NY, contained within the following described area; beginning in approximate position 40°34′54″ N, 073°33′21″ W, then running east along the shoreline of Jones Beach State Park to approximate position 40°35′53″ N, 073°28′47″ W; then running south to a position in the Atlantic Ocean off of Jones Beach at approximate position 40°35′05″ N, 073°28′34″ W; then running West to approximate position 40°33′15″ N, 073°33′09″ W; then running North to the point of origin. |
| 5.2 Greenport Spring Fireworks | • Date: A single day event in the month of May or June.<br>• Location: Waters of Greenport Harbor off Mitchell Park and Marina, Greenport, NY, in approximate position 41°05′59.09″ N, 072°21′31.44″ W (NAD 83). |
| 6 | June |
| 6.1 Barnum Festival Fireworks | • Date: A single day event in June or July.<br>• Time: 8:30 p.m. to 10:30 p.m. |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| | • Location: Waters of Bridgeport Harbor, Bridgeport, CT, in approximate position 41°9′04″ N, 073°12′49″ W (NAD 83). |
| 6.2 Town of Branford Fireworks | • Location: Waters of Branford Harbor, Branford, CT, in approximate position, 41°15′30″ N, 072°49′22″ W (NAD 83). |
| 6.3 Vietnam Veterans/Town of East Haven Fireworks. | • Location: Waters off Cosey Beach, East Haven, CT, in approximate position, 41°14′19″ N, 072°52′9.8″ W (NAD 83). |
| 6.4 Salute to Veterans Fireworks | • Date: A single day event in June.<br>• Location: Waters of Reynolds Channel off Hempstead, NY, in approximate position 40°35′36.62″ N, 073°35′20.72″ W (NAD 83). |
| 6.5 Cherry Grove Arts Project Fireworks | • Date: A single day event in June.<br>• Location: Waters of the Great South Bay off Cherry Grove, NY, in approximate position 40°39′49.06″ N, 073°05′27.99″ W (NAD 83). |
| 7 | July |
| 7.1 Point O'Woods Fire Company Summer Fireworks. | • Location: Waters of the Great South Bay, Point O'Woods, NY, in approximate position 40°39′18.57″ N, 073°08′5.73″ W (NAD 83). |
| 7.2 Cancer Center for Kids Fireworks | • Location: Waters off of Bayville, NY, in approximate position 40°54′38.20″ N, 073°34′56.88″ W (NAD 83). |
| 7.3 City of Westbrook, CT July Celebration Fireworks. | • Location: Waters of Westbrook Harbor, Westbrook, CT, in approximate position, 41°16′10.50″ N, 072°26′14″ W (NAD 83). |
| 7.4 Norwalk Fireworks | • Location: Waters off Calf Pasture Beach, Norwalk, CT, in approximate position, 41°04′50″ N, 073°23′22″ W (NAD 83). |
| 7.5 Lawrence Beach Club Fireworks | • Location: Waters of the Atlantic Ocean off Lawrence Beach Club, Atlantic Beach, NY, in approximate position 40°34′42.65″ N, 073°42′56.02″ W (NAD 83). |
| 7.6 Sag Harbor Fireworks | • Location: Waters of Sag Harbor Bay off Havens Beach, Sag Harbor, NY, in approximate position 41°00′26″ N, 072°17′9″ W (NAD 83). |
| 7.7 South Hampton Fresh Air Home Fireworks | • Location: Waters of Shinnecock Bay, Southampton, NY, in approximate position, 40°51′48″ N, 072°26′30″ W (NAD 83). |
| 7.8 Westport Police Athletic League Fireworks | • Location: Waters off Compo Beach, Westport, CT, in approximate position, 41°06′15″ N, 073°20′57″ W (NAD 83). |
| 7.9 City of Middletown Fireworks | • Date: A single day event in June or July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Connecticut River, Middletown Harbor, Middletown, CT, in approximate position 41°33′44.47″ N, 072°38′37.88″ W (NAD 83). |
| 7.10 City of New Haven Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of New Haven Harbor, off Long Warf Park, New Haven, CT, in approximate position 41°17′24″ N, 072°54′55.8″ W (NAD 83). |
| 7.11 City of Norwich July Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Thames River, Norwich, CT, in approximate position, 41°31′16.835″ N, 072°04′43.327″ W (NAD 83). |
| 7.12 City of Stamford Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Fisher's Westcott Cove, Stamford, CT, in approximate position 41°02′09.56″ N, 073°30′57.76″ W (NAD 83). |
| 7.13 City of West Haven Fireworks | • Date: A single day event in June or July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of New Haven Harbor, off Bradley Point, West Haven, CT, in approximate position 41°15′07″ N, 072°57′26″ W (NAD 83). |
| 7.14 CDM Chamber of Commerce Annual Music Fest Fireworks. | • Date: July 4.<br>• Rain date: July 5.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off Cedar Beach Town Park, Mount Sinai, NY, in approximate position 40°57′59.58″ N, 073°01′57.87″ W (NAD 83). |
| 7.15 Davis Park Fireworks | • Date: A single day event in July. |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| | • Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay, Davis Park, NY, in approximate position, 40°41′17″ N, 073°00′20″ W (NAD 83). |
| 7.16 Fairfield Aerial Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Jennings Beach, Fairfield, CT, in approximate position 41°08′22″ N, 073°14′02″ W (NAD 83). |
| 7.17 Fund in the Sun Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay off The Pines, East Fire Island, NY, in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83). |
| 7.18 Independence Day Celebration Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off Umbrella Beach, Montauk, NY, in approximate position 41°01′44″ N, 071°57′13″ W (NAD 83). |
| 7.19 Jones Beach State Park Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters off Jones Beach State Park, Wantagh, NY, in approximate position 40°34′56.676″ N, 073°30′31.186″ W (NAD 83). |
| 7.20 Madison Cultural Arts Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Long Island Sound off Madison, CT, in approximate position 41°16′10″ N, 072°36′30″ W (NAD 83). |
| 7.21 Mason's Island Yacht Club Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Fisher's Island Sound, Noank, CT, in approximate position 41°19′30.61″ N, 071°57′48.22″ W (NAD 83). |
| 7.22 Patchogue Chamber of Commerce Fireworks. | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Great South Bay, Patchogue, NY, in approximate position, 40°44′38″ N, 073°00′33″ W (NAD 83). |
| 7.23 Riverfest Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of the Connecticut River, Hartford, CT, in approximate positions, 41°45′39.93″ N, 072°39′49.14″ W (NAD 83). |
| 7.24 Village of Asharoken Fireworks | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Northport Bay, Asharoken, NY, in approximate position, 41°55′54.04″ N, 073°21′27.97″ W (NAD 83). |
| 7.25 Village of Port Jefferson Fourth of July Celebration Fireworks. | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Port Jefferson Harbor, Port Jefferson, NY, in approximate position 40°57′10.11″ N, 073°04′28.01″ W (NAD 83). |
| 7.26 Village of Quoque Foundering Anniversary Fireworks. | • Date: A single day event in July.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: Waters of Quantuck Bay, Quoque, NY, in approximate position 40°48′42.99″ N, 072°37′20.20″ W (NAD 83). |
| 7.27 City of Long Beach Fireworks | • Location: Waters off Riverside Blvd., City of Long Beach, NY, in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83). |
| 7.28 Great South Bay Music Festival Fireworks. | • Location: Waters of Great South Bay, off Bay Avenue, Patchogue, NY, in approximate position 40°44′45″ N, 073°00′25″ W (NAD 83). |
| 7.29 Mashantucket Pequot Fireworks | • Location: Waters of the Thames River, New London, CT, in approximate positions Barge 1, 41°21′03.03″ N, 072°5′24.5″ W, Barge 2, 41°20′51.75″ N, 072°5′18.90″ W (NAD 83). |
| 7.30 Shelter Island Fireworks | • Location: Waters of Gardiner Bay, Shelter Island, NY, in approximate position 41°04′39.11″ N, 072°22′01.07″ W (NAD 83). |
| 7.31 Clam Shell Foundation Fireworks | • Location: Waters of Three Mile Harbor, East Hampton, NY, in approximate position 41°1′15.49″ N, 072°11′27.50″ W (NAD 83). |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| 7.32 Town of North Hempstead Bar Beach Fireworks. | • Location: Waters of Hempstead Harbor, North Hempstead, NY, in approximate position 40°49′54″ N, 073°39′14″ W (NAD 83). |
| 7.33 Groton Long Point Yacht Club Fireworks | • Location: Waters of Long Island Sound, Groton, CT, in approximate position 41°18′05″ N, 072°02′08″ W (NAD 83). |
| 7.34 Devon Yacht Club Fireworks | • Date: A single day event in July.<br>• Location: Waters of Napeague Bay, in Block Island Sound off Amagansett, NY, in approximate position 40°59′41.40″ N, 072°06′08.70″ W (NAD 83). |
| 7.35 Dolan Family Fourth Fireworks | • Date: A single day event in July.<br>• Location: Waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY, in approximate position 40°53′42.50″ N, 073°30′04.30″ W (NAD 83). |
| 7.36 Friar's Head Golf Club Fireworks | • Date: A day during the first two weeks of July.<br>• Location: Waters of Long Island Sound off Baiting Hollow, NY, in approximate position, 40°58′19.53″ N, 072°43′45.65″ W (NAD 83). |
| 7.37 Islip Fireworks | • Date: July 4.<br>• Rain date: July 5.<br>• Location: Waters of the Great South Bay off Bay Shore Manor Park, Islip, NY, in approximate position 40°42′24″ N, 073°14′24″ W (NAD 83). |
| 7.38 Madison Fireworks | • Date: A single day event in July.<br>• Location: Waters of Long Island Sound off Madison Beach, Madison, CT, in approximate position 41°16′03.93″ N, 072°36′15.97″ W (NAD 83). |
| 7.39 Stratford Fireworks | • Date: A single day event in June or July.<br>• Location: Waters of Long Island Sound surrounding Short Beach Park, Stratford, CT, in approximate position 41°09′50.82″ N, 073°06′47.13″ W (NAD 83). |
| 7.40 Rowayton Fireworks | • Date: A single day event in July.<br>• Location: Waters of Long Island Sound south of Bayley Beach Park, Rowayton, CT, in approximate position 41°03′11″ N, 073°26′41″ W (NAD 83). |
| 7.41 Niantic Bay Fireworks | • Date: A day during the first three weeks of July.<br>• Location: Waters of Niantic Bay 1,500 feet west of the Niantic River Railroad Bridge, Niantic, CT, in approximate position 41°19′22.59″ N, 072°11′03.47″ W (NAD 83). |
| 7.42 Connetquot River Summer Fireworks | • Date: A single day event in July.<br>• Location: Waters of the Connetquot River off Snapper Inn Restaurant, Oakdale, NY, in approximate position 40°43′32.38″ N, 073°9′02.64″ W (NAD 83). |
| 7.43 North Bay Fourth of July Fireworks | • Date: A single day event in July.<br>• Location: Waters of the Great South Bay in Patchogue Bay 4,000 feet southeast of Blue Point, NY, in approximate position 40°44′6.28″ N, 073°01′02.50″ W (NAD 83). |
| 7.44 Sebonak Golf Club Fireworks | • Date: A single day event in July or August.<br>• Location: Waters of the Great Peconic Bay ¾ of a mile northwest of Bullhead Bay, Shinnecock, NY, in approximate position 40°55′11.79″ N, 072°28′04.34″ W (NAD 83). |
| 7.45 Xirinachs Family Foundation Fireworks | • Date: A single day event in July.<br>• Location: Waters of Hunting Bay off Beach Avenue, Huntington Bay, NY, in approximate position 40°54′23.27″ N, 73°25′08.04″ W (NAD 83). |
| 7.46 Irwin Family 4th of July | • Date: A single day event in June or July.<br>• Location: Waters of the Great South Bay off The Helm Road, East Islip, NY, in approximate position 40°42′12.28″ N, 73°12′00.08″ W (NAD 83). |
| 7.47 Westbrook July Celebration | • Date: A single day event in July.<br>• Location: Waters of Long Island Sound Westbrook Harbor, West Brook, CT, in approximate position 41°16′10″ N, 72°26′14″ W (NAD 83). |
| 8 | August |
| 8.1 Village of Bellport Fireworks | • Location: Waters of Bellport Bay, off Bellport Dock, Bellport, NY, in approximate position 40°45′01.83″ N, 072°55′50.43″ W (NAD 83). |
| 8.2 Taste of Italy Fireworks | • Location: Waters of Norwich Harbor, off Norwich Marina, Norwich, CT, in approximate position 41°31′17.72″ N, 072°04′43.41″ W (NAD 83). |
| 8.3 Old Black Point Beach Association Fireworks. | • Location: Waters off Old Black Point Beach, East Lyme, CT, in approximate position, 41°17′34.9″ N, 072°12′55″ W (NAD 83). |

TABLE 1 TO § 165.151—Continued

| | |
|---|---|
| 8.4 Town of Babylon Fireworks | • Location: Waters off of Cedar Beach Town Park, Babylon, NY, in approximate position 40°37′53″ N, 073°20′12″ W (NAD 83). |
| 8.5 Shelter Island Yacht Club Fireworks | • Date: A single day event in August.<br>• Location: Waters of Dering Harbor north of Shelter Island Yacht Club, Shelter Island, NY, in approximate position 41°05′23.47″ N, 072°21′11.18″ W (NAD 83). |
| 8.6 Stamford Fireworks | • Date: A single day event in August.<br>• Location: Waters of Stamford Harbor, off Kosciuszco Park, Stamford, CT, in approximate position 41°01′48.46″ N, 073°32′15.32″ W (NAD 83). |
| 8.7 Nikon Theater at Jones Beach Fireworks | • Date: A single day event in August.<br>• Location: Waters of Zacks Bay off the Nikon Theater, Jones Beach, NY, in approximate position 40°36′02.12″ N, 073°30′05.65″ W (NAD 83). |
| 8.8 Ascension Fireworks | • Date: A single day event in August.<br>• Location: Waters of the Great South Bay off The Pines, East Fire Island, NY, in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83). |
| 9 | September |
| 9.1 East Hampton Fire Department Fireworks | • Location: Waters off Main Beach, East Hampton, NY, in approximate position 40°56′40.28″ N, 072°11′21.26″ W (NAD 83). |
| 9.2 Town of Islip Labor Day Fireworks | • Location: Waters of Great South Bay off Bay Shore Marina, Islip, NY, in approximate position 40°42′24″ N, 073°14′24″ W (NAD 83). |
| 9.3 Village of Island Park Labor Day Celebration Fireworks. | • Location: Waters off Village of Island Park Fishing Pier, Village Beach, NY, in approximate position 40°36′30.95″ N, 073°39′22.23″ W (NAD 83). |
| 9.4 The Creek Fireworks | • Date: A single day event in September.<br>• Location: Waters of Long Island Sound off the Creek Golf Course, Lattingtown, NY, in approximate position 40°54′13″ N, 073°35′58″ W (NAD 83). |
| 9.5 Archangel Michael Greek Orthodox Church Fireworks. | • Date: A single day event in September or October.<br>• Location: Waters of Hempstead Harbor off Bar Beach Town Park, Port Washington, NY, in approximate position 40°49′42″ N, 073°39′07″ W (NAD 83). |
| 9.6 Port Washington Sons of Italy Fireworks | • Location: Waters of Hempstead Harbor off Bar Beach, North Hempstead, NY, in approximate position 40°49′48.04″ N, 073°39′24.32″ W (NAD 83). |
| 11 | November |
| 11.1 Charles W. Morgan Anniversary Fireworks. | • Date: A day during the first or second weekend of November.<br>• Location: Waters of the Mystic River, north of the Mystic Seaport Light, Mystic, CT, in approximate position 41°21′56.455″ N, 071°57′58.32″ W (NAD 83). |
| 11.2 Christmas Boat Parade Fireworks | • Location: Waters of Patchogue Bay off Lombardi's on the Bay Restaurant, Patchogue, NY, in approximate position 40°44′39.18″ N, 073°00′37.80″ W (NAD 83). |
| 11.3 Connetquot River Fall Fireworks | • Location: Waters of the Connetquot River off Snapper Inn Restaurant, Oakdale, NY, in approximate position 40°43′32.38″ N, 073°09′02.64″ W (NAD 83). |
| 12 | December |
| 12.1 Greenport Winter Fireworks | • Date: From 11:45 p.m. December 31 until 12:30 a.m. January 1.<br>• Location: Waters of Greenport Harbor off Mitchell Park and Marina, Greenport, NY, in approximate position 41°05′59.09″ N, 072°21′31.44″ W (NAD 83). |

Dated: June 11, 2020.

**K.B. Reed,**

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

[FR Doc. 2020–12944 Filed 6–24–20; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF EDUCATION

## 34 CFR Part 263

**RIN 1810–AB58**

## Indian Education Discretionary Grant Programs; Professional Development Program

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final rule.

**SUMMARY:** The Department of Education (Department) amends the regulations for the Indian Education Professional Development (PD) Program, under section 6122 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). This final rule provides additional time for participants in current PD grant-funded programs who are impacted by the extraordinary circumstances related to the COVID–19

pandemic to find qualifying employment or to complete their work-related payback obligation.

**DATES:** *Effective Date:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angela Hernandez-Marshall, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W113, Washington, DC 20202. Telephone: (202) 205–1909. Email: *angela.hernandez-marshall@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.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

**SUPPLEMENTARY INFORMATION:** The PD program provides grants to train Indian individuals to become teachers or administrators in school districts that serve a high proportion of Indian students. ESEA section 6122 (20 U.S.C. 7442). Under section 6122(h) of the ESEA, the Secretary must require, by regulation, that individuals who receive training under this program either perform work related to the training and that benefits Indian students in a local educational agency that serves a high proportion of Indian students, or repay all or a prorated part of the assistance received. Under the program regulations implementing this requirement, when participants graduate from their pre-service training program, they must report on their employment status every six months. 34 CFR 263.10(b). If they have not found qualifying employment in 12 months, then they are referred for cash payback. 34 CFR 263.8(c)(1). In addition, graduates who start their work payback but are no longer in qualifying employment and do not submit evidence of such employment within a 12-month period are also referred for cash payback. 34 CFR 263.8(c)(1).

The Department understands that, due to the national emergency caused by COVID–19, it is very difficult for graduates to find qualifying employment at this time and, in some cases, previously employed individuals have lost their jobs. The Department is therefore providing additional time for participants to meet these regulatory requirements regarding evidence of employment, by amending the provisions in § 263.8(c). Participants who graduate from a program during Federal fiscal year (FY) 2020 (October 1, 2019–September 30, 2020) will have 24 months to submit evidence of qualifying employment. Similarly, employed graduates in work payback during FY 2020 must submit evidence of continuing employment within a 24-month period, rather than a 12-month period. The Department is changing only the provision for converting students to cash payback (34 CFR 263.8(c)(1)); the regulatory requirements for reporting every six months remains unchanged (34 CFR 263.10(b)).

## Waiver of Notice and Comment Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Here, there is good cause to waive notice and comment rulemaking, because going through the full rulemaking process would delay the Department's ability to provide relief to PD program participants who would otherwise be referred for cash payback.

The good cause exception is appropriate ''in emergency situations or where delay could result in serious harm.'' *See Jifry* v. *FAA,* 370 F.3d 1174, 1179 (D.C. Cir. 2004) (internal citations omitted). ''The public interest prong of the good cause exception to the APA notice and comment requirement is met only in the rare circumstance when ordinary procedures—generally presumed to serve the public interest—would in fact harm that interest.'' *Mack Trucks Inc.* v. *E.P.A.,* 682 F.3d 87, 95 (D.C. Cir. 2012).

The COVID–19 pandemic has escalated at a rapid pace and scale, resulting in extraordinary circumstances including widespread school closures. Many participants are experiencing difficulties in finding employment, or have lost employment, and we have received requests for extensions of these deadlines. The COVID–19 crisis has hit particularly hard in Indian Country. Some participants who graduated in 2019 are not able to find jobs for fall 2020, given the crisis and the lack of resources for many school districts. Permitting these Native American participants to continue to seek employment in schools that serve a high proportion of Native American students, rather than being forced into debt during this difficult time, is in the public interest. There are approximately 500 participants currently in work-related payback status who are required to submit their employment status every six months (see 34 CFR 263.10). For those participants who lost their job a number of months ago, or who graduated in spring 2019 and are still seeking employment, their second six-month submission may be due within days or weeks and would trigger the transition to cash payback under § 263.8. Due to the emergency nature of this situation, there is not time for public notice and comment. By extending the timeline for submission of employment evidence, this final regulation ensures that these participants will not be forced into debt during this crisis, which would be contrary to the public interest. Instead they can continue to seek qualifying employment.

The APA also generally requires that regulations be published at least 30 days before their effective date but excepts from that requirement rules that grant or recognize an exemption or relieve a restriction (5 U.S.C. 553(d)(1)). Because these regulations relieve restrictions on participants by providing additional time to obtain qualifying employment, this exception to the delayed effective date under the APA applies.

## Executive Orders 12866, 13563, and 13771

### *Regulatory Impact Analysis*

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to

review by OMB under section 3(f)(1) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this final rule is not a significant regulatory action, the requirements of Executive Order 13771 do not apply. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things, and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final regulation only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this final regulation is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with the Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. This extension of the regulatory deadline for participants to find and keep qualifying employment is not expected to have any costs because it merely allows additional time for those participants to submit their evidence of employment in light of the extraordinary circumstances related to the COVID–19 pandemic. There is no additional burden on our stakeholders but rather a benefit, and the additional burden on the Department, if any, is minor.

**Regulatory Flexibility Act Certification**

The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

**Paperwork Reduction Act of 1995**

The final regulations do not create any new information collection requirements.

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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.

**List of Subjects in 34 CFR Part 263**

Business and industry, College and universities, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education, Reporting and recordkeeping requirements, Scholarships and fellowships.

**Betsy DeVos,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations as follows:

## PART 263—INDIAN EDUCATION DISCRETIONARY GRANT PROGRAMS

■ 1. The authority citation for part 263 continues to read as follows:

**Authority:** 20 U.S.C. 7441, unless otherwise noted.

■ 2. Section 263.8 is amended by adding a new paragraph (c)(5) to read as follows:

**§ 263.8 What are the payback requirements?**

* * * * *

(c) * * *

(5) Notwithstanding paragraph (c)(1) of this section, participants who exit or complete a grant-funded training program in Federal fiscal year 2020 (October 1, 2019–September 30, 2020) who do not submit employment verification within 24 months of program exit or completion, and participants with qualifying employment during Federal fiscal year 2020 who do not submit employment verification for a 24-month period, will automatically be referred for a cash payback unless the participant qualifies for a deferral as described in § 263.9.

* * * * *

[FR Doc. 2020–13286 Filed 6–24–20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R08–OAR–2019–0689; FRL–10010–33–Region 8]**

## Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Permitting Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** In accordance with section 110 of the Clean Air Act (CAA), the

Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by North Dakota on May 2, 2019. The revisions contain amendments to the State's Ambient Air Quality Standards, Permit to Construct, and Prevention of Significant Deterioration (PSD) regulations.

**DATES:** This rule is effective on July 27, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2019–0689. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

## I. Background

The EPA is taking final action to approve all SIP revisions submitted by the State of North Dakota on May 2, 2019, with the exception of several revisions that we are acting on in a separate action or are taking no action on, as outlined in section II of our proposed rulemaking published on March 20, 2020.[1] The SIP revisions that we are acting on contain amendments to N.D. Admin. Code Chapter 33.1–15–15 (Prevention of Significant Deterioration of Air Quality) and N.D. Admin. Code Chapter 33.1–15–14 (Designated Air Contaminant Sources, Permit to Construct, Minor Source Operating Permit, Title V Operating Permit). The amendments address changes to the State's Ambient Air Quality Standard for ozone and update the State's PSD rules and permit-to-construct rules.

Our March 20, 2020 rulemaking contains a detailed summary of the SIP revisions in question and an explanation of the bases for our proposed approval.[2] We invited comment on all aspects of our proposal, and provided a 30-day comment period, which ended on April 20, 2020.

## II. Response to Comments

We received no comments during the public comment period.

## III. Final Action

As outlined in our proposed rulemaking, the EPA is taking final action to approve the addition of new and revised rules to 33.1–15–15 and 33.1–15–14 as submitted on May 2, 2019.

Specifically, we are taking final action to approve the following revisions: *Revisions to Chapter 33.1–15–15 (Prevention of Significant Deterioration)—33.1–15–15–01.2.; Revisions to Chapter 33.1–15–14 (Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate)—33.1–15–14–02.*

## IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the State of North Dakota's revisions to its SIP as described in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

## V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, 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).

[1] Proposed rule, Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Permitting Rules, 85 FR 16027.

[2] *See* 85 FR at 16027–16029.

[3] *See* Notice of Administrative Change, Approval and Promulgation of Air Quality Implementation Plans; Revised Format of 40 CFR part 52 for Materials Being Incorporated by Reference, 62 FR 27968 (May 22, 1997).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: May 29, 2020.

**Gregory Sopkin,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart JJ—North Dakota

■ 2. In § 52.1820, amend paragraph (c) by:

■ a. Revising, under the center heading ''33.1–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate,'' the table entry for: 33.1–15–14–02. Permit to construct;

■ b. Revising, under the center heading ''33.1–15–15. Prevention of Significant Deterioration of Air Quality,'' the table entry for 33.1–15–15–01.2. Scope.

The revisions read as follows:

**§ 52.1820 Identification of plan.**

* * * * *

(c) * * *

| Rule No. | Rule title | State effective date | EPA effective date | Final rule citation/date | Comments |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| **33.1–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate** | | | | | |
| * | * | * | * | * | * |
| 33.1–15–14–02 | Permit to Construct | 7/1/16 | 7/27/20 | [Insert **Federal Register** citation], 6/25/20. | |
| * | * | * | * | * | * |
| **33.1–15–15. Prevention of Significant Deterioration of Air Quality** | | | | | |
| * | * | * | * | * | * |
| 33.1–15–15–01.2. | Scope | 7/1/16 | 7/27/20 | [Insert **Federal Register** citation], 6/25/20. | |
| * | * | * | * | * | * |

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[FR Doc. 2020–12059 Filed 6–24–20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2018–0146; FRL–10009–22–Region 9]**

### Approval of Air Quality Implementation Plans; California; Ventura County; 8-Hour Ozone Nonattainment Area Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to conditionally approve portions of two state implementation plan (SIP) submissions from the State of California to meet Clean Air Act (CAA or ''the Act'') requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') in the Ventura County, California (''Ventura County'') ozone nonattainment area. The two SIP submissions include the ''Final 2016 Ventura County Air Quality Management Plan,'' and the Ventura County portion of the ''2018 Updates to

the California State Implementation Plan.'' In this action, the EPA refers to these submittals collectively as the ''2016 Ventura County Ozone SIP.'' The 2016 Ventura County Ozone SIP addresses the nonattainment area requirements for the 2008 ozone NAAQS, including the requirements for an emissions inventory, attainment demonstration, reasonable further progress, reasonably available control measures, contingency measures, among others; and establishes motor vehicle emissions budgets. In a separate final rule, the EPA took final action to approve the 2016 Ventura County Ozone SIP as meeting all the applicable ozone nonattainment area requirements except for the contingency measures requirement. In this action, the EPA is taking final action to conditionally approve the contingency measures element of the 2016 Ventura County Ozone SIP.

**DATES:** This rule will be effective on July 27, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0146. 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, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** John Kelly, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4151, or by email at *kelly.johnj@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Table of Contents

I. Summary of the Proposed Action
II. Public Comments and EPA Responses
III. Final Action
IV. Statutory and Executive Order Reviews

## I. Summary of the Proposed Action

On December 20, 2019, the EPA proposed to approve, under CAA section 110(k)(3), or to conditionally approve, under CAA section 110(k)(4), all or portions of submittals from the California Air Resources Board (CARB) of revisions to the California SIP for the Ventura County ozone nonattainment area for the 2008 ozone NAAQS.[1] The relevant SIP revisions include Ventura County Air Pollution Control District's (VCAPCD's or ''District's'') Final 2016 Ventura County Air Quality Management Plan (''2016 Ventura County AQMP''), and the Ventura County portion of CARB's 2018 Updates to the California State Implementation Plan (''2018 SIP Update''). Collectively, we refer to these revisions as the 2016 Ventura County Ozone SIP, and we refer to our December 20, 2019 proposed rule as the ''proposed rule.''

Our proposed conditional approval of the contingency measures element of the 2016 Ventura County AQMP relied on specific commitments: (1) From the District to modify an existing rule or rules that would provide for additional emissions reductions in the event that Ventura County fails to meet a reasonable further progress (RFP) milestone or fails to attain the 2008 ozone NAAQS by the applicable attainment date, and (2) from CARB to submit the revised District rule(s) to the EPA as a SIP revision within 12 months of our final action.[2] For more information on the SIP revision submittals and related commitments, please see our proposed rule.

In our proposed rule, we provided background information on the ozone standards,[3] area designations, related SIP revision requirements under the CAA, and the EPA's implementing regulations for the 2008 ozone NAAQS, referred to as the 2008 Ozone SIP Requirements Rule (''2008 Ozone SRR''). To summarize, the Ventura County ozone nonattainment area is classified as Serious for the 2008 ozone NAAQS, and the 2016 Ventura County Ozone SIP was developed to address all the SIP requirements that apply to a Serious nonattainment area for the 2008 ozone NAAQS other than the SIP requirements for new source review and reasonably available control technology previously addressed in separate submittals and EPA actions.

For our proposed rule, we reviewed the various SIP elements contained in the 2016 Ventura County Ozone SIP, evaluated them for compliance with statutory and regulatory requirements, and proposed to conclude that they meet all applicable requirements with the exception of the contingency measures element. On February 27, 2020, the EPA took final action to approve all the elements of the 2016 Ventura County Ozone SIP except for the contingency measures element.[4] In our February 27, 2020 final rule, we indicated that we would be taking final action on the contingency measures element in a separate final rule. This action is our final action on the contingency measures element.

With respect to the contingency measures element of the 2016 Ventura County Ozone SIP, in our proposed rule, we evaluated the element for compliance with the CAA sections 172(c)(9) and 182(c)(9). We explained that the key is that the statute requires that contingency measures provide for additional emissions reductions that are not relied on for RFP or attainment and that the purpose of contingency measures is to provide continued emissions reductions while the plan is being revised to meet the missed milestone or attainment date. We further explained that neither the CAA nor the EPA's implementing regulations for the 2008 Ozone NAAQS require that contingency measures achieve a specific amount of emissions reductions, but that the EPA will evaluate that on a case-by-case basis depending on the facts and circumstances.

In our proposed rule, in light of the *Bahr* decision,[5] we determined that the contingency measures element of the 2016 Ventura County Ozone SIP could not be fully approved without supplementation by the District and CARB. However, we also determined that the element could be conditionally approved as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for the 2008 ozone NAAQS, based upon commitments from the District and CARB to adopt and submit a revised rule or rules with provisions designed to

[1] 84 FR 70109. Ventura County lies within California's South Central Coast Air Basin, which includes the counties of Santa Barbara and San Luis Obispo in addition to Ventura County. The Ventura County ozone nonattainment area for the 2008 ozone NAAQS includes the entire county except for the Channel Islands of Anacapa and San Nicolas Islands. See 40 CFR 81.305.

[2] Letter dated August 16, 2019, from Michael Villegas, Air Pollution Control Officer, VCAPCD, to Richard Corey, Executive Officer, CARB; and letter dated August 30, 2019, from Richard W. Corey, Executive Officer, CARB to Mike Stoker, Regional Administrator, Region IX.

[3] Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen ($NO_X$) in the presence of sunlight. The 2008 ozone NAAQS is 0.075 parts per million (eight-hour average). CARB refers to reactive organic gases (ROG) in some of its ozone-related submittals. The CAA and the EPA's regulations refer to VOC, rather than ROG, but both terms cover essentially the same set of gases. In this final rule, we use the Federal term (VOC) to refer to this set of gases.

[4] 85 FR 11814.

[5] *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016) (''*Bahr*'') (rejecting early-implementation of contingency measures and concluding that a contingency measure under CAA section 172(c)(9) must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before).

take effect if the area fails to meet an RFP milestone or fails to attain by the applicable attainment date.[6]

Please see our proposed rule for more information concerning the background for this action and for a more detailed discussion of the rationale for conditional approval of the contingency measures element of the 2016 Ventura County Ozone SIP.

## II. Public Comments and EPA Responses

The public comment period on the proposed rule opened on December 20, 2019, the date of its publication in the **Federal Register**, and closed on January 21, 2020. During this period, the EPA received five anonymous comments and one comment letter submitted by Air Law for All on behalf of the Center for Biological Diversity, the Center for Environmental Health, and Citizens for Responsible Oil and Gas (collectively referred to herein as ''CBD'').

In our February 27, 2020 final action on the 2016 Ventura County Ozone SIP other than the contingency measures element, we explained that the EPA was not responding to the five anonymous commenters because their comments are either not adverse or not pertinent to the proposed action. We also indicated that the comment letter from CBD relates solely to our proposed conditional approval of the contingency measures element, and that we would be addressing CBD's comments in a separate final rule on the contingency measures element. We address CBD's comments in the following paragraphs of this final rule.

*Comment #1:* CBD recounts the background leading to the *Bahr* decision and provides a discussion of policy implications of that decision. CBD also provides its negative critique of the *LEAN* decision [7] and asserts that EPA must interpret the contingency measures requirement consistent with the *Bahr* decision on a nationwide basis and not just within the Ninth Circuit's jurisdiction.

*Response #1:* In our proposed rule, we explain that we have reviewed the contingency measures element of the 2016 Ventura County Ozone SIP in light of the *Bahr* decision. In other words, for the purposes of our review and action on the 2016 Ventura County Ozone SIP, we accept the *Bahr* decision as governing our review of the contingency measures element. The issue of extending the *Bahr* decision with respect to the contingency measures requirement outside of the jurisdiction of the Ninth Circuit is beyond the scope of this rulemaking.

*Comment #2:* Because the District did not quantify the potential additional emissions reductions from any of the three prospective contingency measures, CBD asserts that the reductions must be assumed to be de minimis.

*Response #2:* In our proposed rule, we acknowledged that the potential contingency measures that were identified by the District would not achieve one year's worth of RFP, given the types of measures under consideration and the magnitude of emissions reductions constituting one year's worth of RFP in this nonattainment area. We disagree that it is necessary to have an estimate of the emissions reductions for purposes of proposing a conditional approval. However, in response to this comment, the District and CARB developed preliminary estimates of the reductions that would likely be achieved by the contingency measures under consideration, if triggered by a failure to achieve an RFP milestone or failure to attain the 2008 ozone NAAQS by the applicable attainment date.[8] In developing the preliminary estimates, the District narrowed the list of prospective contingency measures to a single one, *i.e.,* amendments to Rule 74.2 (''Architectural Coatings'').[9] We have reviewed the preliminary estimates for the amendments to Rule 74.2, and find that they are based on reasonable assumptions and factors. Based on the preliminary estimates, emissions reductions from amendments to Rule 74.2 would likely be in the range of 0.02 to 0.06 tons per day (tpd) of volatile organic compounds (VOC), which amount to approximately 2 to 5 percent of one year's worth of RFP.[10] As we anticipated in our proposed rule, the reductions would not amount to one year's worth of RFP.

CBD asserts that, if the EPA or the District develop preliminary emissions estimates for the prospective contingency measures, then the EPA must necessarily re-propose action on the contingency measures element. We disagree and find that the development of the estimates and presentation herein is a logical outgrowth of the proposed rule and CBD's comments. The quantification of emissions reductions does not affect our rationale for our proposed conditional approval of the contingency measures element because we assumed that the reductions, whatever they would ultimately be, would not be equivalent to one year's worth of RFP.

*Comment #3:* CBD asserts that consideration of surplus emissions reductions from already-implemented measures in evaluating the adequacy of contingency measures is functionally no different than simply approving the already-implemented measures as contingency measures, which is inconsistent with the *Bahr* decision. CBD also asserts that the EPA's approach in this action would allow states to meet the contingency measures requirement through submittal of token de minimis contingency measures so long as already-implemented measures provide for surplus emissions reductions equivalent to one year's worth of RFP. CBD views the EPA's consideration of surplus reductions from already-implemented measures as relying on a factor Congress has not intended the Agency to consider in evaluating the adequacy of contingency measures under CAA section 172(c)(9).

*Response #3:* First, the EPA does not interpret CAA section 172(c)(9) or 182(c)(9) as allowing states to meet the requirements through submittal merely of token or de minimis contingency measures. States must include contingency measures in nonattainment plans that will be triggered in the event of a failure to meet RFP or failure to attain. However, the number of such contingency measures, or the amount of emissions reductions that such measures need to achieve, may vary. As explained in the proposal, the EPA considers it appropriate to take into account the full facts and circumstances at issue in a given nonattainment area when evaluating the adequacy of contingency measures, and this may include approving contingency measures that achieve less than the one year's worth of RFP in that area. The EPA emphasizes that it does not interpret the CAA to require states to adopt only token or de minimis contingency measures; it interprets the CAA to require contingency measures appropriate for the area.

Second, we disagree that, if the EPA takes into account the total facts and circumstances in a given nonattainment area when assessing the adequacy of contingency measures, and in particular the amount of emissions reductions that such measures will achieve, that this

[6] See 84 FR 70109, 70123–70125 from the proposed rule.

[7] *LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004) (''*LEAN*'') (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

[8] See email dated February 26, 2020 and attachment from Sylvia Vanderspek, CARB, to Ali Ghasemi, VCAPCD, et al.

[9] See email dated May 8, 2020, from Ali Ghasemi, VCAPCD, to Anita Lee, EPA Region IX.

[10] As noted in the proposed rule at 70125, one year's worth of RFP is 1.1 tpd of VOC or 0.8 tpd of $NO_X$.

contradicts Congressional intent. The specific explicit factors Congress intended the Agency to use in evaluating contingency measures are set forth in CAA sections 172(c)(9) and 182(c)(9) and include specificity (''implementation of specific measures''), timing (''measures to be undertaken'' and ''to take effect''), triggers (if the area fails to attain the NAAQS by the applicable [NAAQS] or if the area fails to meet any applicable milestone), federal enforceability (''included in the [SIP]''), and readiness (measures must be designed to take effect without further action by the state or the EPA). We will review the contingency measure that is the subject of the conditional approval with those factors in mind when we receive the submittal of the revised District rule as a SIP revision from CARB.

Neither CAA section 172(c)(9) nor 182(c)(9) contain language implying that the factors discussed above are the only factors for the Agency to consider. Neither section specifies the magnitude of emissions reductions that contingency measures must achieve as an explicit factor for the EPA to consider, although consideration of the magnitude is appropriate in determining whether the contingency measure or measures submitted by the state meet the requirements of CAA sections 172(c)(9) and 182(c)(9). Consideration of the magnitude of emissions reductions is appropriate because contingency measures serve a remedial function where an area fails to achieve an RFP milestone or fails to attain the NAAQS by the applicable attainment date, and RFP and attainment are achieved through emissions reductions.[11]

Just as the CAA does not include the magnitude of emissions reductions as a specific explicit consideration, the CAA also does not prescribe how the EPA is to evaluate that question. As such, the EPA is not relying on a factor that Congress did not intend the EPA to consider when the Agency considers the emissions reductions from already-implemented measures that are surplus to those needed for RFP or attainment within a given nonattainment area when evaluating whether the state's contingency measure submittal meets CAA sections 172(c)(9) and 182(c)(9).

*Comment #4:* CBD asserts that contingency measures should at a minimum equal one year's worth of RFP and asserts that CAA section 182(g) provides statutory support for the interpretation that contingency measures should provide for one year's worth of RFP.

*Response #4:* Neither the CAA nor the EPA's implementing regulations for the ozone NAAQS establish a specific amount of emissions reductions that implementation of contingency measures must achieve. However, consistent with our long-standing guidance, we agree that contingency measures should generally provide for emissions reductions approximately equivalent to one year's worth of progress, which, for Serious ozone nonattainment areas such as Ventura County, amounts to reductions of 3 percent of the RFP baseline emissions inventory for the nonattainment area.

CBD finds statutory support in CAA section 182(g) for the EPA's recommendation that contingency measures should generally provide for one year's worth of progress. We do not disagree that our recommendation concerning emissions reductions from contingency measures comports generally with the statutory scheme for attainment planning. However, like sections 172(c)(9) and 182(c)(9), section 182(g) does not explicitly identify the magnitude of reductions that contingency measures must achieve nor does not it address how to evaluate the reductions from contingency measures in light of the facts and circumstances of a given nonattainment area.

In making the recommendation that contingency measures typically achieve one year's worth of RFP, the EPA has considered the overarching purpose of such measures in the context of attainment planning. The purpose of emissions reductions from implementation of contingency measures is to ensure that, in the event of a failure to meet an RFP milestone or a failure to attain the NAAQS by the applicable attainment date, the state will continue to make progress toward attainment though additional emissions reductions at a rate similar to that specified under the RFP requirements. The intent is that the state will achieve the emissions reductions from the contingency measures while conducting additional control measure development and implementation as necessary to correct the RFP shortfall or as part of a new attainment demonstration plan.[12] The facts and circumstances of a given nonattainment area may justify larger or smaller amounts of emissions reductions for contingency measure purposes.

In reviewing a SIP revision for compliance with CAA sections 172(c)(9) and 182(c)(9), the EPA evaluates whether the contingency measure or measures would provide emissions reductions that, when considered with surplus emissions reductions from other measures, ensure sufficient continued progress in the event of a failure to achieve an RFP milestone or to attain the ozone NAAQS by the applicable attainment date. We continue to evaluate the sufficiency of continued progress that will result from contingency measures in light of our guidance, but in appropriate circumstances do not believe that the contingency measures themselves must provide for one year's worth of RFP. Such appropriate circumstances include situations in which sufficient progress would be maintained by the contingency measures and surplus emissions reductions from other sources while the state proceeds to develop and implement additional control measures as necessary to correct the RFP shortfall or as part of a new attainment demonstration plan. In other words, if there are additional emissions reductions projected to occur after the RFP milestone years or the attainment year that a state has not relied upon for purposes of RFP or attainment or to meet other nonattainment plan requirements, and that result from measures the state has not adopted as contingency measures, then those reductions may support EPA approval of contingency measures identified by the state even if the contingency measures would result in less than one year's worth of RFP in appropriate circumstances.

As to whether the contingency measure, once adopted, would provide for sufficient continued progress in the event of a failure to achieve an RFP milestone or a failure to attain the NAAQS, we reviewed the documentation provided in the 2018 SIP Update of ''surplus'' reductions, as clarified by CARB in August 2019 from CARB's already-adopted mobile source control program in the two RFP milestone years and in the year following the attainment year. For the Ventura County nonattainment area, CARB's estimates of ''surplus'' reductions in the RFP milestone years (5.1 tpd of oxides of nitrogen ($NO_X$) in 2020 and 7.1 tpd of $NO_X$ in 2017) are 6 to 9 times greater than one year's worth of progress (0.8 tpd of $NO_X$).[13]

[11] See, *e.g.,* CAA sections 107(d)(3)(E)(iii), 171(1), 182(c)(1).

[12] 57 FR 13498, at 13512 (April 16, 1992).

[13] Based on the emissions estimates and projections shown in table 4 of the proposed rule. More specifically, the estimate of the RFP milestone surplus as ranging from 5.1 tpd to 7.1 tpd of $NO_X$ is based on the surplus in terms of percentages (range of 19.6% (in 2000) to 27.4% (in 2017)) times the 2011 baseline $NO_X$ emissions level of 26.0 tpd. The proposed rule cited a range of 6.5 tpd to 7.1

With respect to the year after the attainment year, CARB estimates that $NO_X$ emissions in Ventura County will be approximately 0.9 tpd lower in 2021 than in the 2020 attainment year due to mobile source controls and vehicle turnover, and thus continued emissions reductions are assured in the year after the attainment year even before accounting for the emissions reductions from the to-be-adopted local contingency measure.[14] As such, we conclude that the to-be-adopted District contingency measure need not in itself achieve one year's worth of RFP.

In conclusion, we anticipate that the emissions reductions from the contingency measure ultimately adopted by the District will be sufficient, although we expect that it will achieve less than 1.1 tpd of VOC or 0.8 tpd of $NO_X$ reductions (*i.e.,* one year's worth of RFP), because other surplus emission reductions measures (not relied upon directly to meet the statutory contingency measure requirement or any other nonattainment plan requirement including RFP or attainment) will ensure sufficient continued progress in the event of a failure to achieve an RFP milestone or a failure to attain the NAAQS by the applicable attainment date. Therefore, we expect the contingency measure, once adopted and submitted, to be sufficient to remedy the deficiency in the contingency measures element of the 2016 Ventura County Ozone SIP, and the commitment to submit such a contingency measure as an appropriate basis for a conditional approval.

## III. Final Action

For the reasons discussed above, under CAA section 110(k)(4), the EPA is taking final action to conditionally approve as a revision to the California SIP the contingency measures element of the 2016 Ventura County Ozone SIP, submitted by CARB on April 11, 2017 and December 5, 2018, as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for RFP and attainment contingency measures.[15] Our conditional approval is based on commitments by the District and CARB to supplement the contingency measures element of the 2016 Ventura County Ozone SIP through submission, as a SIP revision (within one year of the effective date of our final conditional approval action), of a revised District rule that would add new limits or other requirements if an RFP milestone is not met or if Ventura County fails to attain the 2008 ozone NAAQS by the applicable attainment date.[16]

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely conditionally approves state plans 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

tpd for the RPF surplus, but those estimates were based on the 2018 SIP Update and not the updated RFP demonstration summarized in table 4 of the proposed rule.

[14] See pages A–9 and A–10 of the 2018 SIP Update. As shown on pages A–7 and A–8 of the 2018 SIP Update, VOC emissions are also expected to decrease between 2020 and 2021 (by 0.3 tpd).

[15] More specifically, we are conditionally approving chapter 7 (''Contingency Measures'') of the Final 2016 Ventura County Air Quality Management Plan, as submitted on April 11, 2017, and chapter III.C (''Contingency Measures'') of the 2018 Updates to the California State Implementation Plan, as submitted on December 5, 2018.

[16] Letter dated August 16, 2019, from Michael Villegas, Air Pollution Control Officer, VCAPCD, to Richard Corey, Executive Officer, CARB; letter dated August 30, 2019, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX.

reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 27, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(514)(ii)(A)(*6*) and (c)(532)(ii)(A)(*2*) to read as follows:

**§ 52.220 Identification of plan—in part.**

* * * * *

(c) * * *

(514) * * *

(ii) * * *

(A) * * *

(*6*) 2018 Updates to the California State Implementation Plan, adopted on October 25, 2018, chapter III (''SIP Elements for Ventura County''), section III.C (''Contingency Measures''); only.

* * * * *

(532) * * *

(ii) * * *

(A) * * *

(*2*) Final 2016 Ventura County Air Quality Management Plan, adopted February 14, 2017, chapter 7 (''Contingency Measures''), only.

* * * * *

■ 3. Section 52.248 is amended by adding paragraph (j) to read as follows:

**§ 52.248 Identification of plan—conditional approval.**

* * * * *

(j) The EPA is conditionally approving the California State Implementation Plan (SIP) for Ventura County for the 2008 ozone NAAQS with respect to the contingency measures requirements of CAA sections 172(c)(9) and 182(c)(9). The conditional approval is based on a commitment from the Ventura County Air Pollution Control District (District) in a letter dated August 16, 2019, to adopt a specific rule revision, and a commitment from the California Air Resources Board (CARB) dated August 30, 2019, to submit the amended District rule to the EPA within 12 months of the effective date of the final conditional approval. If the District or CARB fail to meet their commitments within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2020–11931 Filed 6–24–20; 8:45 am]

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## FEDERAL MARITIME COMMISSION

## 46 CFR Part 530

**[Docket No. 20–02]**

**RIN 3072–AC80**

## Service Contracts

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Maritime Commission (FMC or Commission) amends its regulations governing service contracts to eliminate the requirement that ocean carriers publish a concise statement of essential terms with each service contract. The rule will reduce regulatory burden.

**DATES:** Effective June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** For technical questions, contact Florence A. Carr, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001. *Phone:* (202) 523–5796. *Email: TradeAnalysis@fmc.gov.* For legal questions, contact William Shakely, Acting General Counsel, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573–0001. *Phone:* (202) 523–5740. *Email: GeneralCounsel@fmc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

This rulemaking was initiated pursuant to the Commission's December 20, 2019 Order in FMC Docket No. P3–18, which granted in part and denied in part, a petition by the World Shipping Council (WSC) for regulatory relief. *Pet'n of the World Shipping Council for an Exemption from Certain Provisions of the Shipping Act of 1984, as amended, and for a Rulemaking Proceeding,* Pet. No. P3–18, 1 F.M.C.2d 504 (FMC Dec. 20, 2019). Specifically, the Commission granted WSC's request for an exemption from the requirement in 46 U.S.C. 40502(d) that carriers publish a concise Statement of Essential Terms (ETs) with each service contract, determining that an exemption from section 40502(d) would not result in a substantial reduction in competition or be detrimental to commerce, and further determined to initiate a rulemaking to implement the ET publication exemption.

On February 14, 2020, the Commission issued a Notice of Proposed Rulemaking (NPRM) to obtain public comments regarding its proposal to implement the exemption by removing the ET publication requirements in 46 CFR part 530. 85 FR 8527 (Feb. 14, 2020). The Commission calculated that the proposed rule would reduce the regulatory burden associated with these requirements. The comment period for the NPRM expired April 14, 2020. Two comments were received, from the National Industrial Transportation League (NITL) and the World Shipping Council.

### II. Discussion

As described in more detail below, the final rule adopts much of the proposed regulatory text without substantive change. The final rule eliminates the requirement in § 530.12 that carriers publish ETs for individual service contracts. Although the NPRM proposed replacing this requirement with a requirement that carriers publish general service contract rules and notices as a separate part of the individual carrier's automated tariff system, the Commission has determined to make this provision optional rather than mandatory. The final rule also adopts the following regulatory changes proposed in the NPRM: (1) Changes to other sections in Part 530 to reflect the elimination of the ET publication requirements; (2) the correction of outdated references to FMC bureaus and offices in Part 530; and (3) the correction of an outdated reference to a Department of Defense Command.

#### *A. Removal of ET Publication Requirements*

Commenters in the subject rulemaking did not identify a use for the publication of ETs corresponding to individual service contracts, and therefore, supported their elimination. NITL strongly supports the Commission's NPRM. Agreeing with the Commission's assessment that ''the publication of Statements of Essential Terms corresponding to individual service contracts is of questionable value,'' NITL believes that the current ET publication requirements ''impose significant regulatory costs and burdens on ocean carriers, without providing any meaningful benefits to shippers that outweigh the costs.'' WSC supports the NPRM to the extent it would eliminate the requirement to publish service contract essential terms.

Therefore, the Commission has determined to implement the exemption from section 40502(d) by revising the Commission's regulations at 46 CFR 530.12, which currently require ocean carriers to publish ETs corresponding to their individual service contracts in tariff format.

Consistent with the purpose of the NPRM, WSC also recommends that the Commission change the heading of 46 CFR part 530 subpart C in the final rule to read ''Publication of service contract rules and notices.'' The Commission agrees that it is appropriate to revise the heading of part 530 subpart C to reflect the elimination of the publication requirements for ETs and to reflect and clarify the ongoing purpose of § 530.12 related to the optional publication of service contract rules and notices as a separate part of the individual carrier's automated tariff system. The Commission has therefore made this change in the final rule.

*B. Publication of Service Contract Rules and Notices*

As the Commission noted in the NPRM, in addition to the required Statements of Essential Terms, most, if not all, ocean carriers include in their ET publications, the rules and notices that generally apply to all service contracts or to a particular subset of service contracts. Thus, an ocean carrier's ET publication may be comprised of two components: (1) The rules and notices that generally apply to all service contracts; and (2) the required ETs corresponding to individual service contracts.

As explained in the NPRM, in the Commission's experience, there can be substantial benefits to both ocean carriers and shippers by publishing a ''blanket'' rule or notice in the carrier's ET tariff publication that applies to most, or all, service contracts, thereby eliminating the potential need to periodically amend hundreds of individual service contracts. Consequently, the Commission seeks to facilitate the ocean carriers' current practice of publishing generally applicable service contract tariff rules and notices in their ET tariff publications. The Commission therefore proposed to amend the existing requirement in § 530.12 that ocean carriers must publish ETs corresponding to individual service contracts and replace it with a requirement that ocean carriers publish general service contract rules and notices as a separate part of the individual ocean carrier's automated tariff system, thereby codifying existing ocean carrier practice.

NITL indicated its support for ocean carriers publishing general service contract rules and notices in their carrier automated tariff systems, as this latter requirement ''will simply implement a current practice followed by most ocean carriers.'' NITL, at 2. As reflected in NITL's comments, the ability to publish such rules and notices benefits ocean carriers and shippers alike, by obviating the need to amend hundreds of service contracts, should unusual circumstances arise. NITL also cites with approval the Commission's estimate that the proposed amendments ''will significantly reduce administrative burdens'' and ''will benefit all industry stakeholders.'' *Id.* at 3.

WSC's comments suggest, however, that an ocean carrier's service contract rules and notices can be published under the tariff regulations in 46 CFR part 520 and that any requirement to publish service contract rules and notices in a separate publication under 46 CFR part 530 reflects a new regulatory burden. The Commission's intent in the NPRM was to retain the existing practice, favored by most ocean carriers, of allowing service contract rules and notices to be published in a separate document under 46 CFR part 530. The Commission has determined that this can be accomplished by making carrier publication of such rules and notices under 46 CFR 530.12 optional rather than mandatory, thereby eliminating any risk of additional regulatory burden on carriers. At the carrier's discretion, such publication may be accomplished under the tariff regulations in part 520 or in a separate publication under 46 CFR 530.12.

The final rule therefore relieves ocean carriers of the regulatory burden of ET publication by eliminating individual Statements of Essential Terms, while retaining the ability of ocean carriers to publish service contract rules and notices in their ET tariff publications, should they wish to do so.

## III. Regulatory Notices and Analysis

*Effective Date*

The Administrative Procedure Act generally requires a minimum of 30 days before a final rule can go into effect, but excepts from this requirement: (1) Substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretive rules and statements of policy; and (3) when an agency finds good cause for a shorter period of time and includes those findings with the rule. 5 U.S.C. 553(d).

The final rule implements the Commission's determination to exempt ocean carriers from the requirement that they publish ETs with each service contract. The final rule also allows, but does not require, carriers to publish general service contract rules and notices as a separate part of the individual carrier's automated tariff system. The remaining amendments are technical amendments to update the names of Commission bureaus and offices as well as those of other government entities. Because the final rule grants or recognizes an exemption, the Commission has determined to make the rule effective upon publication.

*Congressional Review Act*

The rule is not a ''major rule'' as defined by the Congressional Review Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies. 5 U.S.C. 804(2).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act, 5 U.S.C. 601–612, provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA), 5 U.S.C. 553, the agency must prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the rule on small entities, unless the head of the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604, 605. Accordingly, the Chairman of the Federal Maritime Commission certifies that the final rule will not have a significant impact on a substantial number of small entities. The regulated business entities that would be impacted by the rule are vessel-operating common carriers. The Commission has determined that VOCCs generally do not qualify as small entities under the guidelines of the Small Business Administration (SBA). *See FMC Policy and Procedures Regarding Proper Consideration of Small Entities in Rulemakings* (Feb. 7, 2003), available at *https://www.fmc.gov/wp-content/uploads/2018/10/SBREFA_Guidelines_2003.pdf.*

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11.

The information collection requirements in Part 530, Service Contracts, are currently authorized under OMB Control Number 3072–0065. In compliance with the PRA, the Commission submitted the proposed revised information collections to the Office of Management and Budget. Notice of the revised information collections was published in the **Federal Register** and public comments were invited. *See* 85 FR 8527 (February 14, 2020). Comments received regarding the proposed changes, as well as the Commission's responses, are discussed above. No comments specifically addressed the revised information collection in Part 530, with the exception of a reference by one commenter to the cost savings cited in the NPRM as a basis for its strong support.

As noted above, this final rule will eliminate a substantial and unnecessary regulatory burden on ocean carriers by removing the requirement to publish Statements of Essential Terms corresponding to individual service contract filings. The final rule also includes an option allowing, but not requiring, carriers to publish general service contract rules and notices, which most VOCCs currently include in their ET tariffs, thereby avoiding the need to amend hundreds of individual service contracts, should circumstances so warrant. As background, of the 147 VOCCs currently serving the U.S. trades, 71 do not file service contracts with the Commission, and thus would not be impacted by this rulemaking. Of the 76 VOCC that file service contracts, 25 filed less than ten original contracts thus far in FY 2020, with seven of those only filing one contract this fiscal year. Among VOCCs that utilize service contracts more extensively as a pricing mechanism, only 20 filed over 100 original contracts thus far in FY 2020.

With respect to the cost savings associated with eliminating the publication of Statements of Essential Terms corresponding to original service contracts and amendments, the Commission estimates the savings to VOCCs as roughly 41,048 man-hours, for an approximate savings of $1,987,133 annually.[1] Service contract rules and notices in carrier automated tariff systems, on the other hand, are rarely published or revised, inasmuch as they govern a broad swath of carrier contracts, and many times are intended to quickly and efficiently address an *ad hoc* industry situation.[2] Thus, in any given year, there may be no new service contract rules or notices published in a carrier's automated tariff system. The Commission observes that there are potential benefits associated with ensuring that carriers have the option to continue to publish these rules and notices as a separate part of the individual carrier's automated tariff system, thereby allowing a carrier to avoid revising hundreds of service contracts.

Regarding the burden associated with the filing of service contracts with the Commission, a substantial majority of filers, 74 percent, have recognized greater efficiencies by automating their service contract filing processes using the Commission's ''web services'' automated filing system. Using FY 2018 figures, the Commission estimates the remaining burden associated with service contract filing to be roughly 3,542 man-hours, or $402,088 annually.[3] Inclusive of the burden associated with the optional publication of service contract rules under § 530.12,[4] the entire burden associated with this information collection is calculated as $3,482,351 for contract filers, a substantial reduction.

*National Environmental Policy Act*

The Commission's regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4. The proposed rule amends the requirements related to the publication of Essential Terms associated with service contracts. This rulemaking thus falls within the categorical exclusion for actions related to the receipt service contracts (§ 504.4(a)(5)). Therefore, no environmental assessment or environmental impact statement is required.

*Executive Order 12988 (Civil Justice Reform)*

This rule meets the applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

*Regulation Identifier Number*

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, at *http://www.reginfo.gov/public/do/eAgendaMain.*

**List of Subjects in 46 CFR Part 530**

Freight, Maritime carriers, Report and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Maritime Commission amends 46 CFR part 530 as follows:

## PART 530—SERVICE CONTRACTS

■ 1. The authority citation for part 530 continues to read as follows:

**Authority:** 5 U.S.C. 553; 46 U.S.C. 305, 40301–40306, 40501–40503, 41307.

[1] The Commission's previous service contract rulemaking in Docket No. 16–05 estimated the time associated with preparation of an individual ET publication as 3 minutes. No commenters opposed that estimate. More recently, the Commission informally interviewed two major tariff publishers that file service contracts and publish ETs for multiple VOCCs. These tariff publishers estimated the time required to prepare an ETs to be 3 to 6 minutes. The larger of the two tariff publishers reported that their 3-minute preparation time was due to its proprietary technological efficiencies. The above-referenced savings are based on the 3-minute preparation time estimate, using the Commission's most recent fiscal year's filing statistics for new contracts and amendments. In FY 2018, 47,962 new service contracts and 772,803 amendments were filed.

[2] As one example, a major ocean carrier published a blanket notice in its ET tariff applying to hundreds of its service contracts when it deployed an extra loader vessel to meet unexpected shipper demand. This notice allowed existing contract rates applying to a specifically named service string to also apply to cargo moving on the extra loader vessel, thereby eliminating the VOCC's burden of amending hundreds of service contracts.

[3] In the Commission's previous service contract rulemaking in Docket No. 16–05, each service contract filing (new or amendment) was estimated to take 3 minutes. Since that rulemaking, carriers and tariff publishers comprising the highest volume service contract filers have continued automating their filing processes. Filers that implemented the Commission's ''web services'' automated filing process have advised that minimal software programming was required to facilitate the automated upload of service contracts and amendments. Once automated, contract data can be transmitted into SERVCON in a matter of seconds, without need for human intervention.

[4] In our OMB filing related to this Information Collection, the burden of maintaining service contract rules and notices is estimated at 87 hours.

■ 2. Amend § 530.1 by revising the first sentence to read as follows:

**§ 530.1 Purpose.**

The purpose of this part is to facilitate the filing of service contracts as required by section 8(c) of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 40502).

* * *

■ 3. Amend § 530.3 by revising paragraphs (d) and (o) and removing paragraph (s) to read as follows:

**§ 530.3 Definitions.**

* * * * *

(d) *BTA* means the Commission's Bureau of Trade Analysis or its successor bureau.

* * * * *

(o) *OIT* means the Commission's Office of Information Technology.

* * * * *

■ 4. Amend § 530.5 by revising paragraphs (a) and (c)(1) to read as follows:

**§ 530.5 Duty to file.**

(a) The duty under this part to file service contracts, amendments, and notices shall be upon the individual carrier party or parties participating or eligible to participate in the service contract.

* * * * *

(c) * * *

(1) *Application.* Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier in writing by submitting to BTA the Registration Form (FMC–83) in Exhibit 1 to this part.

* * * * *

■ 5. Amend § 530.8 by revising paragraph (d) introductory text and removing paragraph (d)(4) to read as follows:

**§ 530.8 Service contracts.**

* * * * *

(d) *Other requirements.* Every service contract filed with BTA shall include, as set forth in appendix A to this part:

* * * * *

**§ 530.10 [Amended]**

■ 6. Amend § 530.10 by removing paragraph (f).

■ 7. Revise subpart C heading to read as follows:

## Subpart C—Publication of service contract rules and notices.

■ 8. Revise § 530.12 to read as follows:

**§ 530.12 Rules and notices.**

(a) *Location*—(1) *Generally.* A statement of service contract rules and notices may be published as a separate part of the individual ocean common carrier's automated tariff system.

(2) *Multi-party service contracts.* For service contracts in which more than one carrier participates or is eligible to participate, a statement of service contract rules and notices may be published:

(i) If the service contract is entered into under the authority of a conference agreement, then in that conference's automated tariff system;

(ii) If the service contract is entered into under the authority of a non-conference agreement, then in each of the participating or eligible-to-participate carriers' individual automated tariff systems, clearly indicating the relevant FMC-assigned agreement number.

(b) *Certainty of terms.* A statement of service contract rules and notices described in paragraph (a) of this section may not:

(1) Be uncertain, vague, or ambiguous; or

(2) Make reference to terms not explicitly detailed in the statement of service contract rules and notices, unless those terms are contained in a publication widely available to the public and well known within the industry.

(c) *Agents.* Common carriers, conferences, or agreements may use agents to meet their publication requirements under this part.

(d) *Commission listing.* The Commission will publish on its website, *www.fmc.gov,* a listing of the locations of all service contract rules and notices.

■ 9. Amend § 530.13 by revising paragraph (b)(2) to read as follows:

**§ 530.13 Exceptions and exemptions.**

* * * * *

(b) * * *

(2) *Department of Defense cargo.* Transportation of U.S. Department of Defense cargo moving in foreign commerce under terms and conditions negotiated and approved by the Surface Deployment and Distribution Command and published in a universal service contract. An exact copy of the universal service contract, including any amendments thereto, shall be filed with the Commission as soon as it becomes available.

* * * * *

■ 10. Amend § 530.15 by revising paragraph (c) to read as follows:

**§ 530.15 Recordkeeping and audit.**

* * * * *

(c) *Production for audit within 30 days of request.* Every carrier or agreement shall, upon written request of the FMC's Director, Bureau of Enforcement, any Area Representative or the Director, Bureau of Trade Analysis, submit copies of requested original service contracts or their associated records within thirty (30) days of the date of the request.

* * * * *

## Appendix A to Part 530 [Amended]

■ 11. In Appendix A revise all references to ''BTCL'' to read ''BTA'' and revise all references to ''OIRM'' to read ''OIT''.

By the Commission.

**Rachel E. Dickon,**

*Secretary.*

[FR Doc. 2020–13045 Filed 6–24–20; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 27

**[GN Docket No. 18–122; FCC 20–22; FRS 16812]**

## Expanding Flexible Use of the 3.7 to 4.2 GHz Band; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of compliance date; correction.

**SUMMARY:** The Federal Communications Commission (Commission) is correcting the compliance date announced in a document that appeared in the **Federal Register** on May 27, 2020. The document announced that the Office of Management and Budget (OMB) had approved the information collection requirements associated with the eligible space station operator accelerated relocation election, eligible space station operator transition plan, and incumbent earth station lump sum payment election rules adopted in the Commission's *3.7 GHz Report and Order,* FCC 20–22, and that compliance with the new rules is now required. This document corrects the effective and compliance dates for these new information collection requirements.

**DATES:** June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Anna Gentry, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7769 or *Anna.Gentry@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Correction

In FR Doc. 2020–10167 appearing on page 31704 in the **Federal Register** of

Wednesday, May 27, 2020, the following corrections are made:

1. On page 31704, in the third column, the **DATES** section is corrected to read:

**DATES:** *Compliance date:* Compliance with 47 CFR 27.1412(c) introductory text, (c)(2), 27.1412(d) introductory text and (d)(1), and 27.1419, published at 85 FR 22804 on April 23, 2020, is required on June 22, 2020.

2. On page 31704, in the third column, the first and second paragraphs in the **SUPPLEMENTARY INFORMATION** section are corrected to read:

''This document announces that OMB approved the information collection requirements in 47 CFR 27.1412(c) introductory text, (c)(2), 27.1412(d) introductory text and (d)(1), and 27.1419, on May 5, 2020. These rules were adopted in the *3.7 GHz Report and Order,* FCC 20–22, published at 85 FR 22804 on April 23, 2020, and are deemed effective on June 22, 2020. The Commission publishes this document as an announcement of the effective and compliance dates for these new information collection requirements. OMB approval for all other new or amended rules for which OMB approval is required will be requested, and the Commission will announce the effective and compliance date(s) for those rules after such approval is provided by publishing another document in the **Federal Register** setting forth that date (or dates). Compliance with all new or amended rules adopted in the *3.7 GHz Report and Order* that do not require OMB approval will be required as of June 22, 2020, *see* 85 FR 22804 (Apr. 23, 2020).

''With respect to the rules covered by this announcement—*i.e.,* those discussed herein for which OMB has already issued its approval—if you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554, regarding OMB Control Number 3060–1272. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.''

3. On page 31705, in the third column, the first sentence in the paragraph under the heading ''Transition Plans'' is corrected to read:

''The *3.7 GHz Report and Order* calls for each eligible space station operator to submit to the Commission by June 12, 2020, and make available for public review, a detailed transition plan describing the necessary steps and estimated costs for the eligible space station operator to complete the transition of existing operations in the lower portion of the 3.7–4.2 GHz band to the upper 200 megahertz of the band and its individual timeline for doing so consistent with the regular relocation deadline or by the accelerated relocation deadlines.''

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2020–12250 Filed 6–24–20; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

**[WT Docket No. 02–55; FRS 16798]**

### Improving Public Safety Communications in the 800 MHZ Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) streamlines our rules and procedures to accelerate the successful conclusion of the Commission's 800 MHz band reconfiguration program, or rebanding. The 800 MHz rebanding initiative is a 14-year, $3.6 billion program, involving Sprint Corporation (Sprint) and 800 MHz licensees. At the conclusion of this initiative, public safety, critical infrastructure and other 800 MHz licensees will operate in a reconfigured 800 MHz band free of the interference that plagued first responders' mission-critical communications before the Commission instituted rebanding in the 800 MHz Report and Order.

**DATES:** Effective July 27, 2020.

**FOR FURTHER INFORMATION CONTACT:** Roberto Mussenden, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–1428.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in WT Docket No. 02–55, FCC 20–61, released on May 12, 2020. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

1. In the Order, the Commission accelerates the successful conclusion of the Commission's 800 MHz rebanding program by eliminating certain audit and financial reconciliation requirements that have been part of the program since its inception but are no longer necessary as rebanding nears completion.

**Procedural Matters**

*A. Final Regulatory Flexibility Analysis*

2. The Final Regulatory Flexibility Analysis required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, is included in Appendix B of the Report and Order.

*B. Paperwork Reduction Act of 1995 Analysis*

3. The Order document does not contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

*C. Congressional Review Act*

4. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

**Ordering Clauses**

5. Accordingly, *It Is Ordered* that, pursuant to sections 4(i), 4(j), 301, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303, and 403, the Order *Is Hereby Adopted*.

6. *It Is Further Ordered* that the amendments of the Commission's rules as set forth in Appendix A of the *Report and Order Are Adopted*, effective July 27, 2020.

7. *It Is Further Ordered* that the Commission *Shall Send* a copy of the Report and Order in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 90**

Administrative practice and procedure; Radio; Common Carriers;

Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

■ 1. The authority citation for part 90 continues to read as follows:

**Authority:** 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

**§ 90.676 [Amended]**

■ 2. Amend § 90.676 by removing and reserving paragraph (b)(4).

[FR Doc. 2020–12131 Filed 6–24–20; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 635

**[Docket No. 120627194–3657–02; RTID 0648–XA222]**

## Atlantic Highly Migratory Species; North Atlantic Swordfish Fishery

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

**ACTION:** Temporary rule.

**SUMMARY:** NMFS is adjusting the Swordfish General Commercial permit retention limits for the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions for July through December of the 2020 fishing year, unless further action is taken. The Swordfish General Commercial permit retention limits in each of these regions are increased from the regulatory default limits (either two or three fish) to six swordfish per vessel per trip. The Swordfish General Commercial permit retention limit in the Florida Swordfish Management Area will remain unchanged at the default limit of zero swordfish per vessel per trip, as discussed in more detail below. These adjustments apply to Swordfish General Commercial permitted vessels and to Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial endorsement when on a non-for-hire trip. This action is based upon consideration of the applicable inseason regional retention limit adjustment criteria.

**DATES:** The adjusted Swordfish General Commercial permit retention limits in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions are effective from July 1, 2020, through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Rick Pearson, email: *rick.a.pearson@noaa.gov* or phone 727–824–5399.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of North Atlantic swordfish by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. North Atlantic swordfish quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and implemented by the United States into two equal semi-annual directed fishery quotas; an annual incidental catch quota for fishermen targeting other species or catching swordfish recreationally, and a reserve category, according to the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated Atlantic HMS FMP) (71 FR 58058, October 2, 2006), as amended, and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

In 2017, ICCAT Recommendation 17–02 specified that the overall North Atlantic swordfish total allowable catch (TAC) be set at 9,925 metric tons (mt) dressed weight (dw) (13,200 mt whole weight (ww)) through 2021. Consistent with scientific advice, this was a reduction of 500 mt ww (375.9 mt dw) from previous ICCAT-recommended TACs. However, the United States' baseline quota remained at 2,937.6 mt dw (3,907 mt ww) per year. The Recommendation (17–02) also continued to limit underharvest carryover to 15 percent of a contracting party's baseline quota. Thus, the United States may carry over a maximum of 440.6 mt dw (586.0 mt ww) of underharvest. Absent adjustments, the codified baseline quota is 2,937.6 mt dw for 2020. At this time, given the extent of expected underharvest in 2019, NMFS anticipates carrying over the maximum allowable 15 percent (440.6 mt dw), which would result in a final adjusted North Atlantic swordfish quota for the 2020 fishing year equal to 3,378.2 mt dw (2,937.6 + 440.6 = 3,378.2 mt dw). As in past years we anticipate allocating 50 mt dw from the adjusted quota to the Reserve category for inseason adjustments/research and allocating 300 mt dw to the Incidental category, which includes recreational landings and landings by incidental swordfish permit holders, consistent with § 635.27(c)(1)(i)(D) and (B). This would result in an adjusted quota of 3,028.2 mt dw for the directed fishery, which would be split equally (1,514.1 mt dw) between the two semi-annual periods in 2020 (January through June, and July through December).

### Adjustment of Swordfish General Commercial Permit Vessel Retention Limits

The 2020 North Atlantic swordfish fishing year, which is managed on a calendar-year basis and divided into two equal semi-annual quotas for the directed fishery, began on January 1, 2020. Landings attributable to the Swordfish General Commercial permit count against the applicable semi-annual directed fishery quota. Regional default retention limits for this permit have been established and are automatically effective from January 1 through December 31 each year, unless changed based on the inseason regional retention limit adjustment criteria at § 635.24(b)(4)(iv). The default retention limits established for the Swordfish General Commercial permit are: (1) Northwest Atlantic region—three swordfish per vessel per trip; (2) Gulf of Mexico region—three swordfish per vessel per trip; (3) U.S. Caribbean region—two swordfish per vessel per trip; and, (4) Florida Swordfish Management Area—zero swordfish per vessel per trip. The default retention limits apply to Swordfish General Commercial permitted vessels and to HMS Charter/Headboat permitted vessels with a commercial endorsement when fishing on non-for-hire trips. As a condition of these permits, vessels may not possess, retain, or land any more swordfish than is specified for the region in which the vessel is located.

Under § 635.24(b)(4)(iii), NMFS may increase or decrease the Swordfish General Commercial permit vessel retention limit in any region within a range from zero to a maximum of six swordfish per vessel per trip. Any adjustments to the retention limits must be based upon a consideration of the relevant criteria provided in § 635.24(b)(4)(iv), which include: (A) The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock; (B) the estimated ability of vessels participating in the

fishery to land the amount of swordfish quota available before the end of the fishing year; (C) the estimated amounts by which quotas for other categories of the fishery might be exceeded; (D) effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments; (E) variations in seasonal distribution, abundance, or migration patterns of swordfish; (F) effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and, (G) review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

NMFS has considered these criteria as discussed below and their applicability to the Swordfish General Commercial permit retention limit in all regions for July through December of the 2020 North Atlantic swordfish fishing year. NMFS has determined that the Swordfish General Commercial permit retention limits in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions applicable to persons issued a Swordfish General Commercial permit or HMS Charter/Headboat permit with a commercial endorsement (when on a non-for-hire trip) should be increased from the default levels that would otherwise automatically become effective on July 1, 2020, to six swordfish per vessel per trip from July 1 through December 31, 2020, unless otherwise later noticed. These are the same limits that were implemented through an inseason adjustment for the period January 1 through June 30, 2020 (85 FR 14, January 2, 2020). Given the rebuilt status of the stock and the availability of quota, increasing the Swordfish General Commercial permit retention limits in these three regions to six fish per vessel per trip will increase the likelihood that directed swordfish landings will approach, but not exceed, the available annual swordfish quota, and increase the opportunity for catching swordfish during the 2020 fishing year.

In 2019, a six swordfish per vessel trip limit was in effect for Swordfish General Commercial permit holders in the Northwest Atlantic, Gulf of Mexico, and U.S. Caribbean regions for the entire fishing season. As of December 31, 2019, this limit resulted in total annual directed swordfish landings of approximately 986 mt dw, or 32.6 percent of the 3,028.2 mt dw annual adjusted directed quota for 2019, which includes landings under the six fish trip limit.

Among the regulatory criteria for inseason adjustments to retention limits, and given the rebuilt status of the stock and availability of quota, is the requirement that NMFS consider the ''effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments.'' See § 635.24(b)(4)(iv)(D). A consideration in deciding whether to increase the retention limit, in this case, is the objective of providing opportunities to harvest the full North Atlantic directed swordfish quota without exceeding it based upon the 2006 Consolidated Atlantic HMS FMP goal to, consistent with other objectives of this FMP, ''manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.'' This action will help preserve a traditional swordfish handgear fishery (rod and reel, handline, harpoon, bandit gear, and greenstick). Although this action does not specifically provide recreational fishing opportunities, it will have a minimal impact on the recreational sector because recreational landings are counted against a separate incidental swordfish quota.

NMFS has examined dealer reports and landing trends and determined that the information obtained from biological sampling and monitoring of the North Atlantic swordfish stock is useful. See § 635.24(b)(4)(iv)(A). Regarding the estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year, § 635.24(b)(4)(iv)(B), NMFS reviewed electronic dealer landings data, which indicates that sufficient directed swordfish quota should be available for the July through December 2020 semi-annual quota period if recent swordfish landing trends continue. The directed swordfish quota has not been harvested for several years and, based upon current landing trends, is not likely to be harvested or exceeded in 2020. Based upon recent landings rates from dealer reports, an increase in the vessel retention limits to six fish for Swordfish General Commercial permit holders and Charter/Headboat permit holders with a commercial endorsement (when on a non-for-hire trip) in three regions is not likely to cause quotas for other categories of the fishery to be exceeded. See § 635.24(b)(4)(iv)(C). Similarly, regarding the criteria about the effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota, § 635.24(b)(4)(iv)(F), we expect there to be sufficient swordfish quota for the entirety of the 2020 fishing year. Thus, increased catch rates in these three regions as a result of this action would not be expected to preclude vessels in the other region (*e.g.,* the buoy gear fishery in the Florida Swordfish Management Area) from having a reasonable opportunity to harvest a portion of the overall swordfish quota.

In making adjustments to the retention limits NMFS must also consider variations in seasonal distribution, abundance, or migration patterns of swordfish, and the availability of swordfish on the fishing grounds. See § 635.24(b)(4)(iv)(G). With regard to swordfish abundance, the 2018 report by ICCAT's Standing Committee on Research and Statistics indicated that the North Atlantic swordfish stock is not overfished ($B_{2015}/B_{msy} = 1.04$), and overfishing is not occurring ($F_{2015}/F_{msy} = 0.78$). Increasing retention limits for the General Commercial directed fishery is not expected to affect the swordfish stock status determination because any additional landings would be within the ICCAT-recommended U.S. North Atlantic swordfish quota allocation, which is consistent with conservation and management measures to prevent overfishing on the stock. Increasing opportunities by increasing retention limits from the default levels beginning on July 1, 2020, is also important because of the migratory nature and seasonal distribution of swordfish. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for swordfish may be constrained by the short amount of time that the swordfish are present in the area as they migrate.

Finally, another consideration, consistent with the FMP and its amendments, is to continue to provide protection to important swordfish nursery areas and migratory corridors. Therefore, NMFS has determined that the retention limit for the Swordfish General Commercial permit will remain at zero swordfish per vessel per trip in the Florida Swordfish Management Area at this time. As discussed above, NMFS considered consistency with the 2006 HMS FMP and its amendments, and the importance for NMFS to continue to provide protection to important swordfish nursery areas and migratory corridors. As described in Amendment 8 to the 2006 Consolidated Atlantic HMS FMP (78 FR 52011, August 21, 2013), the area off the southeastern coast of Florida, particularly the Florida Straits, contains oceanographic features

that make the area biologically unique. It provides important juvenile swordfish habitat, and is essentially a narrow migratory corridor containing high concentrations of swordfish located in close proximity to high concentrations of people who may fish for them. Public comment on Amendment 8, including from the Florida Fish and Wildlife Conservation Commission, indicated concern about the resultant high potential for the improper rapid growth of a commercial fishery, increased catches of undersized swordfish, the potential for larger numbers of fishermen in the area, and the potential for crowding of fishermen, which could lead to gear and user conflicts. These concerns remain valid. NMFS will continue to collect information to evaluate the appropriateness of the retention limit in the Florida Swordfish Management Area and other regional retention limits. This action therefore maintains a zero-fish retention limit in the Florida Swordfish Management Area.

The directed swordfish quota has not been harvested for several years and, based upon current landing trends, is not likely to be harvested or exceeded during 2020. This information indicates that sufficient directed swordfish quota should be available from July 1 through December 31, 2020, at the higher retention levels, within the limits of the scientifically-supported TAC and consistent with the goals of the 2006 Consolidated Atlantic HMS FMP as amended, ATCA, and the Magnuson-Stevens Act, and are not expected to negatively impact stock health.

*Monitoring and Reporting*

NMFS will continue to monitor the swordfish fishery closely during 2020 through mandatory landings and catch reports. Dealers are required to submit landing reports and negative reports (if no swordfish were purchased) on a weekly basis.

Depending upon the level of fishing effort and catch rates of swordfish, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure that the available quota is not exceeded or to enhance fishing opportunities. Subsequent actions, if any, will be published in the **Federal Register**. In addition, fishermen may access *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/2020-atlantic-swordfish-landings-updates* for updates on quota monitoring.

## Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Based on recent data for the first semi-annual quota period, NMFS has determined that landings have been very low through April 30, 2020 (21.9 percent of 1,318.8 mt dw quota). Adjustment of the retention limits needs to be effective on July 1, 2020; otherwise lower, default retention limits will apply. Delaying this action for prior notice and public comment would unnecessarily limit opportunities to harvest available directed swordfish quota, which may have negative social and economic impacts for U.S. fishermen. If this action is delayed, some fishermen may not benefit from the adjustment at all, given a short period of access to the fishery due to seasonal fish migration. This action does not raise conservation and management concerns. Adjusting retention limits does not affect the overall, North Atlantic swordfish U.S. quota, and available data show the adjustment would have a minimal risk of exceeding the ICCAT-allocated quota. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. swordfish quota and retention limit adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.24(b)(4) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 19, 2020.

**Hélène M.N. Scalliet,**

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

[FR Doc. 2020–13704 Filed 6–24–20; 8:45 am]

BILLING CODE 3510–22–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 200604–0152]**

**RIN 0648–BJ35**

# Fisheries of the Exclusive Economic Zone Off Alaska; Modifying Seasonal Allocations of Pollock and Pacific Cod for Trawl Catcher Vessels in the Central and Western Gulf of Alaska

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 109 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and a regulatory amendment to the regulations governing pollock fishing in the Gulf of Alaska. This final rule reduces operational and management inefficiencies in the Central Gulf of Alaska and Western Gulf of Alaska trawl catcher vessel pollock and Pacific cod fisheries by reducing regulatory time gaps between the pollock seasons, and changing Gulf of Alaska Pacific cod seasonal apportionments to allow greater harvest opportunities earlier in the year. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the GOA FMP, and other applicable laws.

**DATES:** This rule is effective on January 1, 2021.

**ADDRESSES:** Electronic copies of the Environmental Assessment and the Regulatory Impact Review (collectively referred to as the ''Analysis'') and the National Environmental Policy Act (NEPA) Finding of No Significant Impact prepared for this final rule may be obtained from *http://www.regulations.gov.*

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**SUPPLEMENTARY INFORMATION:**

## I. Authority for Action

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) under the GOA FMP. The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce (Secretary) approved, the GOA FMP under the authority of the

Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the GOA FMP appear at 50 CFR parts 600 and 679. The Council is authorized to prepare and recommend a fishery management plan (FMP) amendment for the conservation and management of a fishery managed under the FMP. NMFS conducts rulemaking to implement FMP amendments and regulatory amendments. FMP amendments and regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

The Council recommended Amendment 109 to the GOA FMP (Amendment 109) and a regulatory amendment for pollock fisheries in the GOA. This final rule implements Amendment 109 by changing Central Gulf of Alaska (CGOA) and Western Gulf of Alaska (WGOA) Pacific cod seasonal apportionments to increase the trawl catcher vessel (CV) sector's A season total allowable catch (TAC) while proportionally decreasing the sector's B season TAC. This final rule also implements the Council's regulatory amendment by combining the CGOA and WGOA trawl CV pollock fishery A and B seasons into a single season (redesignated as the A season), and the C and D seasons into a single season (redesignated as the B season), and by changing the annual start date of the redesignated pollock B season from August 25 to September 1. These changes for pollock and Pacific cod are only applicable to the CGOA and the WGOA, which are comprised of NMFS statistical areas 610 (WGOA) and 620 and 630 (CGOA) (see Figure 3 to part 679). This preamble uses the term ''management area'' to refer to ''statistical area'' to avoid confusion with State of Alaska ''statistical areas.'' Also, the term ''management area'' is commonly used by harvesters and processors to refer to NMFS statistical areas.

NMFS published the Notice of Availability for Amendment 109 in the **Federal Register** on February 6, 2020 (85 FR 6890), with public comments invited through April 6, 2020. NMFS published the proposed rule to implement Amendment 109 in the **Federal Register** on February 28, 2020 (85 FR 11939), with public comments invited through March 30, 2020.

NMFS received 35 comment letters which contain a total of 13 unique comments during the comment periods. A summary of these comments and the responses by NMFS are provided under the heading ''Response to Comments'' below.

## II. Background

This final rule modifies the seasonal apportionment of pollock and Pacific cod TAC in the CGOA and WGOA. The purpose of this action is to reduce operational and management inefficiencies in the CGOA and WGOA trawl CV pollock and Pacific cod fisheries by (1) reducing regulatory time gaps between the pollock fishery A and B seasons and the C and D seasons, and (2) changing seasonal Pacific cod apportionments in the GOA to allow greater harvest opportunities earlier in the year. Modifying the seasonal allocations of pollock and Pacific cod could allow the fisheries to more fully harvest the TAC of GOA pollock and Pacific cod, increase management flexibility, and potentially decrease prohibited species catch (PSC) while not redistributing fishing opportunities between management areas or harvest sectors.

## III. The Affected Fisheries Participants and Current Seasonal Allocations

### *A. Affected Fisheries Participants*

The trawl groundfish fisheries in the GOA include fisheries for pollock, sablefish, several rockfish species, numerous flatfish species, Pacific cod, and other groundfish. Trawl gear captures groundfish by towing a net above or along the ocean floor. This final rule affects the trawl fisheries for pollock and Pacific cod in two specific areas of the GOA: (1) The CGOA regulatory area (comprised of management areas 620 and 630), and (2) the WGOA regulatory area (comprised of management area 610). These specific areas are defined at 50 CFR 679.2. This action applies only to the federally permitted CVs using trawl gear to harvest pollock or Pacific cod in management areas 610, 620, and 630 of the GOA. This action does not apply to the Eastern GOA West Yakutat District (management area 640).

Regulations at 50 CFR 679.4(k) require trawl vessels participating in the GOA pollock and Pacific cod fisheries to possess a License Limitation Program license (LLP). Overall, 124 CV LLPs are endorsed for GOA trawl fishing. Ninety-seven CV LLPs are endorsed for CGOA trawl fishing and 78 CV LLPs are endorsed for WGOA trawl fishing. Fifty-one LLPs are trawl-endorsed for both areas.

### *B. Current Seasonal Allocations of Pollock and Pacific Cod in the CGOA and WGOA*

GOA Pollock

The four pollock seasons for the CGOA and WGOA (management areas 610, 620, and 630) are currently defined in regulations at § 679.23(d)(2) as follows:

A season—From 1200 hours, A.l.t., January 20 to 1200 hours, A.l.t., March 10

B season—From 1200 hours, A.l.t., March 10 to 1200 hours, A.l.t., May 31

C season—From 1200 hours, A.l.t., August 25 to 1200 hours, A.l.t., October 1

D season—From 1200 hours, A.l.t., October 1 to 1200 hours, A.l.t., November 1

Through the annual harvest specifications process, NMFS establishes pollock TACs for management areas 610, 620, and 630 within the CGOA and the WGOA. These TACs are established in proportion to the distribution of the pollock biomass in those areas as determined by the most recent NMFS surveys. In addition, the regulations at 50 CFR 679.20(a)(5)(iv)(B) state that 25 percent of the combined pollock TAC for the CGOA and WGOA is allocated to each of the four seasons. The seasonal apportionments are then further apportioned across management areas (*i.e.,* management area 610, 620, and 630) based on estimated biomass distribution throughout the year. The most recent example of these allocations is found in the 2020–2021 annual harvest specifications for the GOA (85 FR 13802, March 10, 2020).

Over the last 15 years, the seasonal pollock biomass distribution has shifted substantially, resulting in relatively smaller seasonal apportionments in management area 610—most notably in the A and B seasons—while substantially increasing seasonal apportionments and annual TACs in management area 620 and, to a lesser degree, management area 630. The seasonal biomass distribution aspect of annual harvest specifications is designed so that the pollock fleet is able to harvest fish where they are occurring, and not to allocate harvest opportunities to one area relative to another.

NMFS inseason managers monitor the catch of pollock and close the directed pollock fishery in each management area when they determine the seasonal apportionment will be taken. Because this process is based on many variable factors, sometimes catch exceeds the seasonal apportionment and sometimes catch is less than the seasonal apportionment.

NMFS' objective is to allow for optimal harvest while avoiding an overage of the seasonal apportionment or the annual TAC. TAC that is not harvested in one area or season that cannot be reallocated to a subsequent season is not made available for later harvest. TAC that remains at the end of the D season is not rolled over to the following calendar year.

After each management area's overages or underages are accounted for, NMFS has the ability to reallocate, or ''rollover,'' pollock that is not harvested in one season to the subsequent season in the same or other management area(s). Rollovers are made according to a prescribed series of steps that are predicated on the area TAC levels and seasonal apportionments established in the annual harvest specifications and are described in detail in Section 2.1.1 in the Analysis.

Regulations at § 679.20(a)(5)(iv)(B) state that unharvested pollock may be added to a subsequent seasonal allocation provided that the revised seasonal apportionment does not exceed 20 percent of the subsequent season's pollock apportionment for the management area. This provision also states that any rollover of unharvested pollock is applied first to the subsequent season in the same management area, and only then may any remaining pollock be further reallocated to other GOA management areas. The purpose of the rollover is to help fishery participants harvest as much of the TAC as possible. However, the rollover regulations are designed to mitigate incentives for the fleet to underharvest or overharvest the seasonal pollock apportionment in a management area in order to influence the amount of pollock available in the subsequent season.

GOA Pacific Cod

NMFS establishes annual Pacific cod TACs for the WGOA and CGOA and apportions these TACs across two seasons. NMFS apportions 60 percent of the annual WGOA and CGOA Pacific cod TACs to the A season, and apportions 40 percent of the annual WGOA and CGOA Pacific cod TACs to the B season. For vessels deploying trawl gear, the A season occurs from January 20 through June 10, and the B season occurs from September 1 through November 1.

Since the implementation of Amendment 83 to the GOA FMP in 2012 (76 FR 74670, December 1, 2011), NMFS, after subtracting a set-aside for the jig gear sector, also allocates the annual WGOA and CGOA Pacific cod TACs among five sectors in the WGOA and six sectors in the CGOA. Each sector's allocation is apportioned between the A and B seasons in each area, and the ratio for each sector's seasonal apportionment is not required to be a 60:40 percent ratio. However, for all gear (trawl and non-trawl) and operational-type (CVs and catcher/processors (C/Ps)) sectors, the total of A season sector apportionments in each area equals 60 percent of the annual Pacific cod TAC, and the total of B season sector apportionments in each area equals 40 percent of the annual Pacific cod TAC.

Regulations at 50 CFR 679.20(a)(12)(i) and Tables 2–2 and 2–3 in the Analysis show the seasonal percentage allocations for each sector. These tables illustrate that no sector, in isolation, experiences a 60:40 percent seasonal TAC split. The WGOA trawl CVs receive a relatively greater proportion of their annual Pacific cod TAC allocation in the A season, as they do not target Pacific cod in the fall (B season). The sectors that receive a small percentage of the annual TAC tend to be those that encounter Pacific cod as incidental catch that must be retained (as an Improved Retention/Improved Utilization Program (IR/IU) species) but do not conduct directed fishing for Pacific cod.

Regulations at § 679.20(a)(12)(ii) describe the reallocation of sector allocations. NMFS publishes these reallocations as inseason actions in the **Federal Register** and posts them on the NMFS Alaska Region website as Information Bulletins. Regulations at § 679.20(a)(12)(ii) also state that NMFS should take into account ''the capability of a sector [. . .] to harvest the remaining Pacific cod TAC.'' There are no set dates upon which reallocations should occur; NMFS relies on its management expertise, as well as communication with the fleets about their expected levels of activity or encounter rates of Pacific cod. In practice, NMFS reallocates Pacific cod that it projects will go unharvested by a sector. The regulations provide a hierarchy that guides preference in reallocations if there are competing needs for additional TAC. The regulations at § 679.20(a)(12)(ii)(B) state that NMFS should consider reallocation to CV sectors first, then reallocation to the combined CV and C/P pot sector, and then to any of the other C/P sectors (trawl and hook-and-line). NMFS provides a record of inseason Pacific cod TAC reallocations on its website. Since 2012, almost all inseason reallocations of Pacific cod have occurred during the B season, and most reallocations flowed from the trawl CV sector; no reallocations have been made to the trawl CV sector.

## IV. Need for This Action

This final rule addresses concerns that arose from a series of discussion papers that were presented to the Council in 2017, 2018, and 2019. The discussion papers examined the amount of uncaught Pacific cod TAC in all gear sectors during the WGOA and CGOA B season, options for changing WGOA and CGOA pollock and Pacific cod seasonal allocations with the goal of improving efficiency in fishery management, and whether delaying the start of the WGOA and CGOA pollock C season from August 25 to September 1 might provide operational benefits to vessels and processors that also engage in salmon fisheries or groundfish fisheries outside of the GOA.

For the pollock fishery, status quo management can result in time gaps between the A and B seasons and between the C and D seasons. The time gaps vary in length depending on the pace of fishing and TAC utilization during the A and C seasons. Table 4–8 in Section 4.5.1.2 of the Analysis shows instances where fisheries were closed for up to 80 percent of a season when the pollock TAC was taken quickly. In other cases, NMFS has closed directed fishing for pollock toward the very end of one season, and before another season has started, resulting in closures that lasted as little as one day.

The Council and NMFS acknowledge that these time gaps between seasons create operational inefficiencies and increase costs compared to a continuous fishery. For harvesters, operational inefficiencies could include fuel costs to transit back and forth to fishing grounds, lost labor productivity (*i.e.,* more days to earn the same income), missed windows of good weather, inability to fish during periods of high catch per unit effort (CPUE), or inability to fish during periods of high pollock roe content (and higher value product) that can occur between the A and B seasons. Processors also experience reduced productivity if labor and equipment are idled. A long time gap between seasons could also erode the real-time knowledge of the fishing grounds that skippers develop over the course of a continuous season. That knowledge is often key to achieving higher CPUE and minimizing bycatch of non-target species and PSC. Section 4.6.1.1.1 of the Analysis describes these inefficiencies in greater detail. Harvesters acknowledge that ''pulse'' fishing can limit the ability of the fleet to avoid fishing during periods of higher bycatch of species such as Chinook

salmon and halibut and can limit the ability of the fleet to fish during periods of lower bycatch. In contrast, combining seasons and reducing time gaps could give the fleet more flexibility to avoid fishing in times of expected high Chinook salmon PSC rates by providing a lower risk of running out of time to fully harvest a seasonal TAC. Section 3.3 of the Analysis describes bycatch rates in the pollock and Pacific cod fisheries and the factors that can result in higher, or lower, bycatch of various species.

In recommending regulatory changes for the WGOA and CGOA pollock fishery, the Council also sought to address a concern about the amount of pollock TAC that may go unharvested in a season because of existing restrictions on TAC rollover (see regulations at § 679.20(a)(5)(iv)(B)). Ultimately, the Council recommended the current rollover cap of 20 percent remain the same. The Council's recommendation to maintain the status quo 20 percent rollover cap was responsive to public testimony that underharvest in one season might continue into the following season, especially if the underharvest is due to poor fishing conditions in the underharvested area. As such, a higher rollover cap might increase the possibility of leaving fish stranded because TAC cannot be rolled over to other areas. This is further explained in Section 4.6.3 of the Analysis.

In addition, this final rule delays the start of the redesignated pollock B season from August 25 to September 1 to provide operational benefits to vessels and processors that also engage in salmon fisheries or groundfish fisheries outside of the GOA. A later pollock start date will minimize the potential for the redesignated pollock B season to overlap the end of salmon harvest and reduce the operational challenges that can occur with harvesters and processors that participate in both of these fisheries. Section 4.6.2.1 of the Analysis describes the operational inefficiencies and costs for harvesters and processors that can occur when processors cannot process peak capacities of pollock and salmon at the same time, resulting in limited deliveries of one species or the other.

To address concerns related to management inefficiencies in the GOA pollock fishery, this final rule implements regulations to (1) combine the A and B seasons into a single season (redesignated as the A season), combine the C and D seasons into a single season (redesignated as the B season), and allocate pollock among the redesignated A season and redesignated B season at 50 percent to the A season and 50 percent to the B season, applicable to management areas 610, 620, and 630; and (2) change the start date of the redesignated B pollock season in the GOA from August 25 to September 1, resulting in a redesignated B season that runs from September 1 to November 1.

In recent years, trawl CVs in the GOA Pacific cod fishery have only conducted directed fishing for B season Pacific cod in the CGOA. The WGOA trawl CV sector receives 10.7 percent of the total annual WGOA Pacific cod TAC in the B season (see Table 2–2 in the Analysis), but it goes largely unharvested by trawl vessels except as incidental catch during the C and D seasons in the pollock trawl fishery. In the CGOA, where the trawl CV fishery is prosecuted, harvest of Pacific cod in the B season lags A season harvest by a significant margin in percentage terms. Table 3–4 in the Analysis shows that harvest of CGOA B season Pacific cod TAC was typically below 50 percent and began to fall precipitously in the years leading up to the 2018 reduction in ABC. While industry participants have reported that fish size and flesh quality can be better in the fall B season than in the late-winter A season due to the length of time removed from spawning activity, GOA Pacific cod do not tend to aggregate in the fall in a manner that lends itself to efficient harvest with trawl gear. As a result, a significant portion of the GOA Pacific cod B season TAC is left unharvested by trawl CVs, while the A season TAC is more fully prosecuted by trawl CVs.

The Council acknowledged the changes that have occurred in the B season Pacific cod fishery, resulting in unharvested Pacific TAC. To address this concern, the Council recommended Amendment 109 for Pacific cod trawl CV fisheries in the GOA. This final rule implementing Amendment 109 increases trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the A season while proportionally decreasing trawl CV allocations of Pacific cod TAC in the CGOA and WGOA during the B season. Specifically, 25.29364 percent of the annual CGOA Pacific cod TAC will be allocated to the trawl CV sector during the A season and 16.29047 percent will be allocated to the B season. Additionally, 31.54 percent of the annual WGOA Pacific cod TAC will be allocated to the trawl CV sector during the A season and 6.86 percent will be allocated to the B season.

A description of the alternatives considered by the Council in regard to Amendment 109 and the regulatory amendment but not selected is provided in the proposed rule preamble and in Section 2.5 of the Analysis.

In adopting its preferred alternatives, the Council considered effects of this action on Steller sea lions. For the CGOA and WGOA pollock trawl fishery, Section 4.6.2 of the Analysis explains that various factors affect pollock harvest patterns, including, but not limited to, fish aggregation and quality (roe content), market availability, encounter rates with PSC-limited species, high and low TAC years for pollock, economic opportunities in—or trade-offs with—other fisheries, and other individual vessel business decisions. These factors can be difficult to predict with accuracy, with respect to this action, at this time. Additionally, many constraints that dictate the timing and pace of the pollock fishery would remain, even if seasons were combined and the fleet had more available TAC at any given moment with which to optimize its fishing. Those constraints would be expected to prevent harvest patterns from changing in a significantly different manner under this rule than seen in the past.

Finally, changing the start of the combined C/D season from August 25 to September 1 does not change anticipated effects to the pollock stock (as noted in Section 3.2.3 of the Analysis), and therefore does not change anticipated impacts to prey availability for Steller sea lions.

For the Pacific cod fishery in the CGOA and WGOA, the overall change in seasonal allocation across all sectors combined is 4 percent from the B season to the A season. This modest shift in seasonal allocation is not expected to result in an increase in vessel participation, nor a change in the spatial distribution of the fishing vessels (as noted in Section 4.6.4. of the Analysis).

For the reasons outlined above, the Council and NFMS do not expect the implementation of Amendment 109 and the regulatory amendment to result in discernable spatial harvest concentrations or decreases in temporal dispersion of harvest which would significantly affect prey availability for Steller sea lions.

In recommending Amendment 109 and the regulatory amendment, the Council has chosen a portion of each action alternative for each of the GOA CV pollock and Pacific cod fisheries. This blended action provides the greatest improvements to operational and management efficiency of all the alternatives while not re-distributing allocations of pollock or Pacific cod between management areas or among participants, which is a stated objective in the purpose and need for this action.

## V. This Final Rule

*CGOA and WGOA Pollock Fishery*

This final rule revises § 679.20(a)(5)(iv)(B) to combine the pollock A and B seasons into a single season (redesignated as the A season) in the GOA Western and Central regulatory areas and combine C and D seasons into a single season (redesignated as the B season). This final rule also apportions 50 percent of the CGOA and WGOA pollock TAC to the redesignated A season and 50 percent to the redesignated B season. These changes will not affect the relative amount of CGOA and WGOA pollock TAC apportioned to each season because current regulations specify that the TAC be evenly apportioned among each GOA pollock season.

This final rule revises § 679.23(d)(2) to change the dates of the redesignated A season as January 20 through May 31 and the dates of the redesignated B season as September 1 through November 1. This revision effectively leaves the duration of the redesignated A season unchanged from the duration of the current A and B seasons, but shortens the duration of the redesignated B season (September 1 to November 1) from the duration of the current C and D seasons (August 25 to November 1).

*CGOA and WGOA Pacific Cod Fishery*

This final rule revises § 679.20(a)(12)(i) to specify the new seasonal apportionments of Pacific cod TAC for the CV trawl sectors in the CGOA and the WGOA. Although the overall ratio of A and B seasonal apportionments of Pacific cod for the trawl CV sector is changing, this final rule does not affect the seasonal apportionments of Pacific cod to any of the other sectors. The seasonal apportionment of Pacific cod remains unchanged for all other sectors in the CGOA and the WGOA.

This final rule also revises the tables at § 679.20(a)(12)(i)(A) and (B) to change the seasonal allowance of Pacific cod for trawl CVs in the WGOA and the CGOA. For both the CGOA and the WGOA, the A season allowance increases by approximately 4 percent while the B season allowance decreases by approximately 4 percent.

## VI. Response to Comments

NMFS received 35 comment letters on the proposed rule and the NOA which contain 13 unique comments. Two of these comments were not relevant to the content of this rule and were not addressed. NMFS has summarized and responded to the remaining 11 unique comments below. The comments were from individuals and industry representatives representing trawl fishermen from the CGOA and WGOA.

*Comment 1:* Amendment 109 will benefit the community, processors, and the trawl fishermen. Combining the pollock A and B seasons will increase economic value by extending the period of time fishermen have access to the valuable pollock roe fishery. Combining the A, B, C, and D seasons into two seasons will increase fish processing efficiency and reduce processing costs.

*Response:* NMFS agrees. The final rule and Section 4.6.1.1.1 of the Analysis describe inefficiencies with status quo management which can result in time gaps between the A and B seasons and between the C and D seasons. The Council and NMFS acknowledge that these time gaps between seasons create operational inefficiencies and increase costs compared to a continuous fishery. This final rule combines the A and B seasons and the C and D season, thereby reducing the occurrence of time gaps in the fishery.

*Comment 2:* Several commenters expressed support for the implementation of the regulatory amendment to combine the pollock A, B, C, and D seasons in the WGOA. They believe that this action will help provide increased benefits in pollock roe harvest, reduce mandatory stand downs between season closures, and reduce catch of Chinook salmon PSC.

*Response:* NMFS agrees. In recommending this action, the Council noted their intent in modifying the seasons or seasonal allocations of pollock and cod was to increase fishery yield, particularly for roe quality and quantity of pollock, increase management flexibility, and potentially decrease PSC. The Council's rationale for this recommendation is described in Section 2.6 of the Analysis.

*Comment 3:* One commenter expressed support for the proposed changes to the pollock fishery for several reasons. First, the proposed changes will improve efficiency and reduce operating costs for processors and fishing vessels since there will be less stop and go due to end of season stand downs. Second, combining the seasons gives fishermen the opportunity to manage the fisheries better and for maximum value from pollock (increased roe fishery). The commenter notes that in the WGOA, fishermen have often successfully negotiated voluntary stand downs within seasons to maximize harvest. However, these voluntary stand downs are never guaranteed because everyone needs to agree in order for them to work. Combining the seasons would remove two instances each year when these stand downs would have to be arranged (since there will only be two seasons). Third, the proposed changes will reduce bycatch of Chinook salmon in the WGOA C/D seasons. Fourth, starting the new B season on September 1 gives processors and fishermen a better transition time between salmon and pollock. Six less days for the combined C/D season should not have significant impact on the bottom line.

*Response:* NMFS acknowledges this comment. This final rule implements the Council's intent to increase fishery yield, particularly for roe quality and quantity of pollock, increase management flexibility, and potentially decrease PSC. The Council's rationale for this action is described in Section 2.6 of the Analysis.

*Comment 4:* Several commenters expressed support for the increase in apportionment of the A season Pacific cod trawl sector. They feel this will reduce bycatch and leave less fish unharvested in the B season, particularly in the WGOA.

*Response:* NMFS acknowledges this comment. In recommending Amendment 109, the Council noted that more Pacific cod TAC for the trawl CV sector in the A season could provide additional opportunity for harvest of Pacific cod when fish are aggregated and when the fleet and processors are more heavily engaged in the fishery. This is described further in Section 4.6.4 of the Analysis.

In recommending Amendment 109, the Council also considered impacts on bycatch and noted that this action could reduce interactions with PSC in the Pacific cod fishery. The Council's rationale for this action is described in Section 2.6 of the Analysis.

*Comment 5:* Combining CGOA pollock A and B seasons would result in substantial increases in Chinook salmon bycatch. Current bycatch avoidance strategies, such as voluntary stand downs from fishing, are contentious at best. It is a distinct and real possibility that the Chinook salmon PSC cap could be completely exhausted within a combined A and B season, leaving pollock stranded in the water during the fall months.

*Response:* The Analysis prepared for this action did not indicate that it would increase Chinook salmon bycatch. Chinook salmon PSC in the GOA pollock fishery is discussed in detail in Section 3.3.1.3 of the Analysis and again in Section 4.6.2 of the Analysis. Combining the CGOA and WGOA pollock A/B and C/D seasons is

intended to provide the fleet and processors with flexibility to prosecute the pollock fishery in a manner that maximizes yield and profitability within other constraints on the timing and intensity of fishing that would not be removed by combining the seasons. By providing for increased flexibility, vessels could mitigate high Chinook salmon PSC rates by standing down during times of seasonally high Chinook salmon bycatch. A vessel is less likely to voluntarily stand down when a smaller seasonal TAC is nearing completion or if a regulated season end-date is approaching. This action will increase the size of seasonal TACs and reduce the number of season end dates from four to two.

Aside from reducing the cost of PSC stand downs, combining the seasons could also allow vessels to reallocate their effort toward parts of the season that are historically correlated with lower Chinook PSC rates. Figure 3–7 in Section 3.3.1.3 of the Analysis suggests that the ''A'' part of the A/B season and the ''D'' part of the C/D season carry higher intrinsic PSC rates. The commenter alluded to this as well. Taken at face value, vessels might expect lower PSC rates if they focused effort away from those times. Section 4.6.2 of the analysis notes that it is not clear that seasonality alone drives Chinook PSC. Rates might be higher at the beginning of the fishing year (A season) because skippers are learning the conditions on the grounds. Rates could also be higher at that time because vessels are in competition for valuable roe pollock and the fleet is fishing with more effort and exposing itself to extrapolation of observed PSC events over a larger number of unobserved vessels.

As described in Section 3.3.1.1 of the Analysis, flexibility introduced by season redefinitions implemented in this final rule could shift pollock harvest toward the ''B'' portion of the A/B season and the ''C'' part of the C/D season, either of which would reduce the expected incidence of Chinook salmon PSC. With regard to D season effort, it is expected that a combination of more pollock availability earlier in the fall, relatively milder at-sea conditions, and lower expected Chinook salmon PSC encounter rates will generally attract CV trawl effort to September (the ''C'' part of the C/D season). Such an outcome could reduce pollock trawl fishery impacts on Chinook salmon by reducing Chinook salmon mortality relative to the status quo, as noted in Section 4.6.2 of the Analysis. These factors could similarly drive shifts in fishery effort toward the latter part of the consolidated A/B season but the result may be less profound given the attraction of the valuable roe season that occurs earlier in the year. Section 4.6.2 of the Analysis describes existing constraints that would help to dictate the timing and pace of the pollock fishery even if seasons were lengthened and the fleet had more available TAC at any given moment. These include limited vessel capacities, the 300,000 lb trip limit, and limits to processing capacity.

Information on Chinook salmon incidental catch in the GOA pollock fishery shows that, on average, Chinook salmon PSC is generally greater in the D season than in the A season, often times substantially so (*https://www.fisheries.noaa.gov/sites/default/files/akro/goasalmonmort2020.html;* accessed April 2, 2020). As described above, this action has the potential to decrease fishing effort in the ''D'' season by shifting fishing effort to earlier in the fall, resulting in less Chinook salmon PSC being taken at the end of the year. Chinook salmon PSC that is no longer needed for ''D'' season fishing could serve as a PSC buffer by enabling more Chinook salmon PSC to be taken during the A season if Chinook salmon PSC rates increase during the A season in years of unusually high Chinook salmon bycatch. As such, NFMS does not expect this action to directly result in significantly increased annual Chinook salmon bycatch nor does NMFS believe this action will directly jeopardize the fleet's ability to fully prosecute the GOA pollock fishery TAC.

*Comment 6:* Changing the start date for the pollock C/D season is solely a measure to delay the fishery until the canneries are done processing salmon. In years when salmon harvest is down this is not needed. In years when pollock quotas are large, the fishery needs as much fishing time as possible. Shortening the season could result in available pollock harvest being left in the water.

*Response:* The Council's purpose in recommending a change in the start date of the combined C/D season was to enhance the operational and management efficiency of the GOA pollock trawl fishery. Under the status quo season dates, the C season can overlap the end of the salmon harvest in some years, causing congestion that plays out differently at individual processing facilities depending on throughput capacity and the characteristics of their delivering fleet. A later start date could eliminate the need for participants to negotiate voluntary stand-downs in high salmon harvest years. Regulatory uniformity around a start date also mitigates timing conflicts that intermittently affect a subset of participants. This rationale is addressed in Section 4.6.2.1 of the Analysis.

NMFS acknowledges that fishery participants may be differentially impacted by this action depending on factors such as the fisheries they participate in, annual variation in GOA pollock TAC, and annual variability in the level of salmon harvest. The Council considered these items fully during its June 2019 meeting when final action was taken. Ultimately, the Council determined that the overall benefits gained by enhanced operational and management efficiency outweigh what might be lost by delaying the start of the redesignated pollock B season by 7 days. NMFS agrees with the Council's recommendation to start the redesignated pollock B season on September 1.

*Comment 7:* For smaller vessels, weather patterns and fish aggregations make it more difficult to safely fish during the A season. The B season gives pollock time to aggregate closer to Kodiak and for immature pollock to separate out from mature pollock. Combining the A and B seasons could put smaller vessels at a disadvantage because it is harder for them to access the resource earlier in the year. Combining the seasons will also lead to high discard rates of immature pollock upon delivery to Kodiak's processors which are not equipped to process small, immature fish.

*Response:* As discussed in the response to Comment 5, there are other constraining factors, both in regulation and in the fishery, which should limit the degree of changes in fishing effort and behavior as a result of combining the A and B seasons.

Section 4.6.2 of the Analysis notes that various factors affect harvest patterns in this fishery, including, but not limited to, fish aggregation and quality (roe content), market availability, encounter rates with PSC-limited species, high and low TAC years for pollock, economic opportunities in—or trade-offs with—other fisheries, and other individual vessel business decisions. Many constraints that dictate the timing and pace of the pollock fishery would remain, even under a combined A/B season. Given the multiple constraints that dictate the timing and pace of the fishery and inter-annual variability in harvest patterns, it would be difficult to accurately determine whether any shift in effort was a direct result from merging the A/B seasons and C/D seasons under this action. As such, NFMS does not expect

this action to result in substantial shifts in harvest opportunities for fishery participants, or in harvest composition of immature versus mature pollock.

*Comment 8:* Combining the A and B seasons would result in increased participation from American Fisheries Act (AFA) vessels that are capable of coming into the GOA to fish pollock but are also capable of fishing in the Bering Sea and Aleutian Islands management area. This in turn reduces the available quota that is left to participants that are only able to fish within the GOA.

*Response:* The Council's recommendation of combining the A and B and the C and D seasons was driven by the potential for increased flexibility for the GOA pollock fleet and processors. As discussed in the responses to Comment 5 and Comment 7 and in Section 4.6.2 of the Analysis, many constraints that dictate the timing and pace of the GOA pollock fishery would remain even if the season were lengthened and the fleet had more available TAC at any given moment with which to optimize its fishing.

During its December 2018 and June 2019 meetings, the Council deliberated over stakeholders' concerns about season modifications allowing AFA-exempt and non-exempt vessels to increase participation in the GOA. In light of existing constraints on the pace and timing of the fishery, the Council does not anticipate that the increased TAC available at the beginning of the season will result in additional vessels entering the GOA fishery to an impactful degree. During its deliberation, the Council noted that AFA non-exempt vessels did not enter the GOA pollock fishery during the recent, historically high years of GOA pollock TACs (see Section 4.5.1.1 of the Analysis). However, the Council recognized that it is difficult to predict what the impacts of this action will be, and that there is diversity among the GOA trawl business operations that could be affected by this action. The Council noted that further action could be taken at a later date if a significant increase in participation by the AFA-affiliated vessels is observed in the GOA. NFMS agrees with the Council's recommendation.

*Comment 9:* Trawling is very destructive. It destroys the bottom of the ocean and should not be operated at all. Trawl bycatch should not be measured in metric tons; it is extremely wasteful and harms the environment. All quotas need to be drastically reduced by 75 percent at a minimum.

*Response:* This final rule modifies the pollock and Pacific cod seasons and seasonal allocation in the WGOA and CGOA. This final rule does not change the overall allocation of GOA pollock quota, the methods for measuring the amount of bycatch, or management measures currently in place to protect marine benthic habitat in the GOA. Harvest quotas are set each year by NMFS and the Council through the annual harvest specification process. The public is invited to comment on the harvest specifications during the October and December Council meetings and when the harvest specification proposed rule is published in the **Federal Register** annually in the fall.

*Comment 10:* The best way to determine if this rule will actually lower or increase rates of bycatch and help with fixing management gaps is to implement 100 percent observer or electronic monitoring (EM) coverage on trawl vessels.

*Response:* This final rule modifies the pollock and Pacific cod seasons and seasonal allocation in the WGOA and CGOA. Section 2.6 of the Analysis describes the rationale for this action. The Analysis does not indicate that implementing 100 percent observer or EM coverage is necessary to accomplish the purpose of and need for this action. Further, NMFS has determined that the existing level of observer coverage provides the necessary level of information needed to manage bycatch and PSC limits. Therefore, this final rule does not change observer or EM coverage rates.

*Comment 11:* When debating these changes in regulation, please use bycatch reduction as the primary metric for determining which path to take. In the GOA trawl fishery as a whole, there is concern that the value of bycatch is exceeding the value of target species catch.

*Response:* NMFS acknowledges this comment. The Council and NMFS considered the effects of this action on bycatch. Section 3.3.1.3 of the Analysis and the response to Comment 5 above describe some ways that a reduction in bycatch could be achieved from this action. Section 4.5.1.3 of the Analysis describes the economic value of the GOA pollock and Pacific cod trawl fisheries. This action does not apply to all GOA trawl fisheries, and the Analysis does not compare the value of all GOA trawl fisheries to the bycatch in all GOA trawl fisheries.

## VII. Changes From Proposed to Final Rule

There were no changes to the regulatory text from the proposed rule to the final rule.

## VIII. Classification

The NMFS Assistant Administrator has determined that Amendment 109 is necessary for the conservation and management of the GOA Pacific cod fishery and that it is consistent with the Magnuson-Stevens Act, and other applicable law. Furthermore, the NMFS Assistant Administrator has determined that this final rule is consistent with the Council's regulatory amendment for GOA pollock, Amendment 109 to the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

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

*Regulatory Impact Review (RIR)*

An RIR was prepared to assess the costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS is recommending Amendment 109 and the regulatory revisions in this final rule based on those measures that maximized net benefits to the Nation.

*Certification Under the Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 4, 2020.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.20, revise paragraphs (a)(5)(iv)(B), (a)(12)(i) introductory text, (a)(12)(i)(A)(*3*), and (a)(12)(i)(B)(*4*) to read as follows:

**§ 679.20 General Limitations.**

* * * * *

(a) * * *

(5) * * *

(iv) * * *

(B) *GOA Western and Central Regulatory Areas seasonal apportionments.* Each apportionment established under paragraph (a)(5)(iv)(A) of this section will be divided into two seasonal apportionments corresponding to the two fishing seasons specified in § 679.23(d)(2) as follows: A Season, 50 percent; and B Season, 50 percent. Within any fishing year, underharvest or overharvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal TAC apportionment for the statistical area. The reapportionment of underharvest will be applied to the subsequent season within the same statistical area up to the 20 percent limit specified in this paragraph. Any underharvest remaining beyond the 20 percent limit may be further apportioned to the subsequent season in the other statistical areas, in proportion to estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment for the statistical area.

* * * * *

(12) * * *

(i) *Seasonal allowances by sector.* The Western and Central GOA Pacific cod TACs will be seasonally apportioned to each sector such that 63.84 percent of the Western GOA TAC is apportioned to the A season and 36.16 percent of the Western GOA TAC is apportioned to the B season, and 64.16 percent of the Central GOA TAC is apportioned to the A season and 35.84 percent of the Central GOA TAC is apportioned to the B season, as specified in § 679.23(d)(3).

(A) * * *

| Sector | Gear type | Operation type | Seasonal allowances | |
|---|---|---|---|---|
| | | | A season (in percent) | B season (in percent) |
| * | * | * | * | * |
| (*3*) | Trawl | Catcher vessel | 31.54 | 6.86 |
| * | * | * | * | * |

(B) * * *

| Sector | Gear type | Operation type | Length overall in feet | Seasonal allowances | |
|---|---|---|---|---|---|
| | | | | A season (in percent) | B season (in percent) |
| * | * | * | * | * | * |
| (*4*) | Trawl | Catcher vessel | Any | 25.29364 | 16.29047 |
| * | * | * | * | * | * |

* * * * *

■ 3. In § 679.23, revise paragraph (d)(2) to read as follows:

**§ 679.23 Seasons.**

* * * * *

(d) * * *

(2) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., May 31; and

(ii) *B season.* From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

* * * * *

[FR Doc. 2020–12453 Filed 6–24–20; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No.: 200610–0157]**

**RIN 0648–BJ88**

## Fisheries of the Exclusive Economic Zone Off Alaska; IFQ Program; Modify Temporary Transfer Provisions

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

**ACTION:** Temporary final rule; emergency action; request for comments.

**SUMMARY:** NMFS issues an emergency rule to modify the temporary transfer provision of the Individual Fishing Quota (IFQ) Program for the fixed-gear commercial Pacific halibut and sablefish fisheries for the 2020 IFQ fishing year. This emergency rule is intended to provide flexibility to quota share (QS) holders in 2020 while preserving the long-standing objective of maintaining an owner-operated IFQ fishery in future years. This emergency rule would not modify other provisions of the IFQ Program. This emergency rule is intended to promote the goals and objectives of the IFQ Program, the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, and other applicable laws.

**DATES:** Effective June 25, 2020 through December 22, 2020.

**ADDRESSES:** Electronic copies of the Regulatory Impact Review (referred to as the ''Analysis'') and the Categorical

Exclusion prepared for this emergency rule may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this emergency rule may be submitted to NMFS at the above address; by email to *OIRA_Submission@omb.eop.gov;* or by fax to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Warpinski, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

## Authority for Action

The North Pacific Fishery Management Council (Council) developed the IFQ Program for the commercial Pacific halibut (halibut) and sablefish fisheries. The IFQ Program for the sablefish fishery is implemented by the Bering Sea and Aleutian Islands (BSAI) Fishery Management Plan (FMP) and Federal regulations at 50 CFR part 679 under the authority of section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act).

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Halibut Act. The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62.

Section 5 of the Halibut Act, 16 U.S.C. 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. Section 5(c) of the Halibut Act also provides the Council with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary.

## Background

Government health mandates and travel restrictions during the 2020 IFQ season (March 14, 2020–November 15, 2020) may limit the ability of some fishery participants to travel to various ports in Alaska, and may constrain fishing operations while these provisions are in place. Existing regulatory limitations on the transfer of IFQ constrains the transfer of allocations to other fishery participants.

On April 7, 2020, NMFS received a request to consider emergency action under section 305(c) of the Magnuson-Stevens Act to revise the IFQ transfer provisions to provide greater flexibility to transfer IFQ to alleviate constraints imposed by ongoing health mandates and travel restrictions. On April 16, 2020, NMFS notified the Council of the request to provide an opportunity for the Council to consider the request. The Council held a special meeting on May 15, 2020, to consider this request, among other matters. The Council recommended that NMFS implement an emergency rule to provide greater flexibility to transfer IFQ.

The following sections describe the IFQ Program, the existing IFQ transfer provisions, and the emergency rule and justification for emergency action.

## The IFQ Program

The IFQ Program for the management of the fixed gear (hook-and-line and pot gear) halibut and sablefish fisheries off Alaska was implemented by NMFS in 1995 (58 FR 59375; November 9, 1993). A central objective of the IFQ Program is to support the social and economic character of the fisheries and the coastal fishing communities where many of these fisheries are based.

Under the IFQ Program, access to the fixed gear sablefish and halibut fisheries is limited to those persons holding quota share (QS). NMFS issued separate QS for sablefish and halibut to qualified applicants based on their historical participation during a set of qualifying years in the sablefish and halibut fisheries. QS is an exclusive, revocable privilege that allows the holder to harvest a specific percentage of either the total allowable catch (TAC) in the sablefish fishery or the annual commercial catch limit in the halibut fishery. In addition to being specific to sablefish or halibut, QS is designated for specific geographic areas of harvest, a specific vessel operation type (catcher vessel (CV) or catcher/processor), and for a specific range of vessel sizes that may be used to harvest the sablefish or halibut (vessel category). There are four vessel categories of halibut QS: Category A shares are designated for catcher/processors, vessels that process their catch at sea (*i.e.,* freezer longline vessels), and do not have a vessel length restriction; Category B shares are designated to be fished on CVs greater than 60 feet length overall (LOA); Category C shares are designated to be fished on CVs greater than 35 feet but less than or equal to 60 feet LOA; and Category D shares are designated to be fished on CVs less than or equal to 35 feet LOA.

NMFS annually issues IFQ permits to each QS holder. An annual IFQ permit authorizes the permit holder to harvest a specified amount of the IFQ species in a regulatory area from a specific operation type and vessel category. IFQ is expressed in pounds and is based on the amount of QS held in relation to the total QS pool for each regulatory area with an assigned catch limit.

Another goal of the IFQ Program is to promote an owner-operator fleet. To meet these goals, the IFQ Program includes restrictions on the ability of QS holders to transfer their annual IFQ. The Council and NMFS recognized that at the time the IFQ Program was implemented, some QS holders had long-standing business arrangements with hired masters who harvested IFQ on behalf of the QS holder. Therefore, the IFQ Program authorizes the use of hired masters in certain instances. Since the implementation of the IFQ Program, the Council has recommended and NMFS has approved further regulatory amendments to limit the ability of QS holders to designate a hired master to discourage absentee ownership and move towards an owner-operated program.

Halibut and sablefish are managed in separate geographic areas of harvest. The sablefish IFQ regulatory areas are defined and shown in Figure 14 to 50 CFR part 679 and in section 3 of the Analysis. The halibut IFQ areas are consistent with the IPHC's regulatory areas. NMFS's IFQ regulatory areas are described in Figure 15 to 50 CFR part 679. This proposed rule uses the term ''Area'' to refer to a specific IFQ regulatory area (*e.g.,* Area 2C).

### *Temporary IFQ Transfer Provisions*

The Council developed transfer restrictions to retain the owner-operator nature of the CV fisheries and limit consolidation of QS. Only persons who were originally issued CV QS (B and C for sablefish; B, C, and D for halibut) or who qualified as crew members are allowed to hold or purchase CV QS. Only individuals and initial recipients are eligible to hold CV QS and they are required to be on the vessel when the

IFQ is being fished (with a few exceptions). Since 1998, transfers of CV IFQ has generally been prohibited except under a few specific conditions. Temporary transfers of CV IFQ are allowed under six special circumstances: (1) Medical transfers, (2) beneficiary (survivorship) transfers, (3) military transfers, (4) transfers through Community Quota Entities, (5) transfers to Guided Angler Fish program, and (6) transfers to Community Development Quota groups in years of low halibut abundance. IFQ permits, and any associated transfers, are valid for a calendar fishing year.

*Medical Transfer Provision*

The IFQ Program includes a temporary medical transfer provision at 50 CFR 679.42(d)(2) that allows a quota holder not otherwise qualified to hire a master to temporarily transfer their annual IFQ to another individual if the quota holder or their immediate family member have a temporary medical condition that prevents them from fishing. The provision is intended to provide a mechanism for QS holders who are experiencing a temporary medical condition that would prevent them from fishing during a season to transfer their annual IFQ to another individual.

An applicant for a temporary medical transfer must document his or her medical condition by submitting an affidavit to NMFS from a healthcare provider that describes the medical condition affecting the applicant and attests to the inability of the applicant to participate in the IFQ fishery for which she or he holds QS. In the case of a family member's medical emergency, the affidavit must describe the necessity for the quota holder to tend to an immediate family member who suffers from the medical condition. The Council recommended and NMFS has implemented regulations that limit the number of instances that QS holders may use the provision for any medical condition. NMFS will not approve a medical transfer if the QS holder has been granted a medical transfer in any three of the previous seven years for a medical condition (starting in 2020).

*Hired Master Provision*

Initial recipients (excluding Areas 2C for halibut or SE for sablefish—these Areas correspond to Southeast Alaska) of CV QS may be absent from the vessel conducting IFQ fishing of his or her QS, provided the QS holder can demonstrate ownership of the vessel that harvests the IFQ halibut or sablefish (a minimum of at least 20 percent ownership interest in the vessel harvesting the IFQ for the 12 months prior to submitting the hired master application) and representation of the QS holder on the vessel by a hired master. This exception allows fishermen who traditionally operated their fishing businesses using hired masters prior to the IFQ Program implementation to continue to hire a master. By limiting the hired master provision to initial recipients, the use of this owner-on-board exception will decline and eventually cease with the transfer of all QS from initial recipients to new entrants (''second generation'').

The use of a hired master is not classified as a transfer of IFQ since the QS holder does not submit a transfer application and is responsible for the hired master staying within the harvest limits. While not technically a transfer, use of a hired master provides the flexibility of a transfer in that it allows an individual's IFQ to be harvested by another person without requiring the QS holder to directly participate in the fisheries.

Under existing regulations, individuals who can hire a master to fish their IFQ are not eligible to use the medical transfer provision. Those who can typically hire a master include initial recipients in all areas except for Southeast Alaska. Both initial recipients of Southeast Alaska halibut and sablefish QS and second generation QS holders are eligible to use the medical transfer provision. QS holders who own QS in multiple areas would make landings in different parts of the State to fish their QS. Many QS holders live outside of Alaska and travel into the State of Alaska to fish their IFQ.

**The Emergency Rule and Justification for Emergency Action**

This emergency rule implements temporary IFQ transfer provisions for the 2020 IFQ fishing year by revising regulations in two places. First, this emergency rule revises regulations at § 679.41(h)(2) to modify the conditions under which IFQ may be transferred by referring to a new regulatory paragraph at § 679.41(p). Second, the emergency rule adds a new regulatory paragraph at § 679.41(p) which describes the process for obtaining a temporary IFQ transfer for the 2020 IFQ fishing year.

The temporary IFQ transfer process described at § 679.41(p) is separate and distinct from the process that may be used to transfer IFQ under the hired master and medical transfer provisions previously described, or any other IFQ transfer provisions in existing regulations. Any temporary IFQ transfer under § 679.41(p) would be applicable only during the 2020 IFQ fishing year. This action allows all QS holders to transfer their IFQ for the remainder of the 2020 fishing year.

QS holders wishing to transfer their IFQ under this emergency rule need to complete an Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota found on *https://www.fisheries.noaa.gov/region/alaska.* A temporary IFQ transfer, like this emergency action, is valid only for the calendar year in which it is approved. All individual QS holders who hold CV IFQ would be eligible to use this temporary provision.

Although the temporary IFQ transfer provision described in § 679.41(p) is distinct from other IFQ transfer provisions in regulation, the process for QS holders to apply for a transfer, the NMFS review and approval process, are similar to those used for other IFQ transfer procedures in § 679.41.

Section 305(c) of the Magnuson-Stevens Act provides authority for rulemaking to address an emergency. Under that section, a Council may recommend emergency rulemaking if it finds an emergency exists as described below. NMFS's Policy Guidelines for the Use of Emergency Rules require that an emergency must exist and that NMFS have an administrative record justifying emergency regulatory action and demonstrating compliance with the Magnuson-Stevens Act and the National Standards (see NMFS Instruction 01–101–07 (March 31, 2008) and 62 FR 44421–01; August 21, 1997). Emergency rulemaking is intended for circumstances that are ''extremely urgent,'' where ''substantial harm to or disruption of the . . . fishery . . . would be caused in the time it would take to follow standard rulemaking procedures (62 FR 44421–01).''

Under NMFS' Policy Guidelines for the Use of Emergency Rules, the phrase ''an emergency exists involving any fishery'' is defined as a situation that meets the following three criteria:

(1) Results from recent, unforeseen events or recently discovered circumstances;

(2) Presents serious conservation or management problems in the fishery; and

(3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.

The following sections describe why the Council and NMFS determined that allowing transfer flexibility to all IFQ Program participants for the remainder

of the 2020 IFQ fishing year meets these criteria.

*Criterion 1—Recent, Unforeseen Events or Recently Discovered Circumstances*

Government health mandates and travel restrictions during the 2020 IFQ fishing year (March 14, 2020–November 15, 2020) may limit the ability of some fishery participants to travel to various ports in Alaska, and may constrain fishing operations while these provisions are in place. Fishery participants have stated that these measures have increased costs to QS holders who live outside of Alaska because meeting these requirements could result in up to 30–40 days of additional time needed to harvest IFQ. In addition to increased costs, reports of ex-vessel prices for halibut and sablefish have decreased substantially in many Alaskan ports due to recent and unforeseen market conditions (see Section 3 of the Analysis). State health mandates and travel restrictions have limited the ability to access fishing ports in a timely and cost-efficient manner and these restrictions were recent and unforeseen during the 2020 IFQ fishing year.

It is not known if health mandates and travel restrictions currently in place by the State of Alaska, municipalities, or other states will remain in effect throughout the duration of the 2020 IFQ fishing year. Even if these health mandates and travel restrictions are relieved, fishery participants may not be able to conduct fishing operations due to limited air travel to many Alaskan ports. Alternatively, health mandates and travel restrictions could be strengthened during the 2020 IFQ fishing year.

As noted earlier, existing hired master and medical transfer provisions are only available under specific conditions (*i.e.,* an individual may not be able to receive a medical transfer unless a health care provider attests that their medical condition precludes their participating in IFQ fisheries). Due to these limitations, and the recent and unforeseen limitations on the IFQ fisheries, an emergency action is required to provide all IFQ holders with the ability to transfer IFQ. Sections 3.2 and 3.3 of the Analysis provides additional detail on the hired master and medical transfer provisions.

*Criterion 2—Presents Serious Conservation or Management Problems in the Fishery*

Ongoing health mandates and travel restrictions present serious management problems in the IFQ fisheries. If there is not additional flexibility to transfer IFQ, some fishery participants may forego harvesting catch due to the additional costs and logistical challenges to comply with existing health mandates and travel restrictions.

If harvesters forego catch, this could result in the under-harvest of IFQ accounts. Under existing IFQ regulations, harvesters may ''roll over'' up to 10 percent of an IFQ permit's remaining balance to the following year (§ 679.40 (c)). However, anyone unable to harvest at least 90 percent of their allocation of IFQ would be at risk of foregoing harvests. Based on the harvest information in Section 3 of the Analysis, it is clear that halibut and sablefish are being harvested at substantially lower rates than in previous years. For example, during the first two months of the IFQ season (March 14–May 7), 54 percent less halibut was harvested, and 11 percent less sablefish was harvested than over the same period in 2019.

Given current harvest rates, ongoing health mandates, travel restrictions and other related logistical challenges facing the IFQ fisheries, additional flexibility in IFQ transfer provisions would increase the ability for harvesters to harvest, and processors to process a larger proportion of the overall TACs. This would directly address a serious management concern, the under harvest of allocations due to recent, unforeseen, and recently discovered events.

NMFS notes that this emergency action would not cause conservation concern by increasing the risk of overharvest of IFQ. The requested emergency action would not increase the halibut catch limits or the sablefish TACs. The total amount of IFQ issued would not increase. This emergency rule would not modify existing requirements on the types of vessels and gear that could be used, monitoring requirements, record keeping regulations, or other aspects of the IFQ Program.

*Criterion 3—Can Be Addressed Through Emergency Rulemaking for Which the Immediate Benefits Outweigh the Value of Notice and Comment Rulemaking*

NMFS and the Council have determined that the emergency situation created by ongoing health mandates, travel restrictions, and other related logistical challenges faced by the IFQ fisheries can be best addressed by emergency regulations. As explained earlier, not all QS holders are able to use existing regulatory provisions to transfer IFQ. Providing for a temporary transfer of IFQ for all CV QS holders for the 2020 IFQ fishing year would not create conservation or management concerns and is consistent with the overall goals of the IFQ Program—namely, to provide for the complete and efficient harvest of the halibut and sablefish resource (see Section 5 of the Analysis for additional detail).

To address the emergency, NMFS must implement an emergency rule that waives the notice-and-comment rulemaking period. The benefits of waiving notice-and-comment rulemaking will serve the industry and public by allowing for additional harvest of halibut and sablefish by IFQ participants. Any delay in implementing rulemaking will reduce opportunities to harvest halibut and sablefish. Section 4.2 of the Analysis describes the potential additional harvest opportunities for the IFQ participants in greater detail.

Without immediate implementation, the IFQ Program participants will not have sufficient time and ability to prosecute these fisheries as intended. The halibut and sablefish IFQ fisheries are harvested from numerous ports from hundreds of vessels that must be coordinated with other harvesting and processing activities. Increasing the flexibility for harvesters to transfer IFQ expeditiously will provide additional opportunity for halibut and sablefish to be harvested before the end of the IFQ fishing year. Otherwise, fishing time for some harvesters would be extremely limited or unavailable for the duration of the 2020 IFQ fishing year. For example, absent the waiver, harvesters with IFQ may not be able to travel to fishing ports under current or future health mandates, travel restrictions, or limited air travel with sufficient time to coordinate with other harvesters and processors. Vessel owners need time to secure crew, which may shift into other groundfish fisheries, non-groundfish fisheries or other activities if they are unable to secure adequate IFQ to support their fishing operations. In addition, vessel owners need sufficient lead time to revise fishing plans, restock vessels, change gear, and have the vessel travel to and from the fishing grounds to prosecute the IFQ fisheries.

This emergency action would not impose additional restrictions on the IFQ halibut and sablefish fisheries, but would alleviate limitations thereon. This emergency rule would not increase the amount of available harvests, increase any risk of overharvest, or otherwise modify conservation measures. This emergency rule is needed to allow for the complete and efficient harvest of the IFQ fisheries and to temporarily alleviate unforeseen economic and social consequences due to the recent and unforeseen limitations

on the IFQ fisheries detailed in this preamble.

The emergency action considerations discussed herein also warrant instituting these IFQ transfer measures in the halibut fisheries under the Halibut Act. The Halibut Act authorizes the Council to develop limited access program regulations for the halibut fisheries that, in another step, must then be approved by the Secretary. As discussed further below, emergency-based halibut fishery regulations that waive prior notice and comment and a 30-day delay in effectiveness period must be consistent with the requirements of the Administrative Procedure Act (APA).

**Classification**

The Assistant Administrator for Fisheries, NOAA, has determined that this emergency rule is consistent with the National Standards, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, the Halibut Act, and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

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

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) of the APA to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. This emergency rule would provide flexibility for QS holders to temporarily transfer their IFQ to an eligible individual to harvest their IFQ during the remainder of the 2020 IFQ fishing year. This emergency rule would apply only to CV QS that is held by individuals. This emergency rule would not modify any additional restrictions on IFQ transfers. This rule is in response to recent and unforeseen circumstances that have prompted increased restrictions in travel and health mandates. These restrictions present serious problems in managing the IFQ Program. Without the increased flexibility to temporarily transfer IFQ, it is likely that a significant portion of the harvest will be forgone. The associated loss in harvesting and processing revenues would likely impact the harvesters, crew, and communities that are active in the IFQ Program.

As explained earlier, after receiving a letter from industry participants on April 7, 2020, the Council and NMFS became aware of how restrictions may impact IFQ participants for the remainder of the 2020 IFQ fishing year. The Council and NMFS had no way of foreseeing the impact on fishery operations.

Finally, the time required for notice-and-comment rulemaking would not provide relief from the forgone harvests because it would not provide sufficient time before the end of the 2020 IFQ fishing year. The 2020 IFQ fishing year closes in November and there is not enough time to follow the standard rulemaking process prescribed by the Magnuson-Stevens Act and required by the APA. NMFS has no other way than this emergency rule to amend these IFQ transfer provisions in time to restore forgone fishing opportunities for 2020. Allowing for access to the remaining halibut and sablefish IFQ for the rest of 2020 will provide immediate economic benefits that outweigh the value of the deliberative notice-and-comment rulemaking process.

Similarly, for the reasons above that support the need to implement this emergency rule in a timely manner, the Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness provision of the APA and make the emergency rule effective immediately upon publication in the **Federal Register**. As stated above, NMFS anticipates that this emergency rule will allow for harvest of the remaining IFQ and should prevent prolonged economic losses from the potential forgone harvests.

The Analysis prepared for this emergency rule is available from NMFS (see **ADDRESSES**).

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

*Collection-of-Information Requirements*

This emergency rule contains a collection-of-information requirement subject to review and approval by the OMB under the Paperwork Reduction Act (PRA). NMFS has submitted an emergency information request for this requirement to OMB for approval under a new control number. Due to the need to begin collecting this information immediately, NMFS is unable to allow for the time periods normally required for clearance under the PRA. This new collection will be discontinued after the 2020 IFQ fishing season, which ends November 15, 2020.

This information collection adds a checkbox to the Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota (IFQ), which is approved under OMB Control Number 0648–0272. The checkbox will indicate the application is being submitted for a temporary transfer for the 2020 fishing year only. The public reporting burden for this form will remain at two hours, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS estimates up to 40 percent of the QS holders may request this temporary transfer. The new collection will cover the additional QS holders that NMFS estimates may use this form to request this temporary transfer. This will result in an estimated 1,100 respondents, 550 total responses, 1,110 total burden hours, and $12,100 total recordkeeping and reporting costs to the public for the new collection.

Send comments on these or any other aspects of the collection of information to NMFS Alaska Region (see **ADDRESSES**) and to OIRA by email to *OIRA_Submission@omb.eop.gov* or by fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *https://www.reginfo.gov/public/do/PRASearch#.*

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 22, 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 679 is amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In 679.41, revise paragraph (h)(2) and add paragraph (p) to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

* * * * *

(h) * * *

(2) IFQ resulting from categories B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraphs (d), (f), (k), (l), (m), (o), or (p) of this section.

* * * * *

(p) *Temporary IFQ transfer for 2020.* During the 2020 IFQ fishing year only, the Regional Administrator may approve a temporary transfer for IFQ derived from categories B, C, or D QS.

(1) A QS holder may apply for a temporary transfer by submitting an Application for Temporary Transfer of Halibut/Sablefish Individual Fishing Quota to the Alaska Region, NMFS. NMFS will transfer, upon approval of the application, the applicable IFQ from the applicant (transferor) to the recipient (transferee). The application is available at *http://alaskafisheries.noaa.gov* or by calling 1–800–304–4846.

(2) [Reserved]

[FR Doc. 2020–13710 Filed 6–24–20; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 85, No. 123
Thursday, June 25, 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 ENERGY

### 10 CFR Parts 430 and 431

**[EERE–2016–BT–TP–0011]**

**RIN 1904–AD95**

## Energy Conservation Program: Test Procedures for Residential and Commercial Clothes Washers

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

**ACTION:** Reopening of public comment period.

**SUMMARY:** The U.S. Department of Energy (''DOE'') is reopening the public comment period for its Request for Information (''RFI'') regarding test procedures for residential and commercial clothes washers. DOE published the RFI in the **Federal Register** on May 22, 2020, establishing a 30-day public comment period that ended June 22, 2020. On June 10, 2020, DOE received a comment requesting extension of the comment period by 30 days (and no less than two weeks). In addition, on June 11, 2020, DOE received a comment requesting extension of the comment period by 60 days. DOE is reopening the public comment period for submitting comments and data on the RFI to July 6, 2020.

**DATES:** The comment period for the RFI published on May 22, 2020 (85 FR 31065), is reopened. DOE will accept comments, data, and information regarding this RFI received no later than July 6, 2020.

**ADDRESSES:** Interested persons are encouraged to submit comments, identified by docket number EERE–2016–BT–TP–0011, by any of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Email: ResClothesWasher2016TP0011@ee.doe.gov.* Include the docket number EERE–2016–BT–TP–0011 and/or RIN 1904–AD95 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

*Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

*Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted.

*Docket:* For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov/#!docketDetail;D=EERE-2016-BT-TP-0011.*

The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index may not be publicly available, such as those containing information that is exempt from public disclosure.

The docket web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2016-BT-TP-0011.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:** On May 22, 2020, DOE published a RFI in the **Federal Register** soliciting public comment on its test procedures for residential and commercial clothes washers. 85 FR 31065. Comments were originally due on June 22, 2020. On June 10, 2020, DOE received a comment from Association of Home Appliance Manufacturers (''AHAM'') requesting extension of the comment period by 30 days (and no less than two weeks).[1] In addition, on June 11, 2020, DOE received a comment from the Appliance Standards Awareness Project (ASAP), Northwest Energy Efficiency Alliance (NEEA), Natural Resources Defense Council (NRDC), Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) to extend the DOE comment period for the Test Procedure RFI for Residential and Commercial Clothes Washers by 60 days, extending the comment submission deadline from June 22, 2020, to August 21, 2020.[2] DOE has reviewed the requests and considered the benefit to stakeholders in providing additional time to review the RFI and gather information/data that DOE is seeking. Accordingly, DOE has determined that a reopening of the comment period is appropriate, and will accept comments period until July 6, 2020. DOE will consider any comments received from June 22, 2020 through the end of the comment period to be timely submitted. DOE feels that the additional time provided is adequate for stakeholders to respond to the RFI.

[1] DOE has posted this comment to the docket at *https://www.regulations.gov/document?D=EERE-2016-BT-TP-0011-0002.*

[2] DOE has posted this comment to the docket at *https://www.regulations.gov/document?D=EERE-2016-BT-TP-0011-0003.*

**Signing Authority**

This document of the Department of Energy was signed on June 16, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 16, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2020–13279 Filed 6–24–20; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 153

**[CMS–9913–P]**

**RIN 0938–AU23**

### Amendments to the HHS-Operated Risk Adjustment Data Validation Under the Patient Protection and Affordable Care Act's HHS-Operated Risk Adjustment Program

*Correction*

In proposed rule document 11703, appearing on pages 33595–33617, in the issue of Tuesday, June 2, 2020, make the following changes:

1. On page 33600, in the first column, on the third and fourth lines, the equation should read ''If $GFR_{G,i} > UB_G$ or $GFR_{G,i} < LB_G$, And if $Freq_EDGE_{G,i} \geq 30$''

2. On the same page, in the second column, in the seventh and eighth lines following the center-set equation, should read ''$AdjRS_{i,e} = EdgeRS_{i,e} * (1 - Adjustment_{i,e})$''.

3. On page 33608, in the first column, on the second line, the equation should read ''$GFR_{G,i} = z_{G,i} * Sd\{GFR_G\} + \mu\{GFR_G\}$''.

4. On page 33611, in the third column, on the first line, the equation should read ''$b_r = outerZ_r - a * (outerZ_r) = outerZ_r * (1 - a)$''.

[FR Doc. C1–2020–11703 Filed 6–24–20; 8:45 am]

BILLING CODE 1301–00–D

# Notices

Federal Register

Vol. 85, No. 123

Thursday, June 25, 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

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2020–0058]**

### Notice of Request for Revision to and Extension of Approval of an Information Collection; Blood and Tissue Collection and Recordkeeping at Slaughtering, Rendering, and Approved Livestock Marketing Establishments and Facilities

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

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations governing approval and maintenance of livestock marketing establishments and facilities, listing blood and tissue collection and recordkeeping, and withdrawal or denial of livestock marketing facilities and slaughtering and rendering facilities.

**DATES:** We will consider all comments that we receive on or before August 24, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0058.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0058, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0058* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** For information on the regulations for slaughtering and rendering facilities, contact Dr. Debra Cox, Senior Staff Veterinarian (Surveillance), Ruminant Health Center, VS, APHIS, USDA, Strategy & Policy, 4700 River Road, Unit 43, Riverdale, MD 20737; (301) 851–3504; email: *Debra.C.Cox@usda.gov*. For information on the regulations for livestock marketing establishments, contact Dr. Alexander Turner, Assistant Director, National Animal Disease Traceability & Veterinary Accreditation Center, VS, APHIS, USDA, Strategy & Policy, 2150 Centre Avenue, Building B, Mailstop 3E86, Room 3E100, Fort Collins, CO 80526; Office: (970) 494–7353; Mobile: (970) 556–3568; email: *Alexander.K.Turner@usda.gov.* For information on the information collection process, contact Mr. Joseph Moxey, APHIS Information Collection Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Blood and Tissue Collection and Recordkeeping at Slaughtering, Rendering, and Approved Livestock Marketing Establishments and Facilities.

*OMB Control Number:* 0579–0212.

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

*Abstract:* The U.S. Department of Agriculture (USDA) is authorized to prevent the interstate spread of livestock diseases and to eradicate such diseases from the United States when feasible under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*). Under 7 U.S.C. 8301, the USDA, Animal and Plant Health Inspection Service (APHIS), carries out this prevention and eradication mission, and APHIS' Veterinary Services (VS) program conducts animal disease surveillance and testing using procedures and agreements prescribed in 9 CFR part 71.

Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing the United States' ability to compete in international animal and animal product trade. A key element of this approach is the restricted interstate movement of livestock within the United States to mitigate the spread of diseases, allowing APHIS to use livestock movement records to conduct disease surveillance to protect the health of livestock and poultry populations. Epidemiological data from blood and tissue sampling is used to assess the prevalence of disease and to identify its source. Coupled with animal identification, blood and tissue test results are used to trace the movement of an animal that tests positive and identify other animals it may have come into contact with that may also be diseased.

When a disease is suspected in a given area, sampling is used to determine its presence or absence and to estimate the incidence or prevalence if it is present. The amount of sampling may increase in selected areas when a disease outbreak is suspected, then reduced in that area when sufficient tests have been done to prove the suspicion was unfounded or, if found, after the disease is eradicated. Sampling is also used to provide data for new or updated risk analyses in support of disease control programs, and, as required, opening international markets for animal products.

Regulations in §§ 71.20 and 71.21 authorize APHIS to conduct disease surveillance and blood and tissue sampling activities using livestock facility agreements and listing agreements between APHIS and owners and operators of slaughtering and rendering establishments and livestock marketing facilities. APHIS requires all livestock facilities that enter into approval of livestock facility agreements (which are voluntary) to record animal identification, make timely notifications, keep certain records, and take other actions that facilitate tracking animal movements and identifying possible disease occurrences. APHIS requires all slaughtering and rendering establishments that receive livestock or poultry interstate to enter listing agreements that permit the Agency to conduct blood and tissue sampling at the facilities. The agreements are critical during disease outbreaks as they reduce delays in assessments and, subsequently, disease spread.

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

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

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

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

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

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

*Estimate of burden:* The public burden for this collection of information is estimated to average 0.15 hour per response.

*Respondents:* State animal health officials, accredited veterinarians, and livestock marketing, slaughtering, and rendering establishment owners and employees.

*Estimated annual number of respondents:* 784.

*Estimated annual number of responses per respondent:* 8.5.

*Estimated annual number of responses:* 6,635.

*Estimated total annual burden on respondents:* 993 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 22nd day of June 2020.

**Mark Davidson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2020–13735 Filed 6–24–20; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2020–0055]**

### Notice of Request for Extension of Approval of an Information Collection; Bees and Related Articles

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the regulations for the importation of bees and related articles into the United States.

**DATES:** We will consider all comments that we receive on or before August 24, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0055.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0055, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0055* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** For information on the regulations for the importation of bees and related articles, contact Mr. Wayne Wehling, Senior Entomologist, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2336; *wayne.f.wehling@usda.gov.* For information on the information collection process, contact Mr. Joseph Moxey, APHIS Information Collection Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Bees and Related Articles.

*OMB Control Number:* 0579–0207.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* The Plant Protection Act (7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.

Under the Honeybee Act (7 U.S.C. 281 through 286), the Secretary is authorized to prohibit or restrict the importation of honeybees and honeybee semen to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species such as the African honeybee. This authority has been delegated to the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

The establishment of certain bee diseases, parasites, or undesirable species and subspecies of honeybees in the United States could cause substantial reductions in pollination by bees. These reductions could cause serious damage to crops and other plants and result in substantial financial losses to American agriculture.

Regulations for the importation of honeybees and honeybee semen and regulations to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping products, and used beekeeping equipment are contained in 7 CFR part 322, ''Bees, Beekeeping Byproducts, and Beekeeping Equipment.'' These regulations require the use of certain information collection activities, including application for a permit, State consultation, written agreement to permit conditions, appealing denial of a permit application or revocation of permit, packaging and labeling, notice of arrival for shipments from approved regions, transit shipment, port of entry inspection, notification of escaped organisms, emergency action notification, request for release, request for risk assessment, request for facility approval, and recordkeeping for containment facilities.

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

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

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the

Agency, including whether the information will have practical utility;

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

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

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

*Estimate of burden:* The public burden for this collection of information is estimated to average 0.25 hours per response.

*Respondents:* Importers, exporters, and shippers of bees and related articles; foreign and State governments; and containment facilities.

*Estimated annual number of respondents:* 18.

*Estimated annual number of responses per respondent:* 12.

*Estimated annual number of responses:* 210.

*Estimated total annual burden on respondents:* 50 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 19th day of June 2020.

**Mark Davidson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2020–13686 Filed 6–24–20; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2020–0048]**

### J.R. Simplot Company; Availability of a Request and Plant Pest Risk Similarity Assessment for an Extension of a Determination of Nonregulated Status for Z6 Potatoes With Late Blight Protection, Low Acrylamide Potential, Lowered Reducing Sugars, and Reduced Black Spot

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has received a request to extend our determination of nonregulated status of J.R. Simplot Company's (Simplot's) W8 potato to event Z6 (hereafter Z6 potato). Z6 potato has been genetically engineered for late blight protection, low acrylamide potential, lowered reducing sugars, and reduced black spot using the same construct and method of transformation as W8 potato. We are making available for public comment the request and our plant pest risk similarity assessment and preliminary determination of nonregulated status.

**DATES:** We will consider all comments that we receive on or before July 27, 2020.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0048.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

The Simplot extension request, our plant pest risk similarity assessment and preliminary determination of nonregulated status, and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0048* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Eck, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737–1236; (301) 851–3892, email: *cynthia.a.eck@usda.gov.*

**SUPPLEMENTARY INFORMATION:** Under the authority of the plant pest provisions of the Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms (GE) and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

On September 2, 2015,[1] APHIS announced its determination of nonregulated status of J.R. Simplot Company's (Simplot's) W8 potato (*Solanum tuberosum*), which was genetically engineered for late blight protection, low acrylamide potential, lowered reducing sugars, and reduced black spot. APHIS has received a request for an extension of that determination of nonregulated status of W8 potato to potato designated as event Z6 (APHIS Petition Number 19_099–02p), also from Simplot. Z6 potato also expresses late blight protection, low acrylamide potential, lowered reducing sugars, and reduced black spot. In its request, Simplot stated that this potato is similar to the antecedent organism W8 potato and, based on the similarity to the antecedent organism, is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the extension request, Z6 potato was developed using the same constructs and method of transformation as W8 potato. Based on the information in the request, we have concluded that Z6 potato is similar to W8 potato. Z6 potato is currently regulated under 7 CFR part 340.

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS evaluates the plant pest risk of the article. In section 403 of the PPA, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

[1] *https://www.regulations.gov/document?D=APHIS-2014-0076-0160.*

APHIS has prepared a plant pest risk similarity assessment (PPRSA) to compare Z6 potato to the antecedent. As described in the PPRSA, the same genetic constructs used in W8 potato were previously used in Z6 potato, and APHIS has concluded that W8 potato is unlikely to pose a plant health risk. Therefore, based on the similarity between Z6 potato and W8 potato as described in the PPRSA, APHIS has concluded that Z6 potato is no more likely to pose a plant pest risk than W8 potato.

APHIS has analyzed information submitted by Simplot, references provided in the extension request, peer-reviewed publications, and supporting documentation prepared for the antecedent organism. Based on APHIS' analysis of this information and the similarity of Z6 potato to the antecedent organism W8 potato, APHIS has determined that Z6 potato is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to approve the request to extend the determination of nonregulated status of W8 potato to Z6 potato, whereby Z6 potato would no longer be subject to our regulations governing the introduction of certain genetically engineered organisms.

Paragraph (e) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** announcing all preliminary decisions to extend determinations of nonregulated status for 30 days before the decisions become final and effective. In accordance with § 340.6(e) of the regulations, we are publishing this notice to inform the public of our preliminary decision to extend the determination of nonregulated status of W8 potato to Z6 potato.

APHIS will accept written comments on the request for extension, PPRSA, and our preliminary determination for Z6 potato for 30 days. These documents are available for public review as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. All comments will be available for public review. After reviewing and evaluating the comments, APHIS will furnish a response to the petitioner regarding our final regulatory determination. APHIS will also publish a notice in the **Federal Register** announcing the regulatory status of Z6 potato.

**National Environmental Policy Act**

Previous requests for extension of nonregulated status were often accompanied by environmental documentation prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

However, on May 24, 2018, APHIS issued a final rule (83 FR 24003–24011, Docket No. APHIS–2013–0049) that revised our NEPA Implementing Procedures in 7 CFR part 372. Among other revisions, it added extensions of nonregulated status under 7 CFR part 340 to organisms similar to those already deregulated to the categories of APHIS actions that meet the criteria for categorical exclusion.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 22nd day of June 2020.

**Mark Davidson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2020–13711 Filed 6–24–20; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

**[DOCLET #: RBS–20–CO–OP–2020]**

### Inviting Applications for Socially-Disadvantaged Groups Grants

**AGENCY:** Rural Business—Cooperative Service, USDA.

**ACTION:** Notice of Funding Availability.

**SUMMARY:** This Notice announces that the Rural Business-Cooperative Service (Agency) is announcing fiscal year (FY) 2020 funding for applications for the Socially-Disadvantaged Groups Grant (SDGG) program. The program funding level for FY2020 is a total of $3.0 million. Detailed information can be found on the SDGG website located at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Expenses incurred in developing applications are the responsibility of the applicant.

The purpose of this program is to provide technical assistance to Socially-Disadvantaged Groups in rural areas. Eligible applicants include Cooperatives, Groups of Cooperatives, and Cooperative Development Centers. This program supports Rural Development's (RD) mission of improving the quality of life for rural Americans and commitment to directing resources to those who most need them.

**DATES:** Completed applications for grants must be submitted electronically by no later than midnight Eastern Time August 10, 2020, through *http://www.grants.gov* to be eligible for grant funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/organization-registration.html* for instructions on the process of registering your organization as soon as possible to ensure that you are able to meet the electronic application deadline. Late applications are not eligible for funding under this Notice and will not be evaluated.

**ADDRESSES:** You are encouraged to contact your USDA Rural Development State Office well in advance of the application deadline to discuss your project and ask any questions about the application process. Contact information for State Offices can be found at: *http://www.rd.usda.gov/contact-us/state-offices.*

Program guidance as well as application templates may be obtained at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant* or by contacting your State Office. To submit an electronic application, follow the instructions for the SDGG funding announcement located at *http://www.grants.gov.* Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/organization-registration.html* for instructions on the process of registering your organization as soon as possible to ensure you can meet the electronic application deadline. You are strongly encouraged to file your application early and allow sufficient time to manage any technical issues that may arise.

**FOR FURTHER INFORMATION CONTACT:** David Chestnut, Branch Chief, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop-3226, Room 4204-South, Washington, DC 20250–3226, (202) 692–5233 or email *David.chestnut@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

**Preface**

The Agency encourages applications that will support recommendations made in the Rural Prosperity Task Force report to help improve life in rural America. *https://www.usda.gov/topics/rural/rural-prosperity.* Applicants are

encouraged to consider projects that provide measurable results in helping rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Key strategies include:

- Achieving e-Connectivity for rural America
- Developing the Rural Economy
- Harnessing Technological Innovation
- Supporting a Rural Workforce
- Improving Quality of Life

**Overview**

*Federal Agency Name:* USDA Rural Business-Cooperative Service.

*Funding Opportunity Title:* Socially-Disadvantaged Groups Grant.

*Announcement Type:* Initial Notice.

*Catalog of Federal Domestic Assistance Number:* 10.871.

*Dates:* Application Deadline. Your electronic application must be received by *http://www.grants.gov* no later than midnight Eastern Time, by August 10, 2020, or it will not be considered for funding.

The Application Template provides specific, detailed instructions for each item of a complete application. The Agency emphasizes the importance of including every item and strongly encourages applicants to follow the instructions carefully, using the examples and illustrations in the Application Template. Prior to official submission of applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made prior to July 27, 2020. Agency contact information can be found in Section D of this document.

*Hemp Related Projects*

Hemp related projects: Please note that no assistance or funding can be provided to a hemp producer unless they have a valid license issued from an approved State, Tribal or Federal plan as per Section 10113 of the Agriculture Improvement Act of 2018, Public Law 115–334. Verification of valid hemp licenses will occur at the time of award.

*Persistent Poverty Counties*

The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), SEC. 740 designates funding for projects in Persistent Poverty counties. Persistent Poverty counties as defined in SEC. 740 is ''any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States''. Another provision in SEC. 740 expands the eligible population in Persistent Poverty counties to include any county seat of such a persistent poverty county that has a population that does not exceed the authorized population limit by more than 10 percent. This provision expands the current 50,000 population limit to 55,000 for only county seats located in Persistent Poverty counties. Therefore, applicants and/or beneficiaries of technical assistance services located in Persistent Poverty county seats with populations up to 55,000 (per the 2010 Census) are eligible.

COVID–19 Administrative Relief Exceptions: The Agency reviewed the Office of Budget and Management's (OMB) M–20–26 memorandum ''Extension of Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19) due to Loss of Operations'' and has made every attempt to reduce administrative burden within our authority. Any reduction in burden will be discussed within the requirement.

The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification on materials contained in the submitted application. See the Application Guide for a full discussion of each item. For requirements of completed grant applications, refer to Section D of this document.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0052.

*A. Program Description*

The SDGG program is authorized by section 310B (e)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932 (e)(11)) as amended by the Agriculture Improvement Act of 2018 (Pub. L. 115–334). The primary objective of the SDGG program is to provide Technical Assistance to Socially-Disadvantaged Groups. Grants are available for Cooperative Development Centers, individual Cooperatives, or Groups of Cooperatives that serve Socially-Disadvantaged Groups and where a majority of their board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

Definitions

*The definitions you need to understand are as follows:*

*Agency*—Rural Business-Cooperative Service, an agency of the United States Department of Agriculture (USDA) Rural Development or a successor agency.

*Conflict of Interest*—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. Examples of conflicts of interest include using grant funds to pay a member of the applicant's board of directors to provide proposed Technical Assistance to Socially-Disadvantaged Groups; pay a cooperative member to provide proposed Technical Assistance to other members of the same cooperative; and pay an immediate family member of the applicant to provide proposed Technical Assistance to Socially-Disadvantaged Groups.

*Cooperative*—A business or organization owned by and operated for the benefit of those using its services and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Profits and earnings generated by the cooperative are distributed among the members, also known as user-owners.

*Cooperative Development Center*—A nonprofit corporation or institution of higher education operated by the grantee for cooperative or business development and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. It may or may not be an independent legal entity separate from the grantee.

*Feasibility Study*—An analysis of the economic, market, technical, financial, and management feasibility of a proposed Project.

*Group of Cooperatives*—A group of Cooperatives whose primary focus is to provide assistance to Socially-

Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. One of the Cooperatives must be designated as the lead entity and have legal authority to contract with the Federal Government.

*Operating Cost*—The day-to-day expenses of running a business; for example: utilities, rent on the office space a business occupies, salaries, depreciation, marketing and advertising, and other basic overhead items.

*Participant Support Costs* – Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

*Project*—Includes all activities to be funded by the Socially-Disadvantaged Groups Grant.

*Rural and Rural Area*—Any area of a State:

(1) Not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States; and

(2) The contiguous and adjacent urbanized area,

(3) Urbanized areas that are rural in character as defined by 7 U.S.C. 1991 (a) (13).

(4) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State. Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu census designated place (CDP) or the San Juan CDP.

*Rural Development*—A mission area within USDA consisting of the Office of Under Secretary for Rural Development, Rural Business-Cooperative Services, Rural Housing Service, and Rural Utilities Service and any successors.

*Socially-Disadvantaged Group*—A group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

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

*Technical Assistance*—An advisory service performed for the purpose of assisting Cooperatives or groups that want to form Cooperatives such as market research, product and/or service improvement, legal advice and assistance, Feasibility Study, business planning, marketing plan development, and training.

*B. Federal Award Information*

*Type of Award:* Competitive Grant.
*Fiscal Year Funds:* FY2020.
*Total Funding:* $3,000,000.
*Maximum Award:* $175,000.
*Project Period:* 1 year.
*Anticipated Award Date:* September 30, 2020.

*C. Eligibility Information*

Applicants must meet all the following eligibility requirements. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

1. *Eligible Applicants.* Grants may be made to individual Cooperatives, Groups of Cooperatives, and Cooperative Development Centers that serve Socially-Disadvantaged Groups and where a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. You must be able to verify your legal structure in the State or the tribe under which you are incorporated. Grants may not be made to public bodies or to individuals. Your application must demonstrate that you meet all definition requirements for one of the three eligible applicant types as defined above under Program Description. Federally-recognized tribes have a government-to-government relationship with the United States and may have difficulty meeting the definition requirements. Therefore, it is recommended that they utilize a separate entity, such as a tribally-owned business, tribal authority, tribal non-profit, tribal College or University to apply for SDGG funding that would provide Technical Assistance to members of the tribe. This separate tribal entity must also demonstrate that it meets all definition requirements for one of the three eligible applicant types as defined above.

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

(b) Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. Note: Corporations no longer must complete the Form AD 3030, ''Representation Regarding Felony Corporations and Tax Delinquent Status for Corporate Applicants'' as a part of the application. This information is now collected through registration or annual recertification in *SAM.gov* via the Financial Assistance General Certifications and Representations. Institutions of Higher Education are not required to submit this form.

2. *Cost Sharing or Matching.* No matching funds are required.

3. *Other Eligibility Requirements.*

*Use of Funds:* Your application must propose Technical Assistance that will benefit Socially-Disadvantaged Groups. Cooperatives that are recipients of Technical Assistance must have a membership that consists of a majority of members from Socially-Disadvantaged Groups. Please review section D (6) of this Notice, ''Funding Restrictions,'' carefully.

*Project Eligibility:* The proposed Project must only serve members of

Socially-Disadvantaged Groups in Rural Areas.

*Grant Period Eligibility:* Your application must include a grant period of one-year or less or it will not be considered for funding. The proposed time frame should begin no earlier than October 1, 2020 and end no later than December 31, 2021. Applications that request funds for a time period ending after December 31, 2021, will not be considered for funding. You should note that the anticipated award date is September 30, 2020. Projects must be completed within the 12-months or less time frame.

The Agency may approve requests to extend the grant period for up to an additional 12 months at its discretion. However, you may not have more than one SDGG during the same grant period. If you extend the period of performance for your current award, you may be deemed ineligible to receive a SDGG in the next grant cycle. Further guidance on grant period extensions will be provided in the award document. The Agency understands that fiscal year 2019 recipients may have had loss of operations due to COVID–19 and will work with them to determine an acceptable grant period if they are awarded in fiscal year 2020 in accordance with OMB Memoranda M–20–26 and 2 CFR 200.308.

*Satisfactory performance eligibility:* You must be performing satisfactorily on any outstanding SDGG award to be considered eligible for a new award. Satisfactory performance includes being up-to-date on all financial and performance reports as prescribed in the grant award, and current on tasks and timeframes for utilizing grant and matching funds as approved in the work plan and budget. If you have any unspent grant funds on SDGG awards prior to FY 2019, your application will not be considered for funding. If your FY 2019 award has unspent funds of 50 percent or more than what your approved work plan and budget projected at the time of evaluation of your FY 2020 application, your FY 2020 application may not be considered for funding. The Agency will verify the performance status of FY 2019 awards and make a determination after the FY 2020 application period closes. The Agency understands that fiscal year 2019 recipients may have had a loss of operations due to COVID–19 and will consider providing flexibility in terms of fund utilization on FY 19 awards with acceptable justification of delays resulting from the COVID–19 pandemic in accordance with OMB Memorandum M–20–26 and 2 CFR 200.343.

*Completeness Eligibility:* Your application must provide all the information requested in Section D (2) of this Notice. Applications lacking sufficient information to determine eligibility and scoring will be considered ineligible.

*Duplication of current services.* Your application must demonstrate that you are providing services to new customers or new services to current customers. If your work plan and budget is duplicative of your existing award, your application will not be considered for funding. If your work plan and budget is duplicative of a previous or existing Rural Cooperative Development Grant (RCDG) and/or SDGG award, your application will not be considered for funding. Please note that the Agency only allows one active award to ensure that there is no duplication of services. The Agency will work with FY 2019 recipients who request an extension of their FY 2019 award due to COVID–19 loss of operations to determine an acceptable grant period if they are awarded in fiscal year 2020 in accordance with OMB Memorandum M–20–26 and 2 CFR 200.343. Thus, requesting an extension on a FY 2019 award is not cause for deeming a FY 2020 application ineligible.

*Multiple Grant Eligibility:* You may only submit one SDGG grant application each funding cycle. If two applications are submitted (regardless of the applicant name) that include the same Executive Director and/or advisory boards or committees of an existing cooperative or cooperative development center, both applications will be determined ineligible for funding.

*D. Application and Submission Information*

1. Address To Request Application Package

The application template to assist you in applying for this funding opportunity is located at *http://www.rd.usda.gov/programs-services/socially-disadvantaged-groups-grant.* Use of the application template is strongly recommended to assist you with the application process. You may also contact your USDA RD State Office for more information. Contact information for State Offices is located at *http://www.rd.usda.gov/contact-us/state-offices.*

2. Content and Form of Application Submission

You must submit your application electronically through *Grants.gov*. Your application must contain all required information.

To apply electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept applications through mail or courier delivery, in-person delivery, email, or fax.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a DUNS number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov* (see paragraph (a) below for more on flexibility).

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

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

Your application must also contain the following required forms and proposal elements:

(a) Standard Form SF–424, ''Application for Federal Assistance,'' to include your DUNS number. You must also provide your SAM Commercial and Government Entity (CAGE) Code and expiration date under the applicant eligibility discussion in your proposal narrative. If you do not include the CAGE code and expiration date and the DUNS number in your application, it will not be considered for funding. In accordance with OMB Memoranda M–20–26, the Agency can accept an application without an active SAM registration. However, the registration must be completed before an award is made. Current registrants in SAM with active registrations expiring before May 16, 2020 will be afforded a one-time extension of 60 days.

(b) Form SF–424A, ''Budget Information-Non-Construction Programs.'' This form must be completed and submitted as part of the application package. You no longer must complete the Form SF 424B, ''Assurances—Non- Construction Programs'' as a part of your application. This information is now collected

through your registration or annual recertification in *SAM.gov* through the Financial Assistance General Certifications and Representation.

(c) You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. You must also certify that you are not delinquent on the payment of Federal income taxes, or any Federal debt. There is no standard form to complete, but to satisfy the Certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

(d) Table of Contents. Your application must contain a detailed Table of Contents (TOC). The TOC must include page numbers for each part of the application. Page numbers should begin immediately following the TOC.

(e) Executive Summary. A summary of the proposal, not to exceed one page, must briefly describe the Project, tasks to be completed, and other relevant information that provides a general overview of the Project.

(f) Eligibility Discussion. A detailed discussion, not to exceed four pages, must describe how you meet the following requirements:

(1) Applicant Eligibility. You must describe how you meet the definition of a Cooperative, Group of Cooperatives, or Cooperative Development Center. Your application must show that your individual Cooperative, Group of Cooperatives or Cooperative Development Center serves Socially-Disadvantaged Groups and a majority of the board of directors or governing board is comprised of individuals who are members of Socially-Disadvantaged Groups. Your application must include a list of your board of directors/governing board and the percentage of board of directors/governing board that are members of Socially-Disadvantaged Groups. NOTE: Your application will not be considered for funding if you fail to show that a majority of your board of directors/governing board is comprised of individuals who are members of Socially-Disadvantaged Groups.

You must verify your incorporation and status in the State that you have applied by providing the State's or Tribe's Certificate of Good Standing and your Articles of Incorporation. You may also submit your Bylaws if they provide additional information not included in your Articles of Incorporation that will help verify your legal status. If applying as an institution of higher education, documentation verifying your legal status is not required; however, you must demonstrate that you qualify as an Institution of Higher Education as defined at 20 U.S.C. 1001. You must apply as only one type of applicant. The requested verification documents should be included in Appendix A of your application. If they are not included, your application will not be considered for funding.

(2) Use of Funds. You must provide a brief discussion on how the proposed Project activities meet the definition of Technical Assistance and identify the Socially-Disadvantaged Groups that will be assisted.

(3) Project Area. You must provide specific information that details the location of the Project area and explain how the area meets the definition of ''Rural Area.''

(4) Grant Period. You must provide a time frame for the proposed Project and discuss how the Project will be completed within that time frame. You must have a time frame of one year or less.

(5) Indirect Costs. Please indicate if you have a Negotiated Indirect Cost Rate Agreement (NICRA), and if so, the rate. Your negotiated indirect cost rate approval does not need to be included in your application, but you will be required to provide it if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

(g) Scoring Criteria. Each of the scoring criteria in this Notice must be addressed in narrative form, with a maximum of three pages for each individual scoring criterion, unless otherwise specified. Failure to address each scoring criteria will result in the application being determined ineligible.

(h) The Agency has established annual performance evaluation measures to evaluate the SDGG program. You must provide estimates on the following performance evaluation measures as part of your narrative:

- Number of cooperatives assisted; and
- Number of socially disadvantaged groups assisted.

3. DUNS Number and SAM

To be eligible (unless you are excepted under 2 CFR 25.110(b), (c) or (d)), you are required to:

(a) Provide a valid DUNS number in your application, which can be obtained at no cost via a toll-free request line at (866) 705–5711;

(b) Register in SAM before submitting your application. You may register in SAM at no cost at *https://www.sam.gov/portal/public/SAM/*. You must provide your SAM CAGE Code and expiration date. When registering in SAM, you must indicate you are applying for a Federal financial assistance project or program or are currently the recipient of funding under any Federal financial assistance project or program; and

(c) The SAM registration must remain active with current information at all times while the Agency is considering an application or while a Federal grant award or loan is active. To maintain the registration in the SAM database the applicant must review and update the information in the SAM database annually from date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

If you have not fully complied with all applicable DUNS and SAM requirements, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use that determination as a basis for making an award to another applicant. In accordance with OMB Memoranda M–20–26, the Agency can accept an application without an active SAM registration. However, the registration must be completed before an award is made. Current registrants in SAM with active registrations expiring before May 16, 2020 will be afforded a one-time extension of 60 days. Please refer to Section F. 2 for additional submission requirements that apply to grantees selected for this program.

4. Submission Dates and Times

*Application Deadline Date:* August 10, 2020.

*Explanation of Deadline:*

Electronic applications must be RECEIVED by *http://www.grants.gov* by midnight Eastern Time August 10, 2020, to be eligible for funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/organization-registration.html* for instructions on the process of registering your organization as soon as possible to ensure you can meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. Intergovernmental Review

Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many States have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of States that maintain a SPOC, please see the White House website: *https://www.whitehouse.gov/wp-content/uploads/2017/11/SPOC-Feb.-2018.pdf*. If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your State has not established a SPOC, or if you do not want to submit a copy of the application, our State Offices will submit your application to the SPOC or other appropriate agency or agencies.

6. Funding Restrictions

Grant funds must be used for Technical Assistance. No funds made available under this solicitation shall be used to:

(a) Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

(b) Purchase, rent, or install fixed equipment, including processing equipment;

(c) Purchase vehicles, including boats;

(d) Pay for the preparation of the grant application;

(e) Pay expenses not directly related to the funded Project;

(f) Fund political or lobbying activities;

(g) Fund any activities considered unallowable by the applicable grant cost principles, including 2 CFR part 200, subpart E and the Federal Acquisition Regulation;

(h) Fund architectural or engineering design work for a specific physical facility;

(i) Fund any direct expenses for the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

(j) Fund research and development;

(k) Purchase land;

(l) Duplicate current activities or activities paid for by other Federal grant programs;

(m) Pay costs of the Project incurred prior to the date of grant approval;

(n) Pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(o) Pay any judgment or debt owed to the United States;

(p) Pay any Operating Costs of the Cooperative, Group of Cooperatives, or Cooperative Development Center not directly related to the Project;

(q) Pay expenses for applicant employee training or professional development not directly related to the Project;

(r) Pay for any goods or services from a person who has a Conflict of Interest with the grantee; or

(s) Pay for Technical Assistance provided to a Cooperative that does not have a membership that consists of a majority of members from Socially-Disadvantaged Groups.

In addition, your application will not be considered for funding if it does any of the following:

- Requests more than the maximum grant amount;
- Proposes ineligible costs that equal more than 10 percent of total grant funds requested; or
- Proposes Participant Support Costs that equal more than 10 percent of total grant funds requested.

We will consider your application for funding if it includes ineligible costs of 10 percent or less of total grant funds requested, if it is determined eligible otherwise. However, if your application is successful, those ineligible costs must be removed and replaced with eligible costs before the Agency will make the grant award or the amount of the grant award will be reduced accordingly. If we cannot determine the percentage of ineligible costs, your application will not be considered for funding.

7. Other Submission Requirements

(a) Applications will not be accepted if the text is less than an 11-point font. You must submit your application electronically, through *Grants.gov*. You can find State Office contact information at: *http://www.rd.usda.gov/contact-us/state-offices.* You must follow the instructions for this funding announcement at *http://www.grants.gov.* A password is not required to access the website.

(b) National Environmental Policy Act. This Notice has been reviewed in accordance with 7 CFR part 1970, ''Environmental Policies and Procedures.'' We have determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's National Environmental Policy Act (NEPA) regulation found at 7 CFR 1970.53(f). We have determined that this Notice does not constitute a major Federal action significantly affecting the quality of the human environment.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

(c) Civil Rights Compliance Requirements. All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973.

*E. Application Review Information*

The State Offices will review applications to determine if they are eligible for assistance based on requirements in this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. A recommendation will be submitted to the Administrator to fund applications in highest ranking order. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion.

1. Scoring Criteria

All eligible and complete applications will be evaluated based on the following criteria. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual evaluation criterion. SDGG is a competitive program, so you will receive scores based on the quality of your responses. Simply addressing the criteria will not guarantee higher scores. The total points possible for the criteria are 105.

(a) *Technical Assistance (maximum score of 25 points)*—Three-page limit. A panel of USDA employees will evaluate your application to determine your ability to assess the needs of and provide effective Technical Assistance to Socially-Disadvantaged Groups. You must discuss the:

(1) Needs of the Socially-Disadvantaged Groups to be assisted and explain how those needs were determined,

(2) Proposed Technical Assistance to be provided to the Socially-Disadvantaged Groups; and

(3) Expected outcomes of the proposed Technical Assistance, including how Socially-Disadvantaged Groups will benefit from participating in the Project. You will score higher on this criterion if you provide examples of past projects that demonstrate successful outcomes in identifying specific needs and providing Technical Assistance to Socially-Disadvantaged Groups.

(b) *Work Plan/Budget (maximum of 25 points)*—Six-page limit. Your work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. Budget will be reviewed for completeness. You must list what tasks are to be done, when it will be done, who will do it, and how much it will cost. Reviewers must be able to understand what is being proposed and how the grant funds will be spent. The budget must be a detailed breakdown of estimated costs. These costs should be allocated to each of the tasks to be undertaken.

A panel of USDA employees will evaluate your work plan for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic, and efficient plans that allocate costs to specific tasks using applicable budget object class categories provided on the Form SF–424A will result in a higher score. You must discuss at a minimum:

(i) Specific tasks to be completed using grant funds;

(ii) How customers will be identified;

(iii) Key personnel and what tasks they are undertaking, and

(iv) The evaluation methods to be used to determine the success of specific tasks and overall project objectives. Please provide qualitative methods of evaluation. For example, evaluation methods should go beyond quantitative measurements of completing surveys or number of evaluations, such as discussion of evaluation methods per task.

(c) *Experience (maximum score of 25 points)*—Three-page limit. A panel of USDA employees will evaluate your experience, commitment and availability for identified staff or consultants in providing Technical Assistance, as defined in this Notice. You must describe the Technical Assistance experience for each identified staff member or consultant, as well as years of experience in providing that assistance. You must also discuss the commitment and the availability of identified staff, consultants, or other professionals to be hired for the project—especially those who may be consulting on multiple SDGG/RCDG projects. If staff or consultants have not been selected at the time of application, you must provide specific descriptions of the qualifications required for the positions to be filled. In addition, resumes for each individual staff member or consultant must be included as an attachment in Appendix B. The attachments will not count toward the maximum page total. We will compare the described experience in this section and in the resumes to the work plan to determine relevance of the experience. Applications that do not include the attached resumes will not be considered for funding.

Applications that demonstrate strong credentials, education, capabilities, experience and availability of Project personnel that will contribute to a high likelihood of Project success will receive more points than those that demonstrate less potential for success in these areas.

Points will be awarded as follows:

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–9 points will be awarded if qualifications and experience of some, but not all, staff is addressed and/or if necessary qualifications of unfilled positions are not provided.

(iii) 10–14 points will be awarded if (ii) is met, plus all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(iv) 15–19 points will be awarded if (ii) and (iii) are met, plus most, but not all, key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(v) 20–25 points will be awarded if (ii)–(iv) are met, plus all personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

(d) *Commitment (maximum of 10 points)*—Three-page limit. A panel of USDA employees will evaluate your commitment to providing Technical Assistance to Socially-Disadvantaged Groups in Rural Areas. You must list the number and location of Socially-Disadvantaged Groups that will directly benefit from the assistance provided. You must also define and describe the underserved and economically distressed areas within your service area and provide current and relevant statistics that support your description of the service area. Projects located in persistent poverty counties as defined in SEC. 740 of Further Consolidated Appropriations Act 2020, Public Law 116–94, will score higher on this factor.

(e) *Local support (maximum of 10 points)*—Three-page limit. A panel of USDA employees will evaluate your application for local support of the Technical Assistance activities. Your discussion on local support should include previous and/or expected local support and plans for coordinating with other developmental organizations in the proposed service area or with tribal, State and local government institutions. You will score higher if you demonstrate strong support from potential beneficiaries and other developmental organizations. You may also submit a maximum of 10 letters of support or intent to coordinate with the application to verify your discussion.

Points will be awarded as follows:

(i) 0 points are awarded if you do not adequately address this criterion.

(ii) 1–5 points are awarded if you demonstrate support from potential beneficiaries and other developmental organizations in your discussion but do not provide letters of support.

(iii) Additional 1 point is awarded if you provide 2–3 support letters that show support from potential beneficiaries and/or support from local organizations.

(iv) Additional 2 points are awarded if you provide 4–5 support letters that show support from potential beneficiaries and/or support from local organizations.

(v) Additional 3 points are awarded if you provide 6–7 support letters that show support from potential beneficiaries and/or support from local organizations.

(vi) Additional 4 points are awarded if you provide 8–9 support letters that show support from potential beneficiaries and/or support from local organizations.

(vii) Additional 5 points are awarded if you provide 10 support letters that show support from potential beneficiaries and/or support from local organizations.

You may submit a maximum of 10 letters of support. Support letters should be signed and dated (after the Notice publication date), and come from potential beneficiaries and other local organizations. Letters received from Congressional members and Technical Assistance providers will not be included in the count of support letters received. Additionally, identical form letters signed by multiple potential beneficiaries and/or local organizations will not be included in the count of support letters received. Support letters should be included as an attachment to the application in Appendix C and will

not count against the maximum page total. Additional letters from industry groups, commodity groups, Congressional members, and similar organizations should be referenced, but not included in the application package. When referencing these letters, provide the name of the organization, date of the letter, the nature of the support, and the name and title of the person signing the letter.

(f) *Administrator Discretionary Points (maximum of 10 points)*—Three-page limit. The Administrator may choose to award up to 10 points to an eligible applicant who has never previously been awarded an SDGG grant; and whose workplan and budget seeks to help rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. These points are not guaranteed if requested. Eligible applicants who want to be considered for discretionary points must discuss how their workplan and budget supports one or more of the five following key strategies:

Achieving e-Connectivity for Rural America;

Improving Quality of Life;

Supporting a Rural Workforce;

Harnessing Technological Innovation; and

Economic Development.

2. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements in this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. The review panel will convene to reach a consensus on the scores for each of the eligible applications. The Administrator may choose to award up to 10 Administrator priority points based on criterion (f) in section E.1. of this Notice. These points will be added to the cumulative score for a total possible score of 105. Applications will be funded in highest ranking order until the funding limitation has been reached. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion. If your application is ranked and not funded, it will not be carried forward into the next competition.

*F. Federal Award Administration Information*

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal or electronic mail, containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing via postal or electronic mail and informed of any review and appeal rights. Funding of successfully appealed applications will be limited to available FY 2020 funding.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 2 CFR parts 200, 215, 400, 415, 417, 418, and 421. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (See 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act reporting requirements (See 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)).

The following additional requirements apply to grantees selected for this program:

- Execution of an Agency approved Grant Agreement.
- Acceptance of a written Letter of Conditions.
- Submission of Form RD 1940–1, ''Request for Obligation of Funds.''
- Submission of Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
- SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

You no longer must complete the following forms for acceptance of a Federal award. This information is now collected through your registration or annual recertification in *SAM.gov* in the Financial Assistance General Certifications and Representations section:

- Form RD 400–4, ''Assurance Agreement.''
- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions.''
- Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirement (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''

3. Reporting

After grant approval and through grant completion, you will be required to provide the following:

a. A SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). The project performance reports shall include a comparison of actual accomplishments to the objectives established for that period;

b. Reasons why established objectives were not met, if applicable;

c. Reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

d. Objectives and timetable established for the next reporting period.

e. Provide a final project and financial status report within 90 days after the expiration or termination of the grant in accordance to 2 CFR 200.343.

f. Provide outcome project performance reports and final deliverables.

*G. Agency Contacts*

For general questions about this announcement and for program Technical Assistance, please contact the appropriate State Office at *http://www.rd.usda.gov/contact-us/state-offices.* You may also contact the David Chestnut, Branch Chief, Program Management Division, Rural Business-Cooperative Service, USDA at (202) 692–5233 or email *David.chestnut@usda.gov.*

*H. Non Discrimination Statement*

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA

(not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *fax:* (202) 690–7442; or

(3) *email: program.intake@usda.gov.*

**Mark Brodziski,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2020–13736 Filed 6–24–20; 8:45 am]

BILLING CODE 3410–XY–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–832]**

### Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2018–2019

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) continues to find that Tianjin Magnesium International, Co., Ltd. and Tianjin Magnesium Metal, Co., Ltd. (collectively TMI/TMM) had no shipments of subject merchandise covered by the antidumping duty order on pure magnesium from the People's Republic of China (China) for the period of review (POR) May 1, 2018 through April 30, 2019.

**DATES:** Applicable June 25, 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 February 5, 2020, Commerce published the *Preliminary Results* of the administrative review of the antidumping duty order on Pure Magnesium from China for the POR.[1] We invited parties to submit comments on the *Preliminary Results.* No party submitted comments. Accordingly, the final results remain unchanged from the *Preliminary Results.*

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until July 24, 2020.[2]

**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''[3] 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.

**Final Determination of No Shipments**

In the *Preliminary Results,* Commerce determined that TMI/TMM[4] had no

[1] *See Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 6509 (February 5, 2020) (*Preliminary Results*).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[3] 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.

[4] *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 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.

shipments of subject merchandise to the United States during the POR.[5] As we have not received any comments on our preliminary finding, we continue to find that TMI/TMM did not have any shipments of subject merchandise during the POR and intend to issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.[6]

**Assessment Rates**

Commerce determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

Additionally, for TMI/TMM, the exporters under review, which we determined had no shipments of the subject merchandise during the POR, any suspended entries of subject merchandise from TMI/TMM will be liquidated at the China-wide rate. This is consistent with Commerce's refinement to its assessment practice in non-market economy cases.[7]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of these final results of administrative review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided 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;[8] 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 the 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 serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. 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 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.

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 751(a) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 18, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2020–13707 Filed 6–24–20; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Preliminary Results,* 85 FR at 6510.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (Assessment Notice); *see also* ''Assessment Rates'' section *infra.*

[7] For a full discussion of this practice, *see* Assessment Notice.

[8] *See Pure Magnesium from the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 75 FR 80791 (December 23, 2010).

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA243]**

### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Data Scoping Webinar for SEDAR 73 South Atlantic Red Snapper

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

**ACTION:** Notice of scheduled SEDAR 73 South Atlantic Red Snapper Data Scoping Webinar.

**SUMMARY:** The SEDAR 73 assessment of the South Atlantic stock of Red Snapper will consist of a data scoping webinar, an in-person workshop, and a series of assessment webinars.

**DATES:** The SEDAR 73 South Atlantic Red Snapper Data Scoping Webinar has been scheduled for Thursday July 9, 2020, from 9 a.m. to 12 p.m. EDT.

**ADDRESSES:**

*Meeting address:* The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: *https://attendee.gotowebinar.com/register/9000057234843401997.*

*SEDAR address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

**FOR FURTHER INFORMATION CONTACT:** Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 573–4373; email: *Kathleen.Howington@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report

which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 73 South Atlantic Red Snapper Data Scoping Webinar are as follows:

- Discuss available data sources
- Identify and discuss potential new data sources

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

## Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 3 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: June 22, 2020.

**Rey Israel Marquez,**

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

[FR Doc. 2020–13744 Filed 6–24–20; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

## Department of the Army, Corps of Engineers

## Inland Waterways Users Board Meeting Notice

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of open Federal advisory committee virtual meeting.

**SUMMARY:** The Department of the Army is publishing this notice to announce the Federal advisory committee online virtual meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's website at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

**DATES:** The Army Corps of Engineers, Inland Waterways Users Board will conduct an online virtual meet from 1:00 p.m. to 5:00 p.m. on July 22, 2020.

**ADDRESSES:** Online Virtual Meeting. The Inland Waterways Users Board will be an online virtual meeting. The online virtual meeting can be accessed at *https://usace.webex.com/meet/ndc.nav,* Public Call-in: USA Toll-Free 866–434–5269, USA Caller Paid/International Toll: 216–706–7005 Access Code: 4935871, Security Code 1234.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Steven D. Riley, an Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–NDC, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–659–3097; and by email at *Steven.D.Riley@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

*Purpose of the Meeting:* The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

*Agenda:* At this meeting the agenda will include the status of FY 2020 funding for inland and coastal Navigation; status of the Inland Waterways Trust Fund (IWTF); Waterborne Commerce Data Collection Update; status of the construction activities for Olmsted Locks and Dam Project, the Monongahela River Locks and Dams 2, 3, and 4 Project, the Chickamauga Lock Project and the Kentucky Lock Project; the status of the inland waterways Capital Investment Strategy development; and provide follow up information from the previous meeting, including the Three Rivers project and Upper Ohio River study.

*Availability of Materials for the Meeting.* A copy of the agenda or any updates to the agenda for the July 22, 2020 virtual meeting will be available. The final version will be available at the virtual meeting. All materials will be posted to the website after the meeting.

*Public Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this virtual meeting is open to the public. Registration of members of the public who wish to participate in the virtual meeting will begin at 12:15 p.m. on the day of the meeting. Participation is on a first-to-arrive basis. Any interested person may participate in the meeting, file written comments or statements with the committee, or make verbal comments during the virtual public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

*Special Accommodations:* Individuals requiring any special accommodations related to the virtual public meeting or seeking additional information about the procedures, should contact Mr. Pointon, the committee DFO, or Mr. Riley, an ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

*Written Comments or Statements:* Pursuant to 41 CFR 102–3.105(j) and

102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this virtual public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Riley, a committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

*Verbal Comments:* Members of the public will be permitted to make verbal comments during the virtual public meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open virtual meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

**Thomas Patrick Smith,**

*Chief, Operations and Regulatory Division, Directorate of Civil Works, U.S. Army Corp of Engineers.*

[FR Doc. 2020–13543 Filed 6–24–20; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities Program—Stepping-Up Technology Implementation

**AGENCY:** Office of Special Education and Rehabilitative Services, 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 Educational Technology, Media, and Materials for Individuals with Disabilities—Stepping-up Technology Implementation, Catalog of Federal Domestic Assistance (CFDA) number 84.327S. This notice relates to the approved information collection under OMB control number 1820–0028.

**DATES:**

*Applications Available:* June 25, 2020.

*Deadline for Transmittal of Applications:* August 14, 2020.

*Date of 84.327S Pre-Application Meeting:* OSERS will conduct a pre-application meeting specific to these competitions via webinar on July 6, 2020, at 4:00 p.m., Eastern Time. In addition, no later than June 30, 2020, the Office of Special Education Programs (OSEP) will post a pre-recorded informational webinar designed to provide technical assistance to interested applicants. Information about the teleconference and the pre-recorded webinar may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html*.

**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:** Terry Jackson, U.S. Department of Education, 400 Maryland Avenue SW, Room 5128, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6039. Email: *Terry.Jackson@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### Full Text of Announcement

### I. Funding Opportunity Description

*Purpose of Program:* The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program are to (1) improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for children with disabilities; (3) provide support for captioning and video description that is appropriate for use in the classroom; and (4) provide accessible educational materials to children with disabilities in a timely manner.[1]

*Priorities:* This competition includes two absolute priorities. In accordance with 34 CFR 75.105(b)(2)(v), these priorities are from allowable activities specified in sections 674(c)(1)(D) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(c)(1)(D) and 1481(d).

*Absolute 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 absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet either Absolute Priority 1 or Absolute Priority 2. Applicants may apply under both absolute priorities but must submit separate applications.

These priorities are:

*Absolute Priority 1—Providing Technology-Based Professional Development to Trainers of Special Education Teachers to Support Children With Disabilities.*

*Background:*

Technology has enhanced professional development learning opportunities for teachers by expanding

[1] Applicants should note that other laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.;* 28 CFR part 35) and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794; 34 CFR part 104), may require that State educational agencies (SEAs) and local educational agencies (LEAs) provide captioning, video description, and other accessible educational materials to students with disabilities when these materials are necessary to provide equally integrated and equally effective access to the benefits of the educational program or activity, or as part of a ''free appropriate public education'' as defined in 34 CFR 104.33.

access to information and resources that support their content expertise and pedagogy and promote their professional growth. As an alternative to face-to-face professional development that can be expensive or impracticable (*e.g.,* during an emergency), professional development facilitated by technology has the potential to more efficiently shape and impact teaching practices. Some examples of the technologies that can be used to support teacher learning include virtual coaching, in which a coach interacts electronically with teachers to improve teaching skills; learning management systems (LMS) that allow sharing of documents and data in one central location; and gamification, which involves bringing elements associated with video games into the learning environment to increase engagement and making tasks challenging.

McAleavy et al. (2018) noted that using technology to support teachers' professional learning can promote collaboration through professional learning communities and communities of practice. In addition, technology that can be used to build the skills of teachers and related services personnel in rural or remote areas may be more cost-effective than face-to-face trainings and will offer flexibility that allows teachers to train at a time and place that suits them.

However, regardless of the delivery, effective professional development must go beyond learning new materials and skills; it must also support teachers and related services personnel in improving classroom instruction and student learning (Gess-Newsome et al., 2003). Darling-Hammond et al. (2017) indicated that effective professional development should have the following features: (1) Be content focused, (2) incorporate active learning utilizing adult learning principles, (3) support collaboration, (4) use models and modeling of effective practices, (5) provide coaching and expert support, (6) offer opportunities for feedback and reflection, and (7) be of sustained duration.

The Department therefore intends to fund three cooperative agreements to (a) identify strategies needed to implement and integrate an existing technology-based tool or approach, based on at least promising evidence,[2] into the provision of teacher in-service training; and (b) provide ongoing technology-based professional development and coaching for in-service trainers in the use of technology to, and understanding of how the technology may, support teachers to improve classroom and remote learning environment instruction and learning outcomes for children with disabilities in pre-kindergarten through grade 12 (PK–12) settings.

Projects must be awarded and operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

*Priority:*

To be considered for funding under this priority, applicants, at a minimum, must—

(a) Build partnerships with LEAs, at least one of which is in a rural location and that includes public and nonpublic schools, to support teacher in-service trainers in the understanding, use, and delivery of a technology-based tool or approach that will support teacher in-service training for instruction of children with disabilities in PK–12 instructional settings, including classrooms and remote learning environments;

(b) Increase the capacity of teacher in-service trainers to effectively use and implement a technology-based tool or approach that supports teacher classroom and remote learning environment instruction and professional growth;

(c) Develop an implementation package of products and resources that will help teacher in-service trainers to use a technology-based tool or approach; and

(d) Evaluate the effectiveness of the in-service training conducted using the technology-based tool or approach.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the following application and administrative requirements in this priority:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need for a technology-based tool or approach and identify specific gaps and weaknesses, infrastructure, or opportunities to support teacher in-service training. To meet this requirement the applicant must—

(i) Identify a fully developed technology-based tool or approach that is based on at least promising evidence;

(ii) Identify how the technology-based tool or approach will improve teacher in-service training and the capacity of teachers to deliver instruction or services for PK–12 children with disabilities;

(iii) Present applicable national, State, regional, or local data demonstrating the need for the identified technology-based tool or approach in teacher in-service training to support children with disabilities;

(iv) Identify current policies, procedures, and practices used by teacher in-service trainers that incorporate technology-based tools or approaches to meet their training needs;

(v) Identify systemic barriers, gaps, or challenges, including challenges using the identified technology-based tools or approaches in providing teacher in-service training; and

(vi) Describe the potential impact of the identified technology-based tool or approach on teacher in-service trainers, teachers, families and children with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for ongoing coaching and supports;

(ii) Identify potential strategies to provide recipients of the in-service training with the flexibility to personalize their own learning and coaching supports; and

(iii) Ensure that products and resources meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model[3] or conceptual framework by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a logic model or conceptual framework (and provide a copy in Appendix A) to develop project plans and activities describing any underlying concepts, assumptions, expectations,

[2] Section 8002 of Elementary and Secondary Education Act, as amended (ESEA) (2015).

[3] 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. *See* 34 CFR 77.1.

beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

**Note:** The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research. To meet this requirement, the applicant must—

(i) Describe how the proposed project will align to current research, policies, and practices related to the benefits, services, or opportunities that are available using the technology-based tool or approach;

(ii) Describe how the proposed project will incorporate current research and practices to guide the development and delivery of its products and resources, including accessibility and usability; and

(iii) Document that the technology tool used by the project is fully developed, based on at least promising evidence, and addresses, at a minimum, the following principles of universal design for learning (UDL):

(A) Multiple means of presentation so that information can be delivered in more than one way (*e.g.,* specialized software and websites, screen readers that include features such as text-to-speech, changeable color contrast, alterable text size, or selection of different reading levels).

(B) Multiple means of expression that allow knowledge to be exhibited through options such as writing, online concept mapping, or speech-to-text programs, where appropriate.

(C) Multiple means of engagement to stimulate interest in and motivation for learning (*e.g.,* options among several different learning activities or content for a particular competency or skill and providing opportunities for increased collaboration consistent with UDL principles).

(5) Develop new products and resources that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must—

(i) Provide a plan for recruiting and selecting a wide range of settings where children with disabilities are served, which must include the following:

(A) Three development sites. Development sites are the sites in which iterative development of the products and resources intended to support the implementation of technology tools will occur. The project must start implementing the technology tool with one development site in year one of the project period and two additional development sites in year two.

(B) Four pilot sites. Pilot sites are the sites in which try-out, formative evaluation, and refinement of the products and resources will occur. The project must work with the four pilot sites during years three and four of the project period.

(C) Ten dissemination sites. Dissemination/scale-up sites will be selected if the project is extended for a fifth year. Dissemination/scale-up sites will be used to (a) refine the products for use by educators, and (b) evaluate the performance of the technology tool. Dissemination/scale-up sites will receive less technical assistance (TA) from the project than development and pilot sites. Also, dissemination/scale-up sites will extend the benefits of the technology tool to additional students. To be selected as a dissemination/scale-up site, eligible sites must commit to working with the project to implement the technology tool.

(D) A site may not serve in more than one category (*i.e.,* development, pilot, dissemination/scale-up).

(E) A minimum of three of the seven development and pilot sites must be in settings other than traditional public elementary and secondary schools and include at least one rural site. A minimum of four of the 10 dissemination/scale-up sites must be in settings other than traditional public elementary and secondary schools and include at least one rural site. These non-traditional and rural sites must otherwise meet the requirements of each category listed above.

(ii) Provide information on the development and pilot sites, including student demographics and other pertinent data (*e.g.,* whether the settings are schools identified for comprehensive or targeted support and improvement in accordance with section 1111(c)(4)(C)(iii), (c)(4)(D), or (d)(2)(C)–(D) of the Elementary and Secondary Education Act of 1965, as amended (ESEA));

(iii) Provide its plan for dissemination, which must address how the project will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the project's products and resources;

(iv) Provide its plan for how the project will sustain project activities after funding ends; and

(v) Provide assurances that the final products disseminated to help sites effectively implement technology tools will be both open educational resources (OER) and licensed through an open access licensing authority.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including the criteria for determining the extent to which the project's products and resources have met the goals for reaching the project's target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met. The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Provide a logic model or conceptual framework that depicts, at a minimum, the goals, activities, project evaluation, methods, performance measures, outputs, and outcomes of the proposed project;

(2) Provide a plan to implement the activities described in this priority;

(3) Provide a plan, linked to the proposed project's logic model or conceptual framework, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and resources;

(4) Describe a plan or method for assessing—

(i) The development and pilot sites' current teacher in-service training uses and needs, any current in-service technology investments, and the knowledge and availability of dedicated on-site in-service training personnel;

(ii) The readiness of development and pilot sites to pilot or try-out the technology-based teacher in-service training, including at a minimum, their current infrastructure, available resources, and ability to build capacity;

(iii) Whether the technology-based tool or approach has achieved its intended outcomes for teacher in-service trainers and PK–12 teachers; and

(iv) Ongoing training needs of in-service trainers to implement with fidelity;

(5) Collect formative and summative data from the in-service training to refine and evaluate the products;

(6) If the project is extended to a fifth year—

(i) Provide the implementation package of products and resources developed for the technology-based tool or approach to no fewer than 10 additional school sites, one of which must be rural, in year five; and

(ii) Collect summative data about the success of the project's products and resources in supporting implementation of the technology-based tool or approach in teacher in-service training sites; and

(7) By the end of the project period, provide—

(i) Information on the products and resources, as supported by the project evaluation, including any accessibility features, that will enable other sites to implement and sustain implementation of the technology-based tool or approach;

(ii) Information in the Technology Implementation Report, including data on how in-service trainers used the technology-based tool or approach, and how the technology-based tool or approach was implemented with fidelity;

(iii) Data on how the technology-based tool or approach changed in-service trainers' practices; and

(iv) A plan for disseminating or scaling up the technology-based tool or approach and accompanying products beyond the sites directly involved in the project.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and resources provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must include—

(1) In Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(2) In the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, or virtually after receipt of the award, and an annual planning meeting in Washington, DC, with the Office of Special Education Programs (OSEP) project officer and other relevant staff during each subsequent year of the project period.

**Note:** Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(ii) A two and one-half-day project directors' conference in Washington, DC, or a virtual conference during each year of the project period.

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

(iv) A one-day intensive OSEP review meeting during the last half of the second year of the project period.

*Cohort Collaboration and Support*

OSEP project officer(s) will provide coordination support among the projects. Each project funded under this priority must—

(a) Participate in monthly conference-call discussions to share and collaborate on implementation and project issues; and

(b) Provide information annually using a template that captures descriptive data on project site selection and the processes for installation and use of the technology-based tool or approach (*i.e.,* the implementation process).

**Note:** The following website provides more information about implementation research: *https://nirn.fpg.unc.edu/national-implementation-research-network.*

*Fifth Year of Project*

The Secretary may extend a project one year beyond the initial 48 months to work with dissemination/scale-up sites if the grantee is achieving the intended outcomes of the project (as demonstrated by data gathered as part of the project evaluation) and making a positive contribution to the implementation of a technology-based tool or approach based on at least promising evidence with fidelity in the development and pilot sites. Each applicant must include in its application a plan for the full 60-month period. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), and will consider—

(a) The recommendation of a review team consisting of the OSEP project officer and other experts selected by the Secretary. This review will be held during the last half of the second year of the project period;

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's activities have changed practices and improved outcomes for PK–12 children with disabilities.

**References**

Darling-Hammond, L., Hyler, M.E., & Gardner, M. (2017). *Effective Teacher Professional Development.* Learning Policy Institute. *https://learningpolicyinstitute.org/product/teacher-prof-dev.*

Gess-Newsome, J., Blocher, J.M., Clark, J., Menasco, J., & Willis, E.M. (2003). Technology infused professional development: A framework for development and analysis. *Contemporary Issues in Technology and Teacher Education, 3*(3). *https://citejournal.org/volume-3/issue-3-03/general/technology-infused-professional-development-a-framework-for-development-and-analysis.*

McAleavy, T., Hall-Chen, A., Horrocks, S., & Riggall, A. (2018). *Technology-supported professional development for teachers: Lessons from developing countries.* Education Development Trust. *https://eric.ed.gov/?id=ED593386.*

*Absolute Priority 2—Improving Social Skill Development for Students with Disabilities Through the Use of Socially Assistive Robotics (SAR).*

*Background:*

For students with disabilities, interpersonal skills, such as active listening, effective communication, and recognizing and understanding the points of view of others, are important to the development of healthy relationships and successful placement into the least restrictive environment. The lack of appropriate social skills can negatively impact student learning, can result in poor peer social interactions, and may lead to suspension, expulsion, and dropping out of school (Murry, 2018). Programs that support social skill development in school settings are important to ensure children do not learn in isolation, promote positive relationships, facilitate improved learning outcomes, and provide crucial skill sets that allow children to work alone and with others in the school setting (Connolly et al., 2016). Implementing social skill development in a systematic, school-wide approach is more beneficial than fragmented approaches, as it allows students' social skills to be cultivated along with academic skills and creates a common climate and culture throughout the school (DePaoli et al., 2017).

Making technology and SAR part of learning and social skill development for children with disabilities has become more prevalent over the years. Technology-based interventions, such as humanoid robots controlled by a human trainer and robotic therapeutic interventions that target repetitive behaviors and affective states in children with autism spectrum disorder (ASD), have been found to be beneficial for improving a wide range of skills and behaviors, including social and emotional skills, communication skills, academic skills, and challenging behaviors. Recent advancements in SAR have created an alternative educational approach to providing social skills supports for students with ASD. With machine learning, robots can predict a child's engagement based on their eye contact, dialogue, and other behavioral cues and then react and reengage them to help lengthen the time the child stays engaged in the therapeutic activity (Jain et al., 2020; Hao, 2020). SAR can help to provide an affordable, accessible, and personalized intervention and reduce the need for human interventions for students with ASD (Jain et al., 2020). Furthermore, SAR provide opportunities for students to learn through non-threatening, three-dimensional inanimate objects, while also providing opportunities to learn through imitation and interactions that encourage autonomous social behavior (Tennyson et al., 2016).

The Department therefore intends to fund two cooperative agreements to identify strategies needed to implement and integrate SAR to (a) help improve the social skills of children with disabilities; and (b) provide ongoing professional development and coaching for educators, students, or families in the use and understanding of how the technology can improve social skills and learning outcomes for children with disabilities in PK–12 settings.[4]

Projects must be awarded and operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

*Priority:*

To be considered for funding under this priority, applicants, at a minimum, must—

(a) Increase the capacity of educators, students, and families to effectively understand and implement SAR (referred to as a technology-based tool or approach in the remainder of the priority) to instruct and support social skills development for children with disabilities;

(b) Improve the social skill interactions of students with disabilities as a result of using a technology-based tool or approach;

(c) Develop an implementation package of products and resources that will help educators and school sites to understand and use a technology-based tool or approach;

(d) Evaluate the impact of a technology-based tool or approach on achieving the intended outcomes; and

(e) Ensure that a technology-based tool or approach meets the accessibility[5] and usability needs of the intended users.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the following application and administrative requirements in this priority:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need for the technology-based tool or approach and identify specific gaps and weaknesses or opportunities to support teachers in the instructional setting, including classroom and remote learning environments. To meet this requirement the applicant must—

(i) Identify a fully developed technology-based tool or approach that is based on at least promising evidence;

(ii) Identify how the technology-based tool or approach will improve the social skills of PK–12 children with disabilities;

(iii) Present applicable national, State, regional, or local data demonstrating the need for the identified technology-based tool or approach in classrooms and remote learning environments to support the development of social skills in PK–12 children with disabilities;

(iv) Document that the technology-based tool or approach used by the project is fully developed and based on at least promising evidence and how the technology-based tool or approach will better enable teachers to deliver instruction or services across subject areas for PK–12 children with disabilities;

(v) Identify systemic barriers, gaps, or challenges, including challenges with the use of the identified technology-based tool or approach, faced by schools and teachers; and

(vi) Describe the potential impact of the identified technology-based tool or approach on schools, teachers, families, and children with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for ongoing coaching and professional development supports; and

(ii) Ensure that products and resources meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model[6] or conceptual framework by which the

[4] For the purposes of this priority, ''settings'' include general education classrooms; special education classrooms; charter schools; high-quality early childhood programs; private schools, including parochial schools; home education; after school programs; juvenile justice facilities; remote learning environments and any other settings in which students may receive services under IDEA.

[5] Technology should meet current industry standards and guidelines for accessibility (*e.g.,* Web Content Accessibility Guidelines (WCAG) 2.0 AA and section 508 of the Rehabilitation Act). For additional information on WCAG 2.0 please refer to *www.w3.org/WAI/intro/wcag.*

[6] 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

proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a logic model or conceptual framework (and provide a copy in Appendix A) to develop project plans and activities describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

**Note:** The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research. To meet this requirement, the applicant must—

(i) Describe how the proposed project will align to current research, policies, and practices related to the benefits, services, or opportunities that are available using the technology-based tool or approach;

(ii) Describe how the proposed project will incorporate current research and practices to guide the development and delivery of its products and resources, including accessibility and usability; and

(iii) Document that the technology tool used by the project is fully developed, based on at least promising evidence, and addresses, at a minimum, the following principles of UDL:

(A) Multiple means of presentation so that students can approach information in more than one way (*e.g.,* specialized software and websites, screen readers that include features such as text-to-speech, changeable color contrast, alterable text size, or selection of different reading levels).

(B) Multiple means of expression so that all students can demonstrate knowledge through options such as writing, online concept mapping, or speech-to-text programs, where appropriate.

(C) Multiple means of engagement to stimulate interest in and motivation for learning (*e.g.,* options among several different learning activities or content for a particular competency or skill and providing opportunities for increased collaboration consistent with UDL principles).

(5) Develop new products and resources that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must—

(i) Provide a plan for recruiting and selecting a wide range of settings where children with disabilities are served and that must include the following:

(A) Three development sites. Development sites are the sites in which iterative development of the products and resources intended to support the implementation of technology tools will occur. The project must start implementing the technology tool with one development site in year one of the project period and two additional development sites in year two.

(B) Four pilot sites. Pilot sites are the sites in which try-out, formative evaluation, and refinement of the products and resources will occur. The project must work with the four pilot sites during years three and four of the project period.

(C) Ten dissemination sites. Dissemination sites will be selected if the project is extended for a fifth year. Dissemination sites will be used to (a) refine the products for use by educators, and (b) evaluate the performance of the technology tool. Dissemination sites will receive less TA from the project than development or pilot sites. Also, dissemination sites will extend the benefits of the technology tool to additional students. To be selected as a dissemination site, eligible sites must commit to working with the project to implement the technology tool.

(D) A site may not serve in more than one category (*i.e.,* development, pilot, dissemination).

(E) A minimum of three of the seven development and pilot sites must be in settings other than traditional public elementary and secondary schools and include at least one rural site. A minimum of four of the 10 dissemination sites must be in settings other than traditional public elementary and secondary schools and include at least one rural site. These non-traditional and rural sites must otherwise meet the requirements of each category listed above.

(ii) Provide information on the development and pilot sites, including student demographics and other pertinent data (*e.g.,* whether the settings are schools identified for comprehensive or targeted support and improvement in accordance with section 1111(c)(4)(C)(iii), (c)(4)(D), or (d)(2)(C)–(D) of the ESEA);

(iii) Provide its plan for dissemination, which must address how the project will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the project's products and resources;

(iv) Provide its plan for how the project will sustain project activities after funding ends; and

(v) Provide assurances that the final products disseminated to help sites effectively implement technology tools will be both OER and licensed through an open access licensing authority.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including the criteria for determining the extent to which the project's products and resources have met the goals for reaching the project's target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Provide a logic model or conceptual framework that depicts, at a minimum, the goals, activities, project evaluation, methods, performance measures, outputs, and outcomes of the proposed project;

(2) Provide a plan to implement the project activities described in this priority;

(3) Provide a plan, linked to the proposed project's logic model or conceptual framework, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and resources;

(4) Identify and develop resources and products that create accessible learning opportunities for all children, including children with disabilities and children with high needs, and make possible the sustained implementation of the selected technology tool. Development of the products must be an iterative process beginning in a single development school and continuing through repeated cycles of development and refinement in the other development sites, followed by a formative evaluation and refinement in the pilot sites. The products and

relationships among the key project components and relevant outcomes. See 34 CFR 77.1.

resources must, at a minimum, include—

(i) An instrument or method for assessing—

(A) The site staff's current technology uses and needs, current technology investments, firewall issues, and the knowledge and availability of dedicated on-site technology personnel;

(B) The readiness of development and pilot school sites to pilot or try-out the technology-based tool or approach, including at a minimum, their current infrastructure, available resources, and ability to build capacity;

(C) Whether the technology-based tool or approach has achieved its intended outcomes for the end-user(s); and

(D) Ongoing training needs of teachers, students, or families to implement the technology-based tool or approach with fidelity;

(5) Collect formative and summative data to refine and evaluate the products;

(6) If the project is extended to a fifth year—

(i) Provide the implementation package of products and resources developed for the technology-based tool or approach to no fewer than 10 additional school sites; and

(ii) Collect summative data about the success of the project's products and resources in supporting implementation of the technology-based tool or approach; and

(7) By the end of the project period, provide—

(i) Information on the products and resources, as supported by the project evaluation, including any accessibility features, that will enable other sites to implement and sustain implementation of the technology-based tool or approach;

(ii) Information in the Technology Implementation Report, including data on how teachers, students, and families used the technology-based tool or approach, and how the technology-based tool or approach was implemented with fidelity;

(iii) Data on how the technology-based tool or approach changed teacher practices; and

(iv) A plan for disseminating or scaling up the technology-based tool or approach and accompanying products beyond the sites directly involved in the project.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and resources provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must include—

(1) In Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(2) In the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

**Note:** Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(ii) A two and one-half-day project directors' conference in Washington, DC, during each year of the project period.

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

(iv) A one-day intensive OSEP review meeting during the last half of the second year of the project period.

*Cohort Collaboration and Support*

OSEP project officer(s) will provide coordination support among the projects. Each project funded under this priority must—

(a) Participate in monthly conference-call discussions to share and collaborate on implementation and project issues; and

(b) Provide information annually using a template that captures descriptive data on project site selection, and the processes for installation and use of the technology-based tool or approach (*i.e.,* the implementation process).

**Note:** The following website provides more information about implementation research: *https://nirn.fpg.unc.edu/national-implementation-research-network.*

*Fifth Year of Project*

The Secretary may extend a project one year beyond the initial 48 months to work with dissemination/scale-up sites if the grantee is achieving the intended outcomes of the project (as demonstrated by data gathered as part of the project evaluation) and making a positive contribution to the implementation of a technology-based tool or approach based on at least promising evidence with fidelity in the development and pilot sites. Each applicant must include in its application a plan for the full 60-month period. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), and will consider—

(a) The recommendation of a review team consisting of the OSEP project officer and other experts selected by the Secretary. This review will be held during the last half of the second year of the project period;

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's activities have changed practices and improved outcomes for PK–12 children with disabilities.

**References**

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DePaoli, J. L., Atwell, M.N., & Bridgeland, J. (2017). *Ready to lead: A national principal survey on how social and emotional learning can prepare children and transform schools. www.casel.org/wp-content/uploads/2017/11/ReadyToLead_FINAL.pdf.*

Hao, K. (2020, February 26). Robots that teach autistic kids social skills could help them develop. *MIT Technology Review. www.technologyreview.com/s/615288/ai-robots-teach-autistic-kids-social-skills-development/.*

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Murry, F. (2018). Using assistive technology to generate social skills use for students with emotional behavior disorders. *Rural Special Education Quarterly, 37*(4), 235–244. *https://doi.org/10.1177/8756870518801367.*

Tennyson, M. F., Kuester, D. A., Casteel, J., & Nikolopoulos, C. (2016). Accessible robots for improving social skills of individuals with autism. *Journal of Artificial Intelligence and Soft Computing Research, 6*(4), 267–277. *https://doi.org/10.1515/jaiscr-2016-0020.*

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

*Program Authority:* 20 U.S.C. 1474 and 1481.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

## II. Award Information

*Type of Award:* Cooperative agreements.

*Estimated Available Funds:* $2,500,000.

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.

*Estimated Range of Awards:* $450,000 to $500,000 per year.

*Estimated Average Size of Awards:* $475,000 per year.

*Maximum Award:* We will not make an award exceeding $2,500,000 for the 60-month project period.

*Estimated Number of Awards:* 5.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 60 months.

## III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

## IV. Application and Submission Information

1. *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 andinformation on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2020.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project;

(ii) 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;

(iii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies; and

(iv) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) *Quality of project services (30 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services;

(iv) 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; and

(v) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation 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;

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(v) The extent to which the evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation.

(d) *Adequacy of resources and quality of project personnel (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) 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.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator;

(ii) The qualifications, including relevant training and experience, of key project personnel;

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iv) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(v) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(vi) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (15 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project;

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate; and

(v) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

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).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected

for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose 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.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $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 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.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance Results Modernization Act of 2010, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials (ETechM2) for Individuals with Disabilities Program. These measures are:

- *Program Performance Measure 1:* The percentage of ETechM2 Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure 2:* The percentage of ETechM2 Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 3:* The percentage of ETechM2 Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 4.1:* The Federal cost per unit of accessible educational materials funded by the ETechM2 Program.
- *Program Performance Measure 4.2:* The Federal cost per unit of accessible educational materials from the National Instructional Materials Accessibility Center funded by the ETechM2 Program.
- *Program Performance Measure 4.3:* The Federal cost per unit of video description funded by the ETechM2 Program.

These measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

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.

**Mark Schultz,**

*Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

[FR Doc. 2020–13737 Filed 6–24–20; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### National Advisory Committee on Institutional Quality and Integrity

**AGENCY:** National Advisory Committee on Institutional Quality and Integrity (NACIQI), Office of Postsecondary Education, U.S. Department of Education.

**ACTION:** Announcement of an open meeting.

**SUMMARY:** This notice sets forth the agenda, time, and instructions for participation in the July 29 & 30, 2020 virtual meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI) and provides information to members of the public regarding the meeting, including requesting to make oral comments or submit written statements. The notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (FACA) and section 114(d)(1)(B) of the Higher Education Act (HEA) of 1965, as amended.

**DATES:** The virtual NACIQI meeting will be held on July 29 & 30, 2020, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time.

**FOR FURTHER INFORMATION CONTACT:** George Alan Smith, Executive Director/Designated Federal Official, NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Room 271–03, Washington, DC 20202, telephone: (202) 453–7757, or email: *George.Alan.Smith@ed.gov.*

**SUPPLEMENTARY INFORMATION:**

*NACIQI's Statutory Authority and Function:* NACIQI is established under section 114 of the HEA. NACIQI advises the Secretary of Education with respect to:

- The establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part G, Title IV of the HEA, as amended.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV of the HEA and part C, subchapter I, chapter 34, Title 42, together with recommendations for improvement in such process.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory function relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

**Meeting Agenda**

*Meeting Day Web Links:* Each meeting will be held virtually and will begin at 9:00 a.m. Eastern Standard Time. When speaking, U.S. Department of Education staff, agency representatives, and NACIQI members may be visible to the public. Public commenters will appear by audio only. You may register for the meeting on your computer with each day's designated entry link, which are listed below, after which you will receive an email containing personalized dial in details, access code, and conference weblink.

*Entry Link for Wednesday, July 29, 2020*

*https://ems8.intellor.com ?do=register&t=1&p=827612.*

*Entry Link for Thursday, July 30, 2020*

*https://ems8.intellor.com ?do=register&t=1&p=827610.*

Agenda items for the July 29 & 30, 2020 virtual meeting are listed below. Please note that the Accrediting Council for Independent Colleges and Schools' Compliance Report has been rescheduled for the February 2021 meeting.

Application for Renewal of Recognition (State Agency for the Approval of Vocational Education)

1. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs.

Applications for Renewal of Recognition (State Agency for the Approval of Nurse Education)

1. New York State Board of Regents, State Education Department, Office of the Professions (Nursing Education).
2. Missouri State Board of Nursing.

Application for Reorganization and Curriculum Change by Federal Agencies and Institutions

1. National Intelligence University: Undergoing Substantive Change (Reorganization/Command Change from Department of Defense to Director of National Intelligence).
2. U.S. Army Command and General Staff College: Undergoing Substantive Change (Curriculum Change).

Review of Agency Recognition During the Period of Recognition, in accordance with the procedures set forth in 34 CFR 602.33.

1. Higher Learning Commission (HLC).

The review by the Department's Office of Postsecondary Education has

identified noncompliance with the criteria in 34 CFR 602.18(c), 602.25(a), 602.25(d), 602.25(e), and 602.25(f). Please note: Given the time constraints of this review and multiple time extensions provided to the agency for response to Department inquiries, the Department determined that it was not practicable to invite the public to submit written comments in advance of the NACIQI meeting. The public is invited to provide oral comments at the meeting, and instructions for registration for oral comments are set forth at the end of this notice.

*NACIQI Subcommittee on Governance*

The subcommittee will provide an update on its research of accreditor and state/gubernatorial relations.

*Presentation on Student Success*

A NACIQI member will lead a discussion on student success focusing on accreditation and preaccreditation standards, as discussed under 34 CFR 602.16(a)(1)(i).

*Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI's authority:* Opportunity to submit a written statement regarding a specific accrediting agency under review was requested by a previous **Federal Register** notice published on March 4, 2020 (85 FR 12778; Document Number 2020–04410). The period for submission of such statements is now closed. Additional written comments regarding a specific agency or state approval agency under review will not be accepted at this time. However, members of the public may submit written statements regarding other issues within the scope of NACIQI's authority for consideration by NACIQI in the manner described below. Oral comments may not exceed three minutes.

Oral comments about an agency's recognition after review of a compliance report must relate to issues identified in the compliance report and the criteria for recognition cited in the senior Department official's letter that requested the report, or in the Secretary's appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency's ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be added. Oral comments about the renewal of an agency's recognition based on a review of the agency's petition and oral comments about the review of an agency during its period of recognition pursuant to § 602.33 must relate to its compliance with the Criteria for the Recognition of Accrediting Agencies, which are available at *http://www.ed.gov/admins/finaid/accred/index.html.* Written statements and oral comments concerning NACIQI's work outside of a specific accrediting agency under review must be limited to the scope of NACIQI's authority as outlined under section 114 of the HEA.

To request to make a third-party oral comment of three minutes or less during the July 29 & 30, 2020 meeting, please follow either Method One or Method Two noted below. To submit a written statement to NACIQI concerning its work outside of a specific accrediting agency under review, please follow Method One.

*Method One:* Submit written statements and/or a request for oral comment by email to the *ThirdPartyComments@ed.gov* mailbox. Please do not send material directly to NACIQI members. Written statements relating to NACIQI's work outside of a specific agency under review and requests to make oral comment must be received by July 15, 2020 and include the subject line ''Oral Comment Request: (Agency name),'' ''Oral Comment Request: (Subject)'' or ''Written Statement: (Subject).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, telephone number, of the person(s) submitting a written statement or requesting to speak, and a brief summary (not to exceed one page) of the principal points to be made during the oral presentation, if applicable. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak during the virtual meeting.

*Method Two: (Only available to those seeking to submit oral comments).* Register on July 29, 2020, from 7:45 a.m.–8:45 a.m., to make an oral comment during NACIQI's deliberations, using the designated entry link for Wednesday, July 29, 2020 *https://ems8.intellor.com?do=register&t=1&p=827612.* The requestor must provide the subject on which he or she wishes to comment, in addition to his or her name, title, organization/affiliation, mailing address, email address, and telephone number. A total of up to 15 minutes for each agenda item will be allotted for oral commenters who register on July 29, 2020 by 8:45 a.m. Individuals will be selected on a first-come, first-served basis. If selected, each comment may not exceed three minutes.

*Access to Records of the Meeting:* The Department will post the official report of the meeting on the NACIQI website within 90 days after the meeting. In addition, pursuant to the FACA, the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC, by emailing *aslrecordsmanager@ed.gov* or by calling (202) 453–7415 to schedule an appointment.

*Reasonable Accommodations:* The meeting weblinks, personalized dial in details, access code, and conference weblink are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You also may 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.

**Authority:** 20 U.S.C. 1011c.

**Robert L. King,**

*Assistant Secretary, Office of Postsecondary Education.*

[FR Doc. 2020–13723 Filed 6–24–20; 8:45 am]

BILLING CODE P

## DEPARTMENT OF ENERGY

### Basic Energy Sciences Advisory Committee; Meeting

**AGENCY:** Office of Science, Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, July 30, 2020; 10:45 a.m. to 4:40 p.m.

**ADDRESSES:** This meeting is open to the public. This meeting will be held digitally via Zoom. Information to participate can be found on the website closer to the meeting date at: *https://science.osti.gov/bes/besac/Meetings.*

**FOR FURTHER INFORMATION CONTACT:** Katie Runkles; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903–6529; email: *Katie.runkles@science.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of this Board is to make recommendation to DOE–SC with respect to the basic energy sciences research program.

*Tentative Agenda:*

- Call to Order, Introductions, Review of the Agenda
- News from the Office of Science
- News from the Office of Basic Energy Sciences
- Neutron Subcommittee Draft Report Presentation
- International Benchmarking Study Update
- Chemical Sciences, Geosciences and Biosciences Division COV Meeting Announcement
- Energy Frontier Research Centers/Hub COV Meeting Announcement
- Basic Research Needs Workshop on Transformative Manufacturing Update
- Public Comments
- Adjourn

Breaks Taken As Appropriate

*Public Participation:* The meeting is open to the public. A webcast of this meeting will be available. Please check the website below for updates and information on how to view the meeting. 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 the items on the agenda, you should contact Katie Runkles at *katie.runkles@science.doe.gov.* 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. Information about the committee can be found at: *https://science.osti.gov/bes/besac.*

*Minutes:* The minutes of this meeting will be available for public review and copying within 30 days at the committee's website: *https://science.osti.gov/bes/besac.*

Signed in Washington, DC on June 19, 2020.

**LaTanya Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2020–13674 Filed 6–24–20; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–2098–000]**

### Titan Solar 1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Titan Solar 1, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 9, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 19, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–13712 Filed 6–24–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG20–193–000.

*Applicants:* Titan Solar 1, LLC.

*Description:* Titan Solar 1, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 6/18/20.

*Accession Number:* 20200618–5185.

*Comments Due:* 5 p.m. ET 7/9/20.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1633–002.

*Applicants:* Deseret Generation and Transmission Co-operative, Inc.

*Description:* Supplement to July 26, 2019 Updated Market Power Analysis of Deseret Generation and Transmission Co-operative, Inc.

*Filed Date:* 6/18/20.

*Accession Number:* 20200618–5141.

*Comments Due:* 5 p.m. ET 7/9/20.

*Docket Numbers:* ER19–1939–002.

*Applicants:* Arizona Public Service Company.
*Description:* Compliance filing: FERC Order 845 Amendment to Compliance Filing to be effective 5/22/2019.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5149.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–159–000.
*Applicants:* Midcontinent Independent System Operator, Inc., Pioneer Transmission LLC.
*Description:* Compliance Filing with Opinion No. 569–A of Pioneer Transmission, LLC.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5147.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2101–000.
*Applicants:* Fern Solar LLC.
*Description:* Baseline eTariff Filing: Baseline new to be effective 7/15/2020.
*Filed Date:* 6/18/20.
*Accession Number:* 20200618–5161.
*Comments Due:* 5 p.m. ET 7/9/20.

*Docket Numbers:* ER20–2102–000.
*Applicants:* Tri-State Generation and Transmission Association, Inc.
*Description:* § 205(d) Rate Filing: Rate Schedule FERC No. 284 between Tri-State and Niobrara to be effective 6/19/2020.
*Filed Date:* 6/18/20.
*Accession Number:* 20200618–5151.
*Comments Due:* 5 p.m. ET 7/9/20.

*Docket Numbers:* ER20–2103–000.
*Applicants:* Turquoise Nevada LLC.
*Description:* § 205(d) Rate Filing: Second Amended and Restated Shared Facilities Agreement to be effective 2/22/2020.
*Filed Date:* 6/19/20.
*Accession Number*: 20200619–5003.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers*: ER20–2104–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 2020–06–18_SA 3037 DTE Electric-METC 3rd Rev GIA (J589 J794) to be effective 6/5/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5055.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2105–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 2020–06–19_Revisions to Attachments FF–4 to add Republic and GridLiance to be effective 8/24/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5058.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers*: ER20–2106–000.
*Applicants:* Northern Indiana Public Service Company.
*Description:* § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 6/24/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5062.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2107–000.
*Applicants:* Burgess Biopower LLC.
*Description:* § 205(d) Rate Filing: Request for Category 1 Seller Status in the Northeast Region to be effective 6/20/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5074.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2108–000.
*Applicants:* Great Bay Solar II, LLC.
*Description:* § 205(d) Rate Filing: Reactive Power Rate Schedule to be effective 8/18/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5078.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2109–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Amendment to ISA, SA No. 5604 and CSA, SA No. 5614; Queue No. AC1–164 (consent) to be effective 2/24/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5100.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers*: ER20–2110–000.
*Applicants:* Pacific Gas and Electric Company.
*Description:* Tariff Cancellation: Notice of Termination Avenal Solar Holdings E&P Agreement (WDT SA 2100 EP–10) to be effective 5/22/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5113.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2111–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3203R1 Evergy Missouri West & City of Osceola, MO Inter Agr to be effective 8/18/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5125.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2112–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3341R1 Evergy Metro/City of Gardner, KS Interconnection Agr to be effective 8/18/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5128.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2113–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 205 filing re: Operating Reserves & ESR schedules during reserve pickups to be effective 12/31/9998.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5148.
*Comments Due:* 5 p.m. ET 7/10/20.

*Docket Numbers:* ER20–2114–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3051R1 Empire District and Evergy Kansas South Inter Agr to be effective 8/18/2020.
*Filed Date:* 6/19/20.
*Accession Number:* 20200619–5154.
*Comments Due:* 5 p.m. ET 7/10/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 19, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–13713 Filed 6–24–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC20–12–000]**

### Commission Information Collection Activities (FERC–73); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–73 (Oil Pipeline Service Life Data) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

**DATES:** Comments on the collection of information are due July 27, 2020.

**ADDRESSES:** Send written comments on FERC–73 to OMB through *www.reginfo.gov/public/do/PRAMain,* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902–0019) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments to the Commission (identified by Docket No. IC20–12–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Express Services:* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Instructions:*

*OMB submissions* must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain;* Using the search function under the ''Currently Under Review field,'' select Federal Energy Regulatory Commission; click ''submit'' and select ''comment'' to the right of the subject collection.

*FERC submissions* must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC Form No. 73, Oil Pipeline Service Life Data.

*OMB Control No.:* 1902–0019.

*Type of Request:* Three-year extension of the FERC Form No. 73 information collection requirements with no changes to the current reporting requirements.

*Abstract:* The Commission collects FERC Form No. 73 information as part of its authority under the Interstate Commerce Act, 49 U.S.C. 60501, *et al.* FERC Form No. 73 contains necessary information for the review of oil pipeline companies' proposed depreciation rates, as regulated entities are required to provide service life data illustrating the remaining physical life of an oil pipeline's properties, in order to calculate the company's cost of service and its transportation rates to access customers. The Commission implements these filing reviews under the purview of 18 CFR part 357.3, *FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis,* and 18 CFR part 347. Parts 357.3 and 347 require an oil pipeline company to submit information under FERC Form No. 73 when: (1) Requesting approval for new or changed depreciation rates of an oil pipeline; or (2) being directed by the Commission to file the service life data during an investigation of its book depreciation rates.

On April 16, 2020, the Commission published a Notice in the **Federal Register** in Docket No. IC20–12–000 requesting public comments.[1] The Commission received no public comments.

*Type of Respondent:* Oil pipeline companies.

*Estimate of Annual Burden:*[2] The Commission estimates the annual public reporting burden for the information collection as below:

FERC FORM NO. 73, OIL PIPELINE SERVICE LIFE DATA

| | Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden and cost per response[3] | Total annual burden and total annual cost | Cost per respondent ($) |
|---|---|---|---|---|---|---|
| | (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) | (5) ÷ (1) |
| Oil Pipelines Undergoing Investigation or Review ..... | 32 | 1 | 32[4] | 40 hrs.; $3,200 .. | 1,280 hrs.; $102,400 | $3,200 |

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used;

[1] 85 FR 21229.

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[3] The Commission staff estimates the average cost in salary and benefits for the average respondent based on the Commission's 2019 average cost for salary plus benefits at $80/hour.

[4] The total number of responses entailing the submittal of a depreciation study in the past three years was 96. The average response from those three years is 96/3 years = 32 responses per year.

(3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 19, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–13717 Filed 6–24–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Filing

Docket Nos.

Louisiana Public Service Commission
v.
Entergy Corporation, Entergy Services, Inc., Entergy Louisiana, LLC, Entergy Arkansas, Inc., Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Gulf States of Louisiana, L.L.C., Entergy Texas, Inc., Entergy Services, Inc

EL10–65–008, ER14–2085–004, ER11–3658–004, ER12–1920–004, ER13–1595–004 (Consolidated)

On June 18, 2020, Entergy Services, LLC,[1] acting as agent for Entergy Operating Companies [2] filed a compliance filing consisting of the bandwidth formula rate recalculations with true-up payments and receipts based on 2010, 2011, and 2012 test year data and supporting workpapers for the identified adjustment, pursuant to the Federal Energy Regulatory Commission's (Commission) Order issued April 16, 2020.[3]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on July 9, 2020.

Dated: June 19, 2020.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2020–13718 Filed 6–24–20; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER20–2101–000]**

## Fern Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Fern Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 9, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy

[1] Effective September 30, 2018, Entergy Services, Inc., changed its name to Entergy Services, LLC.

[2] The Entergy Operating Companies (Operating Companies) are currently Entergy Arkansas, LLC (formerly Entergy Arkansas, Inc.), Entergy Louisiana, LLC, Entergy Mississippi, LLC (formerly Entergy Mississippi, Inc.), Entergy New Orleans, LLC (formerly Entergy New Orleans, Inc.), and Entergy Texas, Inc.

[3] *La. Pub. Serv. Comm'n* v. *Entergy Corp., et al.,* 171 FERC ¶ 61,044 (2020).

Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 19, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–13714 Filed 6–24–20; 8:45 am]

**BILLING CODE 6717–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**TIME AND DATE:** Tuesday, June 30, 2020 at 10:00 a.m. and its continuation on Thursday, July 2, 2020 at 10:00 a.m.

**PLACE:** 1050 First Street NE, Washington, DC. (This meeting will be a virtual meeting).

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Compliance matters pursuant to 52 U.S.C. 30109.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

**CONTACT PERSON FOR MORE INFORMATION:** Judith Ingram, Press Officer; Telephone: (202) 694–1220.

**Vicktoria J. Allen,**

*Acting Deputy Secretary of the Commission.*

[FR Doc. 2020–13852 Filed 6–23–20; 4:15 pm]

**BILLING CODE 6715–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 27, 2020.

*A. Federal Reserve Bank of Boston* (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Eastern Bankshares Inc., Boston, Massachusetts;* to become a bank holding company by acquiring the voting shares of Eastern Bank, Boston, Massachusetts, upon the full conversion and reorganization of Eastern Bank Corporation, Boston, Massachusetts, from a mutual to stock holding company.

*B. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Cheyenne Banking Corporation, Cheyenne, Oklahoma;* to acquire the voting shares of Laverne Bancshares, Inc., and thereby indirectly acquire Bank of Laverne, both of Laverne, Oklahoma.

Board of Governors of the Federal Reserve System, June 22, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–13727 Filed 6–24–20; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 10, 2020.

*A. Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The 2020 AHW Irrevocable Trust, Don O. Walsworth, Jr., trustee, both of Leawood, Kansas;* to acquire voting shares of Citizens Bancshares Co., and thereby indirectly acquire Citizens Bank and Trust Company, both of Kansas City, Missouri, and to be approved as a member of the Walsworth Family Group, which controls voting shares of Citizens Bancshares Co. Mr. Walsworth has previously been approved as a member of the Walsworth Family Group.

Board of Governors of the Federal Reserve System, June 22, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–13728 Filed 6–24–20; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (''FTC'' or ''Commission'') requests that the Office of Management and Budget (''OMB'') extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for the information collection requirements of its Fair Credit Reporting Risk-Based Pricing Regulations (''Risk-Based Pricing Rule'' or ''Rule''), which

applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau (''CFPB'') of the risk-based pricing provisions (subpart H) of the CFPB's Regulation V regarding other entities. That clearance expires on July 31, 2020.

**DATES:** Comments must be filed by July 27, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Monique Einhorn, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, (202) 326–2575, 600 Pennsylvania Ave. NW, Room CC–8232, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FTC has submitted to the Office of Management and Budget (''OMB'') this request for extension of the previously approved collection of information discussed below.

*Title:* Fair Credit Reporting Risk-Based Pricing Regulations, 16 CFR part 640.

*OMB Control Number:* 3084–0145.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Private Sector: Businesses and other for-profit entities.

*Estimated Annual Burden Hours:* 7,950,000.

*Estimated Annual Labor Costs:* $149,062,500.

*Abstract:* The Risk-Based Pricing Rule and the CFPB's Regulation V require that a creditor provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor.[1] Additionally, these provisions require disclosure of credit scores and information relating to credit scores in risk-based pricing notices if a credit score of the consumer is used in setting the material terms of credit.

## Request for Comment

On February 20, 2020, the Commission sought comment on the information collection requirements associated with the Risk-Based Pricing Rule and its shared enforcement with the CFPB of the risk-based pricing provisions (subpart H) of the CFPB's Regulation V. 85 FR 9775 (Feb. 20, 2020). No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for those information collection requirements.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential'' as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

**Josephine Liu,**

*Assistant General Counsel for Legal Counsel.*

[FR Doc. 2020–13703 Filed 6–24–20; 8:45 am]

**BILLING CODE 6750–01–P**

[1] 16 CFR 640.3–640.4; 12 CFR 1022.72–1022.73.

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## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission (FTC or Commission) seeks public comments on proposed information requests to be sent pursuant to compulsory process to a combined ten or more of the largest cigarette manufacturers and smokeless tobacco manufacturers. The information sought would include, among other things, data on manufacturer annual sales and marketing expenditures. The current FTC clearance from the Office of Management and Budget (''OMB'') to conduct such information collection expires December 31, 2020. The Commission plans to ask OMB for renewed three-year clearance to collect this information.

**DATES:** Comments must be received on or before August 24, 2020.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Tobacco Reports; PRA Comment: FTC File No. P072108'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Michael Ostheimer, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Mailstop CC–10507, Washington, DC 20580, (202) 326–2699.

**SUPPLEMENTARY INFORMATION:**

*Title:* FTC Cigarette and Smokeless Tobacco Data Collection.

*OMB Control Number:* 3084–0134.

*Type of Review:* Extension of a currently approved collection.

*Likely Respondents:* Parent companies of several of the largest cigarette companies and smokeless tobacco companies.

*Estimated Annual Burden Hours:* 1,980 disclosure hours.

*Estimated Annual Labor Costs:* $198,000.

## Abstract

For over 50 years, the FTC has published periodic reports containing data on domestic cigarette sales and marketing expenditures by the major U.S. cigarette manufacturers. The Commission has published comparable reports on smokeless tobacco sales and marketing expenditures for more than thirty years. Originally, both reports were issued pursuant to statutory mandates. After those statutory mandates were terminated, the Commission continued to collect and

publish information obtained from the cigarette and smokeless tobacco industries pursuant to Section 6(b) of the FTC Act, 15 U.S.C. 46(b). As noted above, the current PRA clearance to collect this information is valid through December 31, 2020 (OMB Control No. 3084–0134).

The Commission plans to continue sending information requests annually to the ultimate parent company of several of the largest cigarette companies and smokeless tobacco companies in the United States (''industry members''). The information requests will seek data regarding, inter alia: (1) The tobacco sales of industry members; (2) how much industry members spend advertising and promoting their tobacco products, and the specific amounts spent in each of a number of specified expenditure categories; (3) whether industry members are involved in the appearance of their products or brand imagery in television shows, motion pictures, on the internet, or on social media; (4) how much industry members spend on advertising intended to reduce youth tobacco usage; (5) the events, if any, during which industry members' tobacco brands are televised; and (6) how much industry members spend on public entertainment events promoting their companies but not specific tobacco products or tobacco products generally. The information will again be sought using compulsory process under Section 6(b) of the FTC Act.

Under the PRA, 44 U.S.C. 3501–3521, the FTC is requesting that OMB renew the clearance for the PRA burden associated with the proposed collection.

**Burden Statement**

*Estimated Annual Burden Hours:* 1,980.

The FTC staff's estimated hours of burden is based on the time required each year to respond to the Commission's information request. Although the FTC currently anticipates sending information requests each year to the four largest cigarette companies and the five largest smokeless tobacco companies, the burden estimate is based on up to 15 information requests being issued per year to take into account any future changes in these industries.

These companies vary greatly in size, in the number of products they sell, and in the extent and variety of their advertising and promotion.

The companies have not disputed the staff's burden estimates in prior requests for PRA reauthorization,[1] suggesting that the time most companies would require to gather, organize, format, and produce their responses would range from 30 to 80 hours per information request for the smaller companies, to as much as hundreds of hours for the very largest companies. As an approximation, staff continues to assume a per company average of 180 hours for the nine largest recipients of the Commission's information requests to comply—cumulatively, 1,620 hours per year.

Staff anticipates that if the Commission decides to issue information requests to any additional companies, those companies would be smaller than the primary nine recipients and that the response burden per additional recipient would be less than for the larger companies. Staff believes that the burden should not exceed 60 hours per entity for the smaller recipients of the information requests. Cumulatively, then, the total burden for six additional respondents should not exceed 360 hours per year. Thus, the overall estimated burden for a maximum of 15 recipients of the information requests is 1,980 hours per year. These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent company that has received the information request.

*Estimated Annual Cost Burden:* $198,000.

Commission staff cannot calculate with precision the labor costs associated with this data production, as those costs entail varying compensation levels of management and/or support staff among companies of different sizes. The staff assumes that paralegals and computer analysts will perform most of the work involved in responding to the Commission Orders, although in-house legal personnel will be involved in reviewing the actual submission to the Commission. The staff continues to use a combined hourly wage of $100/hour for the combined efforts of these individuals.[2] Using this figure, staff's best estimate for the total labor costs for up to 15 information requests is $198,000 per year. Staff believes that the capital or other non-labor costs associated with the information requests are minimal.

Although the information requests may necessitate that industry members maintain the requested information provided to the Commission, they should already have in place the means to compile and maintain business records.

**Request for Comments**

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before August 24, 2020.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before August 24, 2020. Write ''Tobacco Reports; PRA Comment: FTC File No. P072108'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Tobacco Reports; PRA Comment: FTC File No. P072108'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely

[1] *E.g.*, 82 FR 37440 (Aug. 10, 2017); 82 FR 54342 (Nov. 17, 2017).

[2] Commission staff believes this estimate is conservative: According to data from the Bureau of Labor Statistics, the mean hourly wages for these three occupations are as follows: $26.45 for paralegals; $46.91 for computer and information analysts; and $69.86 for lawyers. Economic News Release, Bureau of Labor Statistics, Table 1—National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2019 (Table 1), available at *http://www.bls.gov/news.release/ocwage.t01.htm.* Even if employees of the major cigarette and smokeless tobacco manufacturers earn more than these hourly wages, the staff believes its $100/hour estimate is appropriate.

responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 24, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

**Josephine Liu,**

*Assistant General Counsel for Legal Counsel.*

[FR Doc. 2020–13706 Filed 6–24–20; 8:45 am]

BILLING CODE 6750–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Case Plan Requirement, Title IV–E of the Social Security Act, (OMB #0970–0428)

**AGENCY:** Administration on Children, Youth and Families, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting a 3-year extension of the information collection—Case Plan Requirement, Title IV–E of the Social Security Act, (OMB #0970–0428, expiration 3/31/2021). ACF is reporting a change to the information collection—the burden estimates in the previously-approved request were based on the number of children in foster care as the respondent instead of the agency completing the case plan. The burden estimates, therefore, are adjusted accordingly.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* The case plan information collection is authorized in sections 422(b)(8)(A)(ii) and 471(a)(16), and defined in sections 475 and 475A of the Social Security Act (the Act). Statutory requirements in the Act mandate that states, territories, and tribes with an approved title IV–E plan develop a case plan and case review system for each child in the foster care system for whom the state, territory, or tribe receives title IV–E reimbursement of foster care maintenance payments.

The case review system assures that each child has a case plan designed to achieve placement in a safe setting that is the least restrictive, most family-like setting available and in close proximity to the child's parental home, consistent with the best interest and special needs of the child. States, territories, and tribes meeting these requirements also partly comply with title IV–B, section 422(b), of the Act, which assures certain protections for children in foster care.

The case plan is a written document that provides a narrative description of the child-specific program of care. Federal regulations at 45 CFR 1356.21(g) and sections 475 and 475A of the Act delineate the specific information that must be addressed in the case plan. ACF does not specify a format for the case plan nor does ACF require submission of the document to the federal government. Case plan information is recorded in a format developed and maintained by the state, territorial, or tribal title IV–E agency.

*Respondents:* State, territorial, and tribal title IV–E agencies.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Total number of responses per respondent | Average burden hours per response | Total burden hours | Annual burden hours |
|---|---|---|---|---|---|
| Case Plan | 64 | 26,427 | 4.8 | 8,118,374 | 2,706,125 |

*Estimated Total Annual Burden Hours:* 2,706,125.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** 42 U.S.C. 622; 42 U.S.C. 671; 42 U.S.C. 675.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2020–13684 Filed 6–24–20; 8:45 am]

**BILLING CODE 4184–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0589]**

### Hospital-Acquired Bacterial Pneumonia and Ventilator-Associated Bacterial Pneumonia: Developing Drugs for Treatment; 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 final guidance for industry entitled ''Hospital-Acquired Bacterial Pneumonia and Ventilator-Associated Bacterial Pneumonia: Developing Drugs for Treatment.'' The purpose of this final guidance is to help sponsors and investigators in the clinical development of antibacterial drugs for the treatment of hospital-acquired bacterial pneumonia and ventilator-associated bacterial pneumonia (HABP/VABP) based on comments that were received and current recommendations. This guidance finalizes the draft guidance of the same title issued on May 7, 2014.

**DATES:** The announcement of the guidance is published in the **Federal Register** on June 25, 2020.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2010–D–0589 for ''Hospital-Acquired Bacterial Pneumonia and Ventilator-Associated Bacterial Pneumonia: 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, 240–402–7500.

• 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, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Sunita Shukla, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6334, Silver Spring, MD 20993–0002, 301–796–6406.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Hospital-Acquired Bacterial

Pneumonia and Ventilator-Associated Bacterial Pneumonia: Developing Drugs for Treatment.'' The purpose of this guidance is to help sponsors and investigators in the clinical development of antibacterial drugs for the treatment of HABP/VABP. This guidance finalizes the draft guidance of the same name issued on May 7, 2014 (79 FR 26257). FDA considered comments received on the draft guidance as the guidance was finalized. Revisions from the draft to the final guidance include updates to the HABP/VABP trial population, randomization, prior antibacterial drug therapy, and analysis populations. In addition, editorial changes were made to improve clarity. Issuance of this guidance fulfills a portion of the requirements of Title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to review and, as appropriate, revise not fewer than three guidance documents per year for the conduct of clinical trials with respect to antibacterial and antifungal drugs. Issuing this final guidance, which revises and finalizes the draft recommendations in the previously published guidance, fulfills a portion of the requirements of Public Law 112–144.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Hospital-Acquired Bacterial Pneumonia and Ventilator-Associated Bacterial Pneumonia: 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 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 parts 312 and 314, and in 21 CFR 201.56 and 201.57 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0572, respectively.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: June 22, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–13745 Filed 6–24–20; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2009–D–0136]**

### Community-Acquired Bacterial Pneumonia: Developing Drugs for Treatment; 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 final guidance for industry entitled ''Community-Acquired Bacterial Pneumonia: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of antibacterial drugs for the treatment of community-acquired bacterial pneumonia (CABP) based on comments that were received and current recommendations. This guidance finalizes the draft guidance of the same title issued on January 10, 2014.

**DATES:** The announcement of the guidance is published in the **Federal Register** on June 25, 2020.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2009–D–0136 for ''Community-Acquired Bacterial Pneumonia: 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, 240–402–7500.

- 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Sunita Shukla, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6334, Silver Spring, MD 20993–0002, 301–796–6406.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Community-Acquired Bacterial Pneumonia: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the clinical development of antibacterial drugs for the treatment of CABP. This guidance finalizes the draft guidance entitled ''Community-Acquired Bacterial Pneumonia: Developing Drugs for Treatment'' issued on January 10, 2014 (79 FR 1874). FDA considered comments received on the draft guidance as the guidance was finalized. Revisions from the draft to the final guidance include clarification around the time to assess the primary efficacy endpoint (Day 4), updates to the CABP trial population based on the Pneumonia Patient Outcomes Research Team scores, evaluation of intravenous drug formulation, and analysis populations. In addition, editorial changes were made to improve clarity. Issuance of this guidance fulfills a portion of the requirements of Title VIII, section 804, of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), which requires FDA to review and, as appropriate, revise not fewer than 3 guidance documents per year for the conduct of clinical trials with respect to antibacterial and antifungal drugs. Issuance of this final guidance, which revises and finalizes the draft recommendations in the previously published draft guidance, fulfills a portion of the requirements of Public Law 112–144.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Community-Acquired Bacterial Pneumonia: 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 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 parts 312 and 314 and in 21 CFR 201.56 and 201.57 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0572, respectively.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: June 22, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–13746 Filed 6–24–20; 8:45 am]

BILLING CODE 4164–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–1528]**

### Pfizer Inc., et.al.; Withdrawal of Approval of 12 Abbreviated New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is withdrawing approval of 12 abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

**DATES:** Approval is withdrawn as of July 27, 2020.

**FOR FURTHER INFORMATION CONTACT:** Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

| Application No. | Drug | Applicant |
|---|---|---|
| ANDA 060567 .... | Lidocaine Hydrochloride (HCl); Oxytetracycline Injection, 2%; 50 milligrams (mg)/milliters (mL), and 2%; 125 mg/mL. | Pfizer Inc., 235 East 42nd St., New York, NY 10017. |
| ANDA 062612 .... | Gentamicin Sulfate Injection, Equivalent to (EQ) 10 mg base/mL. | Hospira, Inc., 275 North Field Dr., Bldg. H1, Lake Forest, IL 60045. |
| ANDA 062811 .... | Clindamycin Phosphate Solution, EQ 1% base ..... | G&W Laboratories Inc., 301 Helen St., South Plainfield, NJ 07080. |
| ANDA 063333 .... | Cefoperazone Sodium for Injection, EQ 1 gram (gm) base/vial. | Pfizer Inc. |

| Application No. | Drug | Applicant |
|---|---|---|
| ANDA 078288 | Ondansetron HCl Injection, EQ 2 mg base/mL | Baxter Healthcare Corp., 1 Baxter Parkway, Deerfield, IL 60015. |
| ANDA 080426 | Hydrocortisone Lotion, 0.5% | Bausch Health Americas Inc., 400 Somerset Corporate Blvd., Bridgewater, NJ 08807. |
| ANDA 090813 | Levetiracetam Injection, 500 mg/5 mL (100 mg/mL) | Fresenius Kabi USA, LLC., Three Corporate Dr., Lake Zurich, IL 60047. |
| ANDA 201751 | Articaine HCl; Epinephrine Bitartrate Injection, 4%; EQ 0.0085 mg base/1.7 mL; 4%; EQ 0.005 mg base/mL. | Hansamed Ltd., 4761 Tara Ct., West Bloomfield, MI 48323. |
| ANDA 202684 | Levonorgestrel Tablets, 0.75 mg | Alvogen PB Research and Development LLC, U.S. Agent for Lotus Pharmaceutical Co., Ltd. Nantou Plant, 44 Whippany Rd., Suite 300, Morristown, NJ 07960. |
| ANDA 204796 | Capreomycin Sulfate for Injection, EQ 1 gm base/vial | Hisun Pharmaceuticals USA, Inc., U.S. Agent for Hisun Pharmaceutical (Hangzhou) Co., Ltd., 200 Crossing Blvd., 2nd Floor, Bridgewater, NJ 08807. |
| ANDA 205943 | Ethinyl Estradiol; Levonorgestrel Tablets, 0.02 mg, 0.15 mg; 0.025 mg, 0.15 mg; 0.03 mg, 0.15 mg; 0.01 mg, N/A. | Lupin Pharmaceuticals, Inc., 111 South Calvert St., Baltimore, MD 21202. |
| ANDA 212191 | Fluoxetine HCl Tablets, EQ 60 mg base | G&W Laboratories, Inc. |

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of July 27, 2020. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on July 27, 2020, may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: June 19, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–13661 Filed 6–24–20; 8:45 am]

BILLING CODE 4164–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### National Advisory Committee on Rural Health and Human Services

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's National Advisory Committee on Rural Health and Human Services (NACRHHS) has scheduled a public meeting. Information about NACRHHS and the agenda for this meeting can be found on the NACRHHS website at *https://www.hrsa.gov/advisory-committees/rural-health/index.html.*

**DATES:** July 30, 2020, 12:00 p.m.–5:00 p.m. Eastern Time.

**ADDRESSES:** The meeting scheduled on July 30, 2020, will be held by teleconference/webinar. Instructions for joining the meeting remotely will be posted on the NACRHHS website 30 calendar days before the date of the meeting. For meeting information updates, go to the NACRHHS website meeting page at *https://www.hrsa.gov/advisory-committees/rural-health/meetings/index.html.*

**FOR FURTHER INFORMATION CONTACT:** Steven Hirsch, Administrative Coordinator at the Federal Office of Rural Health Policy, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–7322; or *shirsch@hrsa.gov.*

**SUPPLEMENTARY INFORMATION:** NACRHHS provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning both rural health and rural human services.

At this meeting, NACRHHS will discuss the development of a vision statement that emphasizes rural community transformation, sustainable services, and resiliency. By focusing on this vision, NACRHHS will define what it wants to accomplish and how to articulate a policy framework that informs the HHS leadership and empowers rural communities. The intent is to use this process to create a path forward that would help NACRHHS identify policies that empower rural communities to ensure access to core health and human service needs that are focused on local residents and are seen as an essential part of the economic fabric.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Requests to submit a written statement or make oral comments to NACRHHS should be sent to Steven Hirsch, using the contact information above, at least 3 business days prior to the meeting.

Individuals who plan to attend the teleconference/webinar meeting and need special assistance or another reasonable accommodation should notify Steven Hirsch at the address and phone number listed above at least 10 business days prior to the meeting.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2020–13670 Filed 6–24–20; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

*Date:* July 30, 2020.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Sandip Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42, Rockville, MD 20892, 240–292–0189, *sandip.bhattacharyya@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13699 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2) and Coronavirus Disease 2019 (COVID–19).

*Date:* July 17, 2020.

*Time:* 10:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22A, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Inka I. Sastalla, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22A, Rockville, MD 20852, 301–761–6431, *inka.sastalla@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13698 Filed 6–24–20; 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; PAR 17–203, PAR 17–204: Inter-Organelle Communication in Cancer (R01 and R21).

*Date:* July 22, 2020.

*Time:* 11:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Thomas Y Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Rm. 5144, MSC 7840, Bethesda, MD 20892, (301) 402–4179, *thomas.cho@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Addiction Mechanisms and Interventions.

*Date:* July 23, 2020.

*Time:* 10:00 a.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, *prenticekj@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Addiction Mechanisms and Interventions.

*Date:* July 23, 2020.

*Time:* 10:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 523–0646, *mintzermz@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflicts: Gastroenterology.

*Date:* July 23, 2020.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Visual Biology.

*Date:* July 23, 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 Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk Prevention and Social Development.

*Date:* July 23, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, 301–594–3292, *niw@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular and Molecular Immunology.
*Date:* July 23, 2020.
*Time:* 1:00 p.m. to 7:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207, MSC 7812, Bethesda, MD 20892, (301) 435–1238, *hodged@mail.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Cell/Molecular Biology and Instrumentation/Systems Development.
*Date:* July 24, 2020.
*Time:* 10:00 a.m. to 3:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
*Contact Person:* Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188, MSC 7804, Bethesda, MD 20892, (301) 435–1267, *belangerm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Prevention.
*Date:* July 24, 2020.
*Time:* 10:00 a.m. to 12:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13696 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. to achieve expeditious commercialization of results of federally-funded research and development.

**FOR FURTHER INFORMATION CONTACT:** Licensing information may be obtained by emailing Michael Shmilovich, *shmilovm@nih.gov*, the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

**SUPPLEMENTARY INFORMATION:** Technology description follows.

**Liposome Nanodecoys That Protect Against SARS–COV–2**

Available for licensing and commercial development are patent rights covering a liposomal vesicle (a ''nanodecoy'') with a lipid bilayer with one or more proteins recognized by a pathogen (*e.g.,* SARS–CoV–2) and one or more cytokine receptors (such as IL–6; receptors: CD126, CD130; IL–1; receptors: CD121a, CD121b, IL–8; receptors: IL–8RB; IL–12; receptors: CD212; TNF–α; receptors: CD120a, CD120b; IFN-γ; receptors: CD119, IFN–α/β; receptors: CD118) and wherein the liposomal vesicle is non-replicating. Nanodecoys that display angiotensin-converting enzyme 2 (ACE2) and multiple cytokine receptors, are able to sequester SARS–CoV–2 and inhibit viral replication and infection, as well as to mitigate COVID–19–induced cytokine release syndrome (CRS) in susceptible cells.

*Potential Commercial Applications:*

- COVID–19
- SARS–CoV–2
- Cytokine release syndrome
  - immunosuppression
- Viral inhibition
  - Receptor binding competition

*Development Stage:*

- Preclinical

*Inventors:* Xiaoyuan (Shawn) Chen (NIBIB) and Lang Rao (NIBIB).

*Intellectual Property:* HHS Reference No. E–144–2020–0–US–01 ''Engineered Cell Membrane Nanodecoys To Protect Against COVID–19;'' U.S. Provisional Patent Application 63/038,380 filed June 12, 2020.

*Licensing Contact:* Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@mail.nih.gov.*

Dated: June 17, 2020.

**Michael A. Shmilovich,**

*Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.*

[FR Doc. 2020–13656 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Bioremediation Superfund.
*Date:* July 16, 2020.
*Time:* 9:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).
*Contact Person:* Laura A. Thomas, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, (919) 541–2824, *laura.thomas@nih.gov.*

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Training in Environmental Health Sciences.
*Date:* July 17, 2020.
*Time:* 11:30 a.m. to 3:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).
*Contact Person:* Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (984) 287–3236, *bass@niehs.nih.gov.*

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; R13 Support for Scientific Meetings.

*Date:* July 20, 2020.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13702 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Digital, Limited Interaction Trials and Epidemiology (D–LITE): Targeting HIV Incidence in the United States (U01 Clinical Trial Required).

*Date:* July 16–17, 2020.

*Time:* 9:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Chelsea D. Boyd, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20852, *chelsea.boyd@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13697 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2) and Coronavirus Disease 2019 (COVID–19).

*Date:* July 15, 2020.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70, Rockville, MD 20892 (Telephone Conference Call).

*Contact Person:* Mohammed S. Aiyegbo, Ph.D., Scientific Review Officer, AIDS Research Review Branch, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E70, Rockville, MD 20852, 301–761–7106, *mohammed.aiyegbo@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13701 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Immune Tolerance Network (UM1 Clinical Trial Required).

*Date:* July 28, 2020.

*Time:* 8:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 19, 2020.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2020–13700 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Scientific Advisory Committee on Alternative Toxicological Methods; Announcement of Meeting; Request for Comments

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the next meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM). SACATM is a federally chartered external advisory group of scientists from the public and private sectors, including representatives of regulated industry and national animal protection organizations. SACATM advises the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), and the Director of the National Institute of Environmental Health Sciences (NIEHS) and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM. This SACATM meeting will be held by webcast only and available to the public for remote viewing. Registration is required to access the webcast and to present oral comments. Information about the meeting and registration are available at *https://ntp.niehs.nih.gov/go/32822.*

**DATES:**

*Webcast:* September 2–3, 2020, 10:00 a.m.–3:00 p.m. EDT each day.

*Registration for Webcast:* Deadline is September 3, 2020, 3:00 p.m. EDT.

*Written Public Comment Submissions:* Deadline is August 26, 2020.

*Register to Present Oral Comments:* Deadline is August 26, 2020.

Registration to view the webcast and present oral public comments is required.

**ADDRESSES:**

*Meeting web page:* The preliminary agenda, registration, and other meeting materials are at *https://ntp.niehs.nih.gov/go/32822.*

*Webcast:* The meeting will be webcast; information to connect to the webcast will be provided to those who register for viewing.

**FOR FURTHER INFORMATION CONTACT:** Dr. Elizabeth Maull, Designated Federal Official for SACATM, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2–17, Research Triangle Park, NC 27709. Phone: 984–287–3157, Fax: 301–480–3008, Email: *maull@niehs.nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2021, Morrisville, NC 27560.

**SUPPLEMENTARY INFORMATION:**

*Meeting and Registration:* The meeting is open to the public with time scheduled for oral public comments. Due to restrictions on in-person gatherings amid ongoing public health concerns, the meeting will be convened via webcast.

SACATM will provide input to ICCVAM, NICEATM, and NIEHS on programmatic activities and issues. Preliminary agenda items for the upcoming meeting include: (1) SACATM: Past, present, and future; (2) fostering international partnerships; (3) curating and characterizing data for alternative methods use; and (4) computational resources. Please see the preliminary agenda for information about specific presentations.

The preliminary agenda, roster of SACATM members, background materials, public comments, and any additional information will be posted when available on the SACATM meeting website (*https://ntp.niehs.nih.gov/go/32822*) or may be requested in hardcopy from the Designated Federal Official for SACATM. Following the meeting, summary minutes will be prepared and made available on the SACATM meeting website.

The meeting is open to all interested persons to view via webcast. Registration is required to view the webcast. Registrants will receive instructions on how to access the webcast in the email confirming their registration. Individuals who plan to provide oral comments (see below) are required to register online at the SACATM meeting website (*https://ntp.niehs.nih.gov/go/32822*) by August 26, 2020, to facilitate planning for the meeting. Individuals are encouraged to visit the website often to stay abreast of the most current information regarding the meeting.

Individuals with disabilities who need accommodation to participate in this event should contact Ms. Robbin Guy at phone: (984) 287–3136 or email: *guyr2@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

*Written Public Comments:* Written and oral public comments are invited for the agenda topics. Guidelines for public comments are available at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.* The deadline for submission of written comments is August 26, 2020. Written public comments should be submitted through the meeting website. Persons submitting written comments should include name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP website, and the submitter will be identified by name, affiliation, and sponsoring organization (if any).

*Oral Public Comment Registration:* The preliminary agenda allows for several public comment periods, each allowing up to three commenters a maximum of five minutes per speaker. Registration for oral comments is on or before August 26, 2020, at *https://ntp.niehs.nih.gov/go/32822.* Registration is on a first-come, first-served basis. Each organization is allowed one time slot per comment period. After the maximum number of speakers per comment period is exceeded, individuals registering to submit an oral comment for the topic will be placed on a wait list and notified should an opening become available. Commenters will be notified after August 26, 2020, to provide logistical information for their presentations. If possible, oral public commenters should send a copy of their slides and/or statement or talking points to Robbin Guy by email: *guyr2@niehs.nih.gov* by August 26, 2020.

*Meeting Materials:* The preliminary meeting agenda will be posted when available on the meeting web page at *https://ntp.niehs.nih.gov/go/32822* and will be updated one week before the meeting. Individuals are encouraged to visit this web page often to stay abreast of the most current information regarding the meeting.

Responses to this notice are voluntary. No proprietary, classified, confidential, or sensitive information should be included in statements submitted in response to this notice or presented during the meeting. This request for input is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in

response to the request. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

*Background Information on ICCVAM, NICEATM, and SACATM:* ICCVAM is an interagency committee composed of representatives from 16 federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine (enhance animal well-being and lessen or avoid pain and distress) animal use.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of NIEHS and provides the authority for ICCVAM involvement in activities relevant to the development of alternative test methods. Additional information about ICCVAM can be found at *http://ntp.niehs.nih.gov/go/iccvam.*

NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts and publishes analyses and evaluations of data from new, revised, and alternative testing approaches. NICEATM and ICCVAM work collaboratively to evaluate new and improved testing approaches applicable to the needs of U.S. federal agencies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM can be found at *http://ntp.niehs.nih.gov/go/niceatm.*

SACATM, established by the ICCVAM Authorization Act [Section 285l–3(d)], provides advice on priorities and activities related to the development, validation, scientific review, regulatory acceptance, implementation, and national and international harmonization of new, revised, and alternative toxicological test methods to ICCVAM, NICEATM, and Director of NIEHS and NTP. Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167.*

Dated: June 19, 2020.

**Brian R. Berridge,**

*Associate Director, National Toxicology Program.*

[FR Doc. 2020–13672 Filed 6–24–20; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2008–0010]**

### Board of Visitors for the National Fire Academy

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Committee management; notice of open Federal Advisory Committee meeting.

**SUMMARY:** The Board of Visitors for the National Fire Academy (Board) will meet via teleconference on Monday, August 31, 2020. The meeting will be open to the public.

**DATES:** The meeting will take place on Monday, August 31, 2020, 9:00 a.m. to 5:00 p.m. EDT. Please note that the meeting may close early if the Board has completed its business.

**ADDRESSES:** Members of the public who wish to participate in the teleconference should contact Deborah Gartrell-Kemp as listed in the **FOR FURTHER INFORMATION CONTACT** section by close of business August 24, 2020, to obtain the call-in number and access code for the March 5th teleconference meeting. For more information on services for individuals with disabilities or to request special assistance, contact Deborah Gartrell-Kemp as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** section. Participants seeking to have their comments considered during the meeting should submit them in advance or during the public comment segment. Comments submitted up to 30 days after the meeting will be included in the public record and may be considered at the next meeting. Comments submitted in advance must be identified by Docket ID FEMA–2008–0010 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Deborah Gartrell-Kemp, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, post-marked no later than August 10, 2020 for consideration at the August 31, 2020 meeting.

*Instructions:* All submissions received must include the words ''Federal Emergency Management Agency'' and the Docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2008–0010'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.''

**FOR FURTHER INFORMATION CONTACT:**

*Alternate Designated Federal Officer:* Stephen Dean, telephone (301) 447–1271, email *Stephen.Dean@fema.dhs.gov.*

*Logistical Information:* Deborah Gartrell-Kemp, telephone (301) 447–7230, email *Deborah.GartrellKemp@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix.

#### Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, on the operation of the Academy and any improvements therein that the Board deems appropriate. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions that are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits a written annual report through the United States Fire Administrator to the Administrator of FEMA. The report provides detailed comments and recommendations regarding the operation of the Academy.

#### Agenda

On Monday, August 31, 2020, there will be four sessions, with deliberations and voting at the end of each session as necessary:

1. The Board will discuss USFA Data, Research, Prevention and Response.

2. The Board will discuss deferred maintenance and capital improvements on the National Emergency Training Center campus and Fiscal Year 2021 Budget Request/Budget Planning.

3. The Board will deliberate and vote on recommendations on Academy program activities to include developments, deliveries, staffing, and admissions.

4. There will also be an update on the Board of Visitors Subcommittee Groups for the Professional Development Initiative Update and the National Fire Incident Report System.

There will be a 10-minute comment period after each agenda item and each speaker will be given no more than 2 minutes to speak. Please note that the public comment period may end before the time indicated following the last call for comments. Contact Deborah Gartrell-Kemp to register as a speaker. Meeting materials will be posted at *https://www.usfa.fema.gov/training/nfa/about/bov.html* by August 25, 2020.

**Tonya L. Hoover,**

*Deputy Fire Administrator/Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.*

[FR Doc. 2020–13726 Filed 6–24–20; 8:45 am]

BILLING CODE 9111–74–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2020–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security (DHS).

**ACTION:** Notice; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is withdrawing its final notice concerning the flood hazard determinations for Bristol County, Massachusetts (All Jurisdictions).

**DATES:** The final notice concerning the flood hazard determinations for Bristol County, Massachusetts (All Jurisdictions) published June 1, 2020 (85 FR 33175) is withdrawn as of June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** On June 1, 2020, FEMA published a notice at 85 FR 33176, containing final flood hazard determinations for Bristol County, Massachusetts (All Jurisdictions). Communities within the Cape Cod Watershed study experienced difficulties during the adoption and compliance period resulting in the inability to adopt the FIS and FIRM and thereby comply with the National Flood Insurance Program (NFIP) regulations. The final flood hazard determinations is hereby rescinded, and ordinances must revert to the previously adopted FIS Report and FIRM. FEMA is withdrawing the notice for the affected communities.

**Authority:** 42 U.S.C. 4104; 44 CFR 67.4.

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2020–13280 Filed 6–24–20; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0023]**

### Agency Information Collection Activities; Revision of a Currently Approved Collection; Extension: Application To Register Permanent Residence or Adjustment of Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 24, 2020.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0023 in the body of the letter, the agency name and Docket ID USCIS–2009–0020. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2009–0020. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:**

#### Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2009–0020 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Register Permanent Residence or Adjust Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–485, Supplement A, Supplement J, National Interest Waiver; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information on Form I–485 will be used to request and determine eligibility for adjustment of permanent residence status. Supplement A is used to adjust status under section 245(i) of the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–485 is 576,000 and the estimated hour burden per response is 7.784 hours. The estimated total number of respondents for the information collection Supplement A is 23,355 and the estimated hour burden per response is 1.33 hour. The estimated total number of respondents for the information collection Supplement J is 30,841 and the estimated hour burden per response is 1 hours. The estimated total number of respondents for the information collection National Interest Waiver is 8,000 who will respond an average of 2 times per year and the estimated hour burden per response is 1 hour. The estimated total number of respondents for the information collection Biometrics Processing is 570,932 and the estimated hour burden per response is 1.17 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 5,229,747 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $211,680,000.

Dated: June 19, 2020.

**Samantha L Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2020–13679 Filed 6–24–20; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–IA–2020–0064; FXIA16710900000–201–FF09A30000]**

### Foreign Endangered Species; Marine Mammals; Receipt of Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA) and foreign or native species for which the Service has jurisdiction under the Marine Mammal Protection Act (MMPA). With some exceptions, the ESA and the MMPA prohibit activities with listed species unless Federal authorization is issued that allows such activities. The ESA and MMPA also require that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA or MMPA with respect to any endangered species or marine mammals.

**DATES:** We must receive comments by July 27, 2020.

**ADDRESSES:**

*Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2020–0064.

*Submitting Comments:* When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2020–0064.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2020–0064; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Monica Thomas, by phone at 703–358–2185, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**I. Public Comment Procedures**

*A. How do I comment on submitted applications?*

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES.** We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

*B. May I review comments submitted by others?*

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

*C. Who will see my comments?*

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes

personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and section 104(c) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA and MMPA prohibit certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17. Service regulations regarding permits for any activity otherwise prohibited by the MMPA with respect to any marine mammals are available in title 50 of the Code of Federal Regulations in part 18. Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the marine mammal application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

## III. Permit Applications

We invite comments on the following applications.

### *A. Endangered Species*

*Applicant:* L.A. Waters Ranch, LLC, Utopia, TX; Permit No. 16883D

The applicant requests a permit to export samples derived from captive African wild ass (*Equus africanus*) for the purpose of enhancing the propagation or survival of the species through scientific research. This notification is for a single export.

*Applicant:* Toledo Zoological Gardens, Toledo, OH; Permit No. 49147D

The applicant requests a permit to import one female captive-born Amur leopard (*Panthera pardus orientalis*) from Thrigby Hall Wildlife Gardens, Great Yarmouth, United Kingdom, to Toledo Zoological Gardens, Toledo, OH, with immediate transport to the Niabi Zoo, Coal Valley, IL, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

*Applicant:* Institute for the Conservation of Tropical Environments, Stony Brook, NY; Permit No. 56547D

The applicant requests authorization to import biological samples derived from wild golden bamboo lemurs (*Hapalemur aureus*), greater bamboo lemurs (*Prolemur simus*), and red-fronted lemurs (*Eulemur rufus*), taken in Madagascar, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Columbian Park Zoo/City of Lafayette, Lafayette, IN; Permit No. 60773D

The applicant requests a permit to acquire six male and two female captive-bred African penguins (*Spheniscus demersus*) in interstate commerce from Six Flags Discovery Kingdom, Vallejo, California, for the purpose of enhancing the propagation or survival of the species. This notification is for a single interstate commerce activity.

*Applicant:* Fort Worth Zoological Association, Inc., Fort Worth, TX; Permit No. 65855D

The applicant requests a permit to import two female captive-born Asian elephants (*Elephas maximus*) from African Lion Safari, Ontario, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

*Applicant:* Minnesota Zoological Gardens, Apple Valley, MN; Permit No. 60225D

The applicant requests a permit to import one female captive-born Amur leopard (*Panthera pardus orientalis*) from Thrigby Hall Wildlife Gardens, Great Yarmouth, United Kingdom, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

*Applicant:* U.S. Fish and Wildlife Service Carlsbad Field Office, Carlsbad, CA; Permit No. 69406D

The applicant requests a permit to export biological samples derived from nonviable eggs of California least terns (*Sterna antillarum browni*) to AXYS Analytical Services, Sidney, Canada, for the purpose of scientific research. This notification is for a single export.

*Applicant:* Royal Botanic Gardens, KEW, c/o U.S. Fish and Wildlife Service Field Office, Boquerón, Puerto Rico; Permit No. 76438D

The applicant requests authorization to export dried/preserved leaves, floral structures, and vegetative material of (*Zanthoxylum thomasianum*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* International Center for the Preservation of Wild Animals dba The Wilds, Cumberland, OH; Permit No. 56752D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species: African wild dog (*Lycaon pictus*), Asian wild ass (*Equus hemionus*), Bactrian camel (*Camelus bactrianus*), Bactrian deer (*Cervus elaphus bactrianus*), banteng (*Bos javanicus*), cheetah (*Acinonyx jubatus*), dhole (*Cuon alpinus*), goral (*Naemorhedus goral*), great Indian rhinoceros (*Rhinoceros unicornis*), Przewalski's horse (*Equus przewalskii*), and red-crowned crane (*Grus japonensis*). This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* The Condor Fund, Las Vegas, NV; Permit No. 54520D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

| Common name | Scientific name |
|---|---|
| Andean condor | *Vultur gryphus* |
| Blue-throated macaw | *Ara glaucogularis* |
| Great green macaw | *Ara ambiguous* |
| Military macaw | *Ara militaris* |

*Applicant:* John Grigus, Lemont, IL; Permit No. 25262B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Madagascar radiated tortoise (*Geochelone radiata*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Lonesome Bull Ranch, Sardia, TX; Permit No. 60507D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for barasingha (*Rucervus duvaucelli*) and Arabian oryx (*Oryx leucoryx*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Saint Louis Zoo, Saint Louis, MO; Permit No. 66451D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

| Common name | Scientific name |
|---|---|
| Amur tiger | *Panthera tigris altaica* |
| Amur leopard | *Panthera pardus orientalis* |
| Snow leopard | *Uncia* |
| African wild dog | *Lycaon pictus* |
| Cheetah | *Acinonyx jubatus* |
| Asian elephant | *Elephas maximus* |
| Black rhinoceros | *Diceros bicornis* |
| Addax | *Addax nasomaculatus* |
| Babirusa | *Babyrousa babyrussa* |
| Banteng | *Bos javanicus* |
| African wild ass | *Equus africanus* |
| Dama gazelle | *Gazelle dama* |
| White-nape crane | *Grus vipio* |
| Bali mynah | *Leucopsar rothschildi* |
| Horned guan | *Oreophasis derbianus* |
| Cabot's tragopan | *Tragopan caboti* |

*Applicant:* Charles Musgrave, Pilot Point, TX; Permit No. 67131D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Galapagos tortoise (*Chelonoidis niger*) and radiated tortoise (*Astrochelys radiata*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Fascination Herpetoculture, Thicket, TX; Permit No. 28941B

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for Galapagos tortoise (*Chelonoidis niger*), radiated tortoise (*Astrochelys radiata*), dwarf crocodile (*Osteolaemus tetraspis tetraspis*), yacare caiman (*Caiman yacare*), common caiman (*Caiman crocodylus crocodylus*), and broad-snouted caiman (*Caiman latirostris*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Peter M. Stein, Manchester, CT; Permit No. 76702D

The applicant requests renewal of a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), and spotted pond turtle (*Geoclemys hamiltonii*) to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Lonesome Bull Ranch, Sardia, TX; Permit No. 68664D

The applicant requests a permit authorizing the culling of excess barasingha (*Rucervus duvaucelli*) and Arabian oryx (*Oryx leucoryx*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Applicant:* Lucky 7 Exotics Ranch, Eden, TX; Permit No. 70466A

The applicant requests a permit authorizing the culling of excess Arabian oryx (*Oryx leucoryx*) and barasingha (*Rucervus duvaucelli*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 2-year period.

*B. Endangered Marine Mammals and Marine Mammals*

*Applicant:* USGS C/O Joseph Tomoleoni, Santa Cruz, CA; Permit No. 672624

The applicant requests to renew their permit to take Southern sea otters (*Enhydra lutris nereis*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

## IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

## V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations, and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and its implementing regulations.

**Monica Thomas,**

*Management Analyst, Branch of Permits, Division of Management Authority.*

[FR Doc. 2020–13743 Filed 6–24–20; 8:45 am]

**BILLING CODE 4333–15–P**

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## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**[201A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0188]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Appraisals & Valuations of Indian Property

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 27, 2020.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240; or by email to *elizabeth.appel@bia.gov.* Please reference OMB Control Number 1076–0188 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Ms. Sharlene Round Face by email at *Sharlene.RoundFace@bia.gov* or by telephone at (505) 563–3132.

You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of

information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 30, 2020 (85 FR 17596). No comments were received.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* Title III of the Indian Trust Asset Reform Act (25 U.S.C. 5601, *et seq.*) requires the Secretary of the Interior to publish minimum qualifications for appraisers of Indian property and allows the Secretary to accept appraisals performed by those appraisers without further review or approval. The Secretary has developed a regulation at 43 CFR 100 to implement these provisions. The regulation requires appraisers to submit certain information so that the Secretary can verify that the appraiser meets the minimum qualifications.

*Title of Collection:* Appraisals & Valuations of Indian Property.

*OMB Control Number:* 1076–0188.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Individual Indians and Federally Recognized Indian Tribes.

*Total Estimated Number of Annual Respondents:* 379.

*Total Estimated Number of Annual Responses:* 1,137.

*Estimated Completion Time per Response:* One hour.

*Total Estimated Number of Annual Burden Hours:* 1,137.

*Respondent's Obligation:* Required to Obtain a Benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* $0.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2020–13724 Filed 6–24–20; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0030317; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: University of Tennessee, Department of Anthropology, Knoxville, TN, and U.S. Army Corps of Engineers, Omaha District, Omaha, NE; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** The University of Tennessee, Department of Anthropology (UTK) and the U.S. Army Corps of Engineers, Omaha District (Omaha District) have corrected an inventory of human remains and associated funerary objects, published in a Notice of Inventory Completion in the **Federal Register** on November 8, 2019. This notice corrects the minimum number of individuals. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to UTK and Omaha District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects 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 request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to UTK and Omaha District at the address in this notice by July 27, 2020.

**ADDRESSES:** Dr. Robert Hinde, University of Tennessee, Office of the Provost, 527 Andy Holt Tower, Knoxville, TN 37996–0152, telephone (865) 974–2445, email *rhinde@utk.edu* and *vpaa@utk.edu.* Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone (402) 995–2674, email *sandra.v.barnum@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the University of Tennessee, Department of Anthropology, Knoxville, TN, and the U.S. Army Corps of Engineers, Omaha District, Omaha, NE. The human remains and associated funerary objects were removed from Campbell, Corson, and Walworth Counties, SD.

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 human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals published in a Notice of Inventory Completion in the **Federal Register** (84 FR 60443–60447, November 8, 2019). Additional human remains were discovered after publication of the notice. Transfer of control of the items in this correction notice has not occurred.

**Correction**

In the **Federal Register** (84 FR 60445, November 8, 2019), column 3, paragraph 1, sentence 1 is corrected by substituting the following sentence:

> Between 1966 and 1969, human remains representing, at minimum, 757 individuals were removed from 39WW2, the Larson site, in Walworth County, SD, by William Bass.

In the **Federal Register** (84 FR 60445, November 8, 2019), column 3, paragraph 1, sentence 4 is corrected by substituting the following sentence:

The human remains belong to 411 infants and 100 children, all of indeterminate sex, 38 adolescents, and 208 adults.

In the **Federal Register** (84 FR 60445, November 8, 2019), column 3, paragraph 1, sentence 5 is corrected by substituting the following sentence:

Of the adolescent individuals, nine are probably male, 16 are probably female, and 13 are of indeterminate sex.

In the **Federal Register** (84 FR 60446, November 8, 2019), column 3, paragraph 1, sentence 1, under the heading ''Determinations Made by the University of Tennessee, Department of Anthropology and the U.S. Army Corps of Engineers, Omaha District,'' is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 1,974 individuals of Native American ancestry.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Robert Hinde, University of Tennessee, Office of the Provost, 527 Andy Holt Tower, Knoxville, TN 37996–0152, telephone (865) 974–2445, email *rhinde@utk.edu* and *vpaa@utk.edu;* and Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone (402) 995–2674, email *sandra.v.barnum@usace.army.mil,* by July 27, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may proceed.

The University of Tennessee, Department of Anthropology and the U.S. Army Corps of Engineers, Omaha District are responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, that this notice has been published.

Dated: May 11, 2020.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2020–13693 Filed 6–24–20; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–NPS0030307; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Intent To Repatriate Cultural Items: The Field Museum of Natural History, Chicago, IL

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Field Museum of Natural History (Field Museum), 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 Field Museum. 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 Field Museum at the address in this notice by July 27, 2020.

**ADDRESSES:** Helen Robbins, Director of Repatriation, The Field Museum, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

**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 Field Museum of Natural History, Chicago, IL, 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 1900 and 1901, 1403 cultural items were removed from the sites of Awatobi, Chukubi, Kishuba, Mishongnovi, Shongopovi, Sikyatki, and Old Walpi in Navajo County, AZ. The items were removed by Charles Owen over the course of two field seasons. The excavations were sponsored by Stanley McCormick on behalf of the Field Museum of Natural History.

The 109 unassociated funerary objects from Awatobi are: One necklace made of cedar berries, one stone amulet, two cup-like stone formations, three pipes, one chalcedony implement, five chert implements, 12 projectile points, four ceramic mugs, seven ceramic ladles, 10 ceramic jars, 21 ceramic pots, and 42 ceramic bowls.

The 47 unassociated funerary objects from Chukubi are: One ceramic water vessel, one ceramic pitcher, three ceramic ladles, four ceramic pots, five ceramic mugs, five ceramic jars, and 28 ceramic bowls.

The 17 unassociated funerary objects from Kishuba are: Three ceramic ladles, four ceramic bowls, and 10 ceramic mugs.

The 418 unassociated funerary objects from Mishongnovi are: One lot of pebbles, one stone implement, two stone ornaments, two shell ornaments, two flakes of flint, 41 pieces of obsidian, one bone awl, two lots of bone beads, two pieces of burned corn, one mano, two metate, two stone slabs, eight bahos, four ceramic vessels, six ceramics water vessels, 24 ceramic pots, 26 ceramic mugs, 31 ceramic ladles, 39 ceramic jars, and 221 ceramic bowls.

The 28 unassociated funerary objects from Shongopovi are: One stone slab, one ceramic pot, one ceramic water bottler, eight ceramic jars, and 17 ceramic bowls.

The 111 unassociated funerary objects from Sikyatki are: One stone fetish, one stone ornament, one shell ornament, two chunks of hematite, one lot of bone beads, one lot of turquoise beads, two lots of cedar berry beads, four pieces of turquoise earrings, one ceramic olla, three ceramic vessels, three ceramic water vessels, three ceramic mugs, three ceramic ladles, nine ceramic pots, 17 ceramic jars, and 59 ceramic bowls.

The 673 unassociated funerary objects from Old Walpi are: One stone ball, one stone slab, two stone mountain lion fetishes, two pipes, two lots of beads, three pieces of earrings, 45 bahos, three ceramic dishes, five ceramic water vessels, five ceramic pitchers, 10 ceramic vessels, 26 ceramic mugs, 30 ceramic ladles, 163 ceramic pots, 186 ceramic bowls, and 189 ceramic jars.

Owen's field notes and the corresponding field numbers on the items show by a preponderance of evidence that the items were removed

from graves. The items were all removed from the Hopi Reservation, and are all culturally affiliated with the Hopi Tribe of Arizona based on academic literature, oral traditional information, and consultation with the Hopi Tribe.

**Determinations Made by the Field Museum of Natural History**

Officials of the Field Museum of Natural History have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the 1,403 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 specific burial sites of Native American individuals.

• 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 Hopi Tribe of Arizona.

**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 Helen Robbins, Director of Repatriation, The Field Museum, 1400 S. Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by July 27, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Hopi Tribe of Arizona may proceed.

The Field Museum is responsible for notifying the Hopi Tribe of Arizona that this notice has been published.

Dated: May 8, 2020.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2020–13694 Filed 6–24–20; 8:45 am]

BILLING CODE 4312–52–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–588 and 731–TA–1392–1393 (Final) (Remand)]**

## Polytetrafluoroethylene Resin From China and India

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of remand proceedings.

**SUMMARY:** The U.S. International Trade Commission (''Commission'') hereby gives notice of the remand of its final determinations in the antidumping duty and countervailing duty investigations of polytetrafluoroethylene resin (''PTFE'') from China and India. For further information concerning the conduct of these remand proceedings and rules of general application, consult the Commission's Rules of Practice and Procedure.

**DATES:** Applicable June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, or Karl von Schriltz (703–356–3293), Office of General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record of Investigation Nos. 701–TA–588 and 731–TA–1392–1393 (Final) may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—In July 2018, the Commission unanimously determined that an industry in the United States was neither materially injured nor threatened with material injury by reason of PTFE from India found by the U.S. Department of Commerce (''Commerce'') to be subsidized by the Government of India. *PTFE from China and India,* Investigation Nos. 701–TA–588 and 731–TA–1392–1393 (Final), USITC Pub. 4801 (Jul. 2018). Subsequently, in November 2018, in the antidumping investigations, the Commission likewise reached unanimous negative determinations with respect to imports of PTFE resin from China and India found by Commerce to be sold in the United States at less than fair value. *PTFE from China and India,* Investigation Nos. 731–TA–1392–1393 (Final), USITC Pub. 4841 (Nov. 2018). Petitioner, The Chemours Company FC, LLC, contested the Commission's determinations before the U.S. Court of International Trade. The court affirmed in part and remanded in part the Commission's determinations. *The Chemours Company FC, LLC* v. *United States,* Slip. Op. 20–61 (Ct. Int'l Trade, May 6, 2020). Specifically, the court remanded for the Commission ''to explain further its decision not to discount post-petition data, taking into account the increase in subject import prices in the final quarter of 2017.'' Slip Op. at 33.

*Participation in the proceeding.*—Only those persons who were interested parties that participated in the investigations (*i.e.,* persons listed on the Commission Secretary's service list) and also parties to the appeal may participate in the remand proceedings. Such persons need not make any additional notice of appearances or applications with the Commission to participate in the remand proceedings, unless they are adding new individuals to the list of persons entitled to receive business proprietary information (''BPI'') under administrative protective order. BPI referred to during the remand proceedings will be governed, as appropriate, by the administrative protective order issued in the investigations. The Secretary will maintain a service list containing the names and addresses of all persons or their representatives who are parties to the remand proceedings, and the Secretary will maintain a separate list of those authorized to receive BPI under the administrative protective order during the remand proceedings.

*Written Submissions.*—The Commission is not reopening the record and will not accept the submission of new factual information for the record. The Commission will permit the parties to file comments concerning how the Commission could best comply with the Panel's remand instructions.

The comments must be based solely on the information in the Commission's record. The Commission will reject submissions containing additional factual information or arguments pertaining to issues other than the one on which the Panel has remanded this matter. The deadline for filing comments is July 3, 2020. Comments shall be limited to no more than ten (10) double-spaced and single-sided pages of textual material, inclusive of attachments and exhibits.

Parties are advised to consult with the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission. All written submissions must conform to the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the

Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. The Commission's *Handbook on E-Filing,* available on the Commission's website at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such submissions or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

By order of the Commission.

Issued: June 12, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–13085 Filed 6–24–20; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pre-filled Syringes for Intravitreal Injection and Components Thereof, DN 3460;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Novartis Pharma AG, Novartis Pharmaceuticals Corporation, and Novartis Technology LLC on June 19, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pre-filled syringes for intravitreal injection and components thereof. The complaint names as respondent: Regeneron Pharmaceuticals, Inc. of Tarrytown, NY. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon the respondent alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondent, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3460'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

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

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: June 22, 2020.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2020–13695 Filed 6–24–20; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1125 (Second Review)]**

### Electrolytic Manganese Dioxide From China; Determination

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on electrolytic manganese dioxide from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**Background**

The Commission instituted this review on December 2, 2019 (84 FR 66005) and determined on March 6, 2020 that it would conduct an expedited review (85 FR 29973, May 19, 2020).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on June 19, 2020. The views of the Commission are contained in USITC Publication 5069 (June 2020), entitled *Electrolytic Manganese Dioxide from China, Investigation No. 731–TA–1125 (Second Review).*

By order of the Commission.

Issued: June 19, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–13673 Filed 6–24–20; 8:45 am]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on April 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''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') 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, IFM Efector, Inc., Malvern, PA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on March 24, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 10, 2020 (85 FR 20302).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2020–13692 Filed 6–24–20; 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—ODPI, INC.

Notice is hereby given that, on June 12, 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''), ODPi, Inc. (''ODPi'') 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, Cloudera, Inc., Palo Alto, CA, has been added as a party to this venture.

Also, WANdisco, Inc., San Ramon, CA; and Attunity, Boston, MA, 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 ODPi intends to file additional written notifications disclosing all changes in membership.

On November 23, 2015, ODPi 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 23, 2015 (80 FR 79930).

The last notification was filed with the Department on March 26, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 10, 2020 (85 FR 20302).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2020–13689 Filed 6–24–20; 8:45 am]

BILLING CODE 4410–11–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 20–057]**

## Information Collection; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice; request for comment.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of 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 new collection proposed by the Agency.

**DATES:** *Submit comments on or before:* August 24, 2020.

**ADDRESSES:** Submit comments identified by Information Collection 2700–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), by any of the following methods:

- *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.
- *Mail:* R. Travis Kantz, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, Washington, DC 20546 Mail Code: JSC/HQ–IB–20 or email *Travis.Kantz@nasa.gov.*

A–11 Section 280 Improving Customer Experience.

*Instructions:* Please submit comments only and cite Information Collection 2700–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Amira Boland, Office of Management and Budget, 725 17th St. NW, Washington, DC 20006, or via email to *amira.c.boland@omb.eop.gov.* Or by telephone at 202.395.5222.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA 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, NASA is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: Conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. NASA will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

*Method of Collection*

NASA will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. DHS may also utilize observational techniques to collect this information.

*Data*

*Form Number(s):* None.
*Type of Review:* New.

### B. Annual Reporting Burden

*Affected Public:* Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

*Estimated Number of Respondents:* 2,001,550.

*Estimated Time per Response:* Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 2 hours to participate in an interview.

*Estimated Total Annual Burden Hours:* 101,125.

*Estimated Total Annual Cost to Public:* $0.

**C. Public Comments**

NASA invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Roger Kantz,**

*NASA PRA Clearance Officer.*

[FR Doc. 2020–13685 Filed 6–24–20; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meeting of National Council on the Humanities

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

**DATES:** The meeting will be held on Thursday, July 9, 2020, from 11:00 a.m. until 2:30 p.m., and Friday, July 10, 2020, from 11:00 a.m. until adjourned.

**ADDRESSES:** The meeting will be held by videoconference originating at Constitution Center, 400 7th Street SW, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

**SUPPLEMENTARY INFORMATION:** The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). On July 9, 2020, the Council as a whole will meet by videoconference from 11:00 a.m. until 12:00 p.m. Then, from 12:30 to 2:30 p.m., the following Committees will convene to discuss specific grant applications and programs before the Council:

Digital Humanities;
Education Programs;
Federal/State Partnership;
Preservation and Access;
Public Programs; and
Research Programs.

The plenary session of the National Council on the Humanities will convene by videoconference on July 10, 2020, at 11:00 a.m. After remarks from the Chairman, the Council will hear reports on and consider specific application for NEH funding.

This meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B) of Title 5 U.S.C., as amended, because it will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: June 19, 2020.

**Caitlin Cater,**

*Attorney-Advisor, National Endowment for the Humanities.*

[FR Doc. 2020–13655 Filed 6–24–20; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request; NSF Non-Academic Research Internships for Graduate Students (INTERN) Program

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

**DATES:** Written comments on this notice must be received by August 24, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, VA 22314; Email: *splimpto@nsf.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1.800.877.8339, 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* NSF INTERN Program Assessment.

*OMB Number:* 3145–NEW.

*Expiration Date of Approval:* Not applicable.

*Type of Request:* Intent to seek approval to establish an information collection.

*Abstract:* Fostering the growth of a globally competitive and diverse research workforce and advancing the scientific and innovation skills of the Nation is a strategic objective of the National Science Foundation (NSF). The Nation's global competitiveness depends critically on the readiness of the Nation's Science, Technology, Engineering and Mathematics (STEM) workforce and NSF seeks to continue to invest in programs that directly advance this workforce. As part of this effort, NSF invests in a number of graduate student preparedness activities to ensure they are well-prepared for the 21st century STEM Workforce, and a supplemental funding opportunity is available in fiscal year FY 2020 to provide support for graduate students through non-academic research internships (INTERN Program) in any sector of the U.S. economy.

The goal of the INTERN program is three-fold:

1. To provide graduate students with the opportunity to augment their research assistantships with non-academic research internship activities and training opportunities that will

complement their academic research training

2. To allow graduate students to pursue activities aimed at acquiring professional development experience that will enhance their preparation for multiple career pathways after graduation
3. To encourage the participation of graduate students from groups that have traditionally been underrepresented and underserved in the STEM enterprise: Women, persons with disabilities, African Americans/Blacks, Hispanic Americans, American Indian, Alaska Natives

In order to support the agency's mission and continue meeting the program's goals, we are asking the graduate students who participated in the INTERN program to report the following information:

- *Logistics of the Internship*
  - Start and end date
  - Principal Investigator supporting the internship
  - Host organization
  - Host mentor
- *Internship Experience*
  - Hours worked
  - Job Training
  - Interaction with host mentor
  - Location of the host organization
  - Work environment
  - Company culture
  - Project scope
  - Overall satisfaction
- *Industry Best Practices & Skills Development*
  - Introducing industry best practices to academic environment
  - Forthcoming Publications resulting from the internship
  - Experiential learning and professional preparation
- *Post-graduate/Career Plans*
  - General career direction after graduation
  - Helpfulness of the internship experience in making career choices
  - Likelihood of working at the host organization or similar organizations

Since the agency will not be able to receive feedback from students by way of annual reports, being able to collect this information will help the managing Program Directors to assess whether the INTERN program helps participants in terms of workforce development, career decisions, and professional preparation, thereby ensuring the program goals are met. In addition, these data will also allow NSF to evaluate the intellectual merit of the program, its broader impact in developing the STEM workforce and its potential to enhance the participation of underrepresented and underserved STEM communities in such traineeships. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, responding to queries from the public, informing the NSF's external Committees of Visitors who serve to evaluate the foundation, working with the NSF's Office of the Inspector General, and supporting the agency's policymaking and internal evaluation and assessment needs.

Information collected in this survey will include the name of the participants, their affiliated organizations, email addresses, and home states. These personal identifiable information (PII) are collected primarily for record tracking and organizing. In addition, questions pertaining to participants' gender, race, ethnicity, and disability status will also be asked but those questions will be marked as voluntary. These PII data will be accessed only by the managing Program Directors, NSF senior management, and supporting staff conducting analyses using the data as authorized by NSF. Any public reporting of data will be in aggregate form, and any personal identifiers will be removed.

*Use of the Information:* The information collected is primarily for program assessment and agency internal evaluation.

*Estimate burden on the public:* Estimated 15 minutes per survey for 300 participants, for a total of 75 hours per year.

*Respondents:* Graduate students who participate in the INTERN program.

*Estimated number of respondents:* 300.

*Average Time per Reporting:* 15 minutes.

*Frequency:* Each participant will only be asked to submit the survey once.

*Comments*: 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; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

Dated: June 19, 2020.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2020–13680 Filed 6–24–20; 8:45 am]

BILLING CODE 7555–01–P

## POSTAL SERVICE

### International Product Change—Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Agreement: Postal Service ™

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

**DATES:** *Date of notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, (202) 268–7820.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 11, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 3 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–158 and CP2020–174.

**Ruth Stevenson,**

*Chief Counsel, Federal Compliance.*

[FR Doc. 2020–13681 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 150 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–179, CP2020–203.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2020–13664 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement: Postal Service™

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

**DATES:** *Date of notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, (202) 268–7820.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–161 and CP2020–184.

**Ruth Stevenson,**

*Chief Counsel, Federal Compliance.*

[FR Doc. 2020–13682 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 6 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–155, CP2020–168.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2020–13663 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### International Product Change—Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Agreement: Postal Service™

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

**DATES:** *Date of notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, (202) 268–7820.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 11, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–157 and CP2020–173.

**Joshua J. Hofer,**

*Attorney, Federal Compliance.*

[FR Doc. 2020–13690 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 18, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 628 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–181, CP2020–205.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2020–13666 Filed 6–24–20; 8:45 am]

BILLING CODE 7710–12–P

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 151 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–180, CP2020–204.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2020–13665 Filed 6–24–20; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement: Postal Service™

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

**DATES:** Date of notice: June 25, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, (202) 268–7820.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 12, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 1 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–159 and CP2020–177.

**Joshua J. Hofer,**

*Attorney, Federal Compliance.*

[FR Doc. 2020–13691 Filed 6–24–20; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89108; File No. SR–NYSE–2020–01]**

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, To Amend Consolidated Audit Trail Compliance Rules

June 19, 2020.

### I. Introduction

On January 3, 2020, New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] The proposed rule change was published for comment in the **Federal Register** on January 23, 2020.[4] On March 5, 2020 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, to April 22, 2020 respectively.[5] On April 20, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2020, the Exchange filed Amendment No. 1 to its proposed rule change. On June 18, 2020, the Exchange filed Amendment No. 2 to its proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

### II. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend the Rule 6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

This Amendment No. 2 amends and replaces in its entirety the original proposal filed by the Exchange on January 3, 2020 as well as Amendment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[4] *See* Securities Exchange Act Release No. 87990 (January 16, 2020), 85 FR 3963 (''Notice'').

[5] *See* Securities Exchange Act Release No. 88329, 85 FR 14265 (March 11, 2020).

[6] *See* Securities Exchange Act Release No. 88700, 85 FR 23083 (April 24, 2020).

[7] Amendment No. 2 revised the proposed rule change to: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity. *See also* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020); Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020); Securities Exchange Act No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020); Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020); Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

No. 1 filed by the Exchange on May 8, 2020.[8]

As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (''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 alternative trading systems (''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'');
- 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;
- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' (collectively, referred to as ''SSNs'') or account numbers; and
- 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.

i. 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.''[9] 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. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

*A. Information Barrier Identification*

The FINRA OATS rules require OATS Reporting Members[10] 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.''[11] 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 6830, 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 6830 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 6830, 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 6830, 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

[8] *See* Securities Exchange Act Release No. 87990 (January 16, 2020), 85 FR 3963 (January 23, 2020)) (Notice of Filing of Proposed Rule Change to Amend the Rule 6800 Series, the Exchange's Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail) (SR–NYSE–2020–01); Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE, to Secretary, SEC, re: Securities Exchange Act Release No. 87990 (SR–NYSE–2020–01) (May 8, 2020).

[9] 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*).

[10] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[11] FINRA Rule 5320 prohibits trading ahead of customer orders.

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.[12] 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 ATSs in FINRA Rule 4554,[13] 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) of Rule 6810 to facilitate the addition to the CAT 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)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 6830.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 6830 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 6830 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 6830 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, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 6830 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)(2)–(3), (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 6830.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 6830 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 (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 6830

[12] *See* FINRA *Regulatory Notice* 16–28 (August 2016).

[13] 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 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 proposed paragraph (a)(1)(A)(xi)(4) to Rule 6830, 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 proposed paragraph (a)(1)(B)(viii) to Rule 6830, 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 proposed paragraph (a)(1)(C)(x)(4) to Rule 6830, 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 proposed paragraph (a)(1)(D)(ix)(4) to Rule 6830, 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 proposed paragraph (a)(1)(E)(viii)(3) to Rule 6830, 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)(5) to Rule 6830. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of Rule 6830 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 price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 6830 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 proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 6830. 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 6830 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 paragraph (a)(1)(A)(viii) to Rule 6830, 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 paragraph (a)(1)(C)(ix) to Rule 6830, 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 paragraph (a)(1)(D)(viii) to Rule 6830, 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 paragraph (a)(1)(A)(ix) to Rule 6830,

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 paragraph (a)(1)(C)(viii) to Rule 6830, 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 paragraph (a)(1)(A)(x) to Rule 6830, 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.''

ii. 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, 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.[14] Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 6830 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 6830 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 paragraph (f)(2) to Rule 6830 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 6830 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 paragraph (f)(3) to Rule 6830, 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.''

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed 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'').[15] Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (''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 requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members [16] 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 requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan 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.''

On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.[17]

[14] Section 6.5(a)(ii) of the CAT NMS Plan.

[15] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

[16] *See* Section 1.1 of the CAT NMS Plan.

[17] *See* Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC's exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20,

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (''Small Industry OATS Reporters'') to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 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 July 20, 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 required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, 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, the Exchange proposes to amend its Compliance Rule to be consistent with the 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 June 22, 2020.[18] To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 6810 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(1) of Rule 6810. 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.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.[19]

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 6830. Paragraph (a)(1)(A)(i) of Rule 6830 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 6830 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

2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

[18] 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 approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[19] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

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 6830, Industry Members would be required to provide a timestamp pursuant to Rule 6860. Rule 6860(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.[20]

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 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.[21] 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 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(A) of Rule 6895, 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 June 22, 2020.''

Pursuant to paragraph (c)(2) of Rule 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraphs (c)(2)(A) and (B) of Rule 6895. Proposed paragraph (c)(2)(A) of Rule 6895 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 June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 6895 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.''

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 July 20, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is approximately seventeen 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 paragraph (t)(2) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(2) to Rule 6810. 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.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

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.[22] 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

[20] 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.

[21] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[22] 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.

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 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(B) of Rule 6895, 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 July 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, 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 approximately 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 paragraph (t)(3) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(3) to Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.'' Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d 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. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

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 IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (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, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers [23] (''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 [24] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[25]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''inter-dealer quotation system'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible

[23] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[24] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that 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 6810 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange 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.

[25] 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 OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(C) of Rule 6895, 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 6895, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, 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, the Exchange proposes to add paragraph (t)(4) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(4) to Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.'' [26]

''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired 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 with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; [27] (6) 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; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(D) of Rule 6895, 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 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, which would

[26] 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.

[27] 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 6810 to replace the references to November 15, 2018 and 2019, with references to the commencement of Phase 2c and Phase 2d. The Exchange 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.

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, the Exchange proposes to add paragraph (t)(5) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(5) of Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan'' 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 6810 of the Compliance Rule.[28] The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(E) of Rule 6895, 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 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(D) of Rule 6895, 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 6880(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 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(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 (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.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed 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.[29] On April 8, 2020, the Participants received the exemptive relief.[30] 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. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 6860. Rule 6860(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.

[28] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, dates of birth and SSNs. *See* Rule 6810. The Participants have received 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* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* 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 (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

[29] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

[30] *See* Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

The Exchange proposes to amend this provision to read as follows to reflect the exemptive relief:

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 up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (''Introducing Industry Member'') from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (''Large Industry Members'').[31] Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.[32]

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of ''Introducing Industry Member'' and to revise Rule 6985 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define ''Introducing Industry Member'' in proposed paragraph (v) to Rule 6810, as ''a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.'' The Exchange also proposes to add a new paragraph (3) to Rule 6895(c) to state that ''Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.'' With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.[33] The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.[34] Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (''CCID'') without requiring Industry Members to report SSNs to the CAT (the ''CCID Alternative''). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the ''transformed value''). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem''). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, 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 SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers[35] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement 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 dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the

[31] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

[32] *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

[33] *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 (Jan. 29, 2020).

[34] *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (''PII Exemption Order''). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

[35] With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. NYSE Rule 6830(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 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, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 6840 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 6810(m) defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth'' and ''individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' Accordingly, the Exchange proposes to replace ''date of birth'' in the definition of ''Customer Identifying Information'' in Rule 6810(m) (now renumbered Rule 6810(n)) with ''year of birth'' and to delete ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 6810(l) defines ''Customer Account Information'' to include account numbers. The Exchange proposes to delete ''account number'' from the definition of ''Customer Account Information'' in Rule 6810(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to Rule 6810. Specifically, the Exchange proposes to add paragraph (pp) to Rule 6810 to define ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to mean ''the interim value created by an Industry Member based on a Customer ITIN/SSN.''

The Exchange proposes to revise Rule 6830(a)(2)(C) to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

> [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 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, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') in the Customer information reporting required under Rule 6840. Specifically, the Exchange proposes to revise Rule 6840(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 6840(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 6840(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 6840(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 6810(m), the definition of ''Customer Account Information'' 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 relationship identifier in lieu of the ''account number.'' As an account number will no longer be an element in ''Customer Account Information,'' the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 6810(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 6830(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') and the year of birth to the Central Repository.[36]

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed 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.[37] The SEC provided this exemptive relief on June 11, 2020.[38] FINRA is required to 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 is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received

[36] The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

[37] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

[38] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

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, subject to certain conditions.

As a condition to this exemption, the Participants would continue to 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, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the 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 new paragraph (a)(2)(E) to Rule 6830, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, 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 and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository the 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 6830(a)(1)(E) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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 6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 6830, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of the 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 SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 6830(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) 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 6830(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

NYSE believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[39] which require, among other things, that the Exchange's 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,[40] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE believes that this proposal is consistent with the Act because it is consistent with certain 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 SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [41] To the extent that this proposal implements the Plan, including the 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*

NYSE 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. NYSE notes that the proposed rule changes are consistent with certain 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. NYSE

[39] 15 U.S.C. 78f(b)(6).

[40] 15 U.S.C. 78f(b)(8)

[41] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

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.

*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. Discussion and Commission Findings**

After careful review the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchanges.[42] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(5) of the Act,[43] which, among other things, require that rules of a national securities exchange and national securities association be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and Section 6(b)(8) of the Act,[44] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

*A. CATS–OATS Data Gaps*

Rule 613(a)(1)(ix) of Regulation NMS requires that the CAT NMS Plan include a plan to eliminate existing rules and systems that would be rendered duplicative by the CAT.[45] The rule states that to the extent that any existing rules or systems related to monitoring quotes, orders, and executions provide information that is not rendered duplicative, the plan should assess whether it is appropriate to continue to collect this information, and if appropriate, decide whether to collect the information separately or as part of the CAT. The Exchange proposes to amend the Exchange's Compliance Rules to add additional data elements to the CAT reporting requirements for Industry Members that are currently reported to OATS, as set forth in FINRA's rules, but have not previously been required for CAT reporting.[46] The Commission finds that the requiring the reporting of additional OATS data elements is consistent with the Act as it represent a step forward to facilitating the retirement of duplicative systems.

*B. OTC Equity Securities*

The Commission finds that it is consistent with the Act to require the reporting to the CAT of certain data elements from ATSs that trade OTC Equity Securities. The Exchange proposes to require ATSs that trade OTC Equity Securities to report three data elements to CAT that are currently reported to FINRA but not CAT: (i) Bids and offers for OTC Equity Securities, (ii) unsolicited bid/offer flag and (iii) unpriced bids and offers.[47] The Exchange represents that the CAT NMS Plan Participants believe that such data will be important for regulators to oversee the OTC Equity Securities market and believe that the proposal would merely shift reporting from FINRA to the CAT and would not burden ATSs.

*C. Revised Industry Member Timeline*

The Commission finds that the proposed rule change concerning the reporting timeline for Industry Members is consistent with the Act as the changes are designed to reflect and implement the exemptive relief granted by the Commission. On April 24, 2020, the Commission granted exemptive relief relating to Industry Member reporting to CAT, and permitted the Participants to implement a phased reporting approach, where Large Industry Members and Small Industry Members would begin reporting Industry Member Data in five phases, subject to certain conditions.[48] The proposed rule change implements this exemptive relief by, among other things, adding definitions of each of the five phases and amending testing and reporting dates for Large Industry Members and Small Industry Members for each of the five phases. The proposed rule change also states that the full scope of Industry Member Data required by the CAT NMS Plan must be reported to the Central Repository when the last phase of reporting have been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.

*D. Timestamp Granularity*

The Commission finds that the proposed rule change concerning the granularity of timestamps is consistent with the Act as it is designed to reflect the exemptive relief granted by the Commission. On April 8, 2020, the Commission granted exemptive relief relating the timestamp granularity, which permitted the Participants to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps after the nanosecond level for submission to CAT, for a period of five years.[49]

*E. Introducing Industry Members*

The Commission finds that the proposed rule change relating to Introducing Industry Members is consistent with the Act as it reflects and implements exemptive relief granted by the Commission. On April 20, 2020, the Commission granted exemptive relief to the Participants, permitting the Participants to consider broker-dealers that not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act to be subject to CAT NMS Plan requirements applicable to Small Industry Members.[50]

*F. CCID/PII*

The Commission finds that the proposed rule change amending reporting requirements related to CCID and PII are consistent with the Act as it is designed to reflect and implement exemptive relief granted by the Commission on March 17, 2020.[51] Among other things, instead of requiring the reporting of ITINs or SSNs, dates of birth and account numbers, the Compliance Rule would now require reporting of a transformed value in lieu of an ITIN or SSN, birth year and a Firm Designated ID by Industry Members.

*G. FINRA Facility Data Linkage*

The Commission finds that the proposed rule change amending the reporting timeline for Industry Members is consistent with the Act as it reflects and implements the exemptive relief granted by the Commission related to

[42] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78(f)(b)(5).

[44] 15 U.S.C. 78(f)(b)(8).

[45] *See* 17 CFR 262.613(a)(1)(ix).

[46] The additional data elements relate to information barrier identification, reporting requirements specific to alternative trading systems (including ATSs that trade OTC Equity Securities), customer instruction flags, department type, and account holder type. *See* Notice, *supra* note 4, at 3964–67.

[47] *See* Notice, *supra* note 4, at 3967.

[48] *See, supra* note 7.

[49] *See, supra* note 7.

[50] *See, supra* note 7.

[51] *See, supra* note 7.

the reporting of clearing numbers and cancelled trade indicators. On June 11, 2020, the Commission granted the Participants exemptive relief that allows the Participants to implement an alternative approach to the reporting of clearing numbers and cancelled trade indicators, by utilizing data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility.[52]

For the foregoing reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

## IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2020–01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–01. 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–NYSE–2020–01 and should be submitted on or before July 16, 2020.

## V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the publication of notice of the filing of the amendments in the **Federal Register**. As discussed above, Amendment No. 2 to the proposed rule change amends the proposed rule change by: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity.

Amendment No. 2 modifies the proposed rule change to, among other things, be consistent with exemptive relief granted by the Commission, which was granted after the initial filing of the proposed rule change.[53] Specifically, the proposal implements exemptive relief already granted by the Commission and modifies Industry Member CAT reporting requirements to be consistent with such exemptive relief. Granting accelerated approval of the proposed rule change, as modified by Amendment No. 2, would allow the Exchange to implement these changes at the start of Phase 2a Industry Member reporting to CAT, which is scheduled for June 22, 2020.[54] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[55] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2020–01), as modified by Amendment No. 2, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–13678 Filed 6–24–20; 8:45 am]

**BILLING CODE 8011–01–P**

[52] *See, supra* note 7.

[53] *See, supra* note 7.

[54] *See* CAT Timeline, *available at: https://www.catnmsplan.com/timeline.*

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89104; File No. SR–NYSENAT–2020–01]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, To Amend Consolidated Audit Trail Compliance Rules

June 19, 2020.

## I. Introduction

On January 3, 2020, NYSE National, Inc. (''Exchange'' or ''NYSE National'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] The proposed rule change was published for comment in the **Federal Register** on January 23, 2020.[4] On March 5, 2020 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, to April 22, 2020 respectively.[5] On April 20, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2020, the Exchange filed Amendment No. 1 to its proposed rule change. On June 18, 2020,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[4] *See* Securities Exchange Act Release No. 87986 (January 16, 2020), 85 FR 3974 (''Notice'').

[5] *See* Securities Exchange Act Release No. 88332, 85 FR 14249 (March 11, 2020).

[6] *See* Securities Exchange Act Release No. 88697, 85 FR 23073 (April 24, 2020).

the Exchange filed Amendment No. 2 to its proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## II. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

#### 1. Purpose

The purpose of this proposed rule change is to amend the Rule 6.6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

This Amendment No. 2 amends and replaces in its entirety the original proposal filed by the Exchange on January 3, 2020 as well as Amendment No. 1 filed by the Exchange on May 8, 2020.[8]

As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (''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 alternative trading systems (''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'');
- 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;
- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, ''individual tax payer identification number (''ITIN'')/Social Security number (''SSN'')'' (collectively, referred to as ''SSNs'') or account numbers; and
- 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.

#### i. 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.''[9] 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. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

#### A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members[10] 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.''[11] 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 6.6830, 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

[7] Amendment No. 2 revised the proposed rule change to: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity. *See also* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020); Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020); Securities Exchange Act No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020); Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020); Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

[8] *See* Securities Exchange Act Release No. 87986 (January 16, 2020), 85 FR 3974 (January 23, 2020) (Notice of Filing of Proposed Rule Change to Amend the Rule 6.6800 Series, the Exchange's Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail) (SR–NYSENat–2020–01); Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE, to Secretary, SEC, re: Securities Exchange Act Release No. 87986 (SR–NYSENat–2020–01) (May 8, 2020).

[9] 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*).

[10] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[11] FINRA Rule 5320 prohibits trading ahead of customer orders.

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 6.6830 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 6.6830, 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 6.6830, 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.[12] 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 ATSs in FINRA Rule 4554,[13] 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) of Rule 6.6810 to facilitate the addition to the CAT 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)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 6.6830.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 6.6830 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 6.6830 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 6.6830 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, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 6.6830 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

[12] *See* FINRA *Regulatory Notice* 16–28 (August 2016).

[13] 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.

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)(2)–(3), (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 6.6830.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 6.6830 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 (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 6.6830 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 proposed paragraph (a)(1)(A)(xi)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(B)(viii) to Rule 6.6830, 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 proposed paragraph (a)(1)(C)(x)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(D)(ix)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(E)(viii)(3) to Rule 6.6830, 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)(5) to Rule 6.6830. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of Rule 6.6830 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 price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 6.6830 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 proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 6.6830. 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 6.6830 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 paragraph (a)(1)(A)(viii) to Rule 6.6830, 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 paragraph (a)(1)(C)(ix) to Rule 6.6830, 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 paragraph (a)(1)(D)(viii) to Rule 6.6830, 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 paragraph (a)(1)(A)(ix) to Rule 6.6830, 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 paragraph (a)(1)(C)(viii) to Rule 6.6830, 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 paragraph (a)(1)(A)(x) to Rule 6.6830, 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.''

ii. 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, 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.[14] Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 6.6830 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 6.6830 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 paragraph (f)(2) to Rule 6.6830 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 6.6830 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 paragraph (f)(3) to Rule 6.6830, 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.''

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed with the Commission a request for exemptive relief from certain provisions of the CAT NMS Plan to allow for the implementation of

[14] Section 6.5(a)(ii) of the CAT NMS Plan.

phased reporting to the CAT by Industry Members (''Phased Reporting'').[15] Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (''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 requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members [16] 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 requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan 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.''

On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.[17]

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (''Small Industry OATS Reporters'') to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 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 July 20, 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 required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, 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, the Exchange proposes to amend its Compliance Rule to be consistent with the 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 June 22, 2020.[18] To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 6.6810 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(1) of Rule 6.6810. 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.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.[19]

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

[15] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

[16] *See* Section 1.1 of the CAT NMS Plan.

[17] *See* Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC's exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

[18] 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 approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[19] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

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 6.6830. Paragraph (a)(1)(A)(i) of Rule 6.6830 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 6.6830 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 6.6830, Industry Members would be required to provide a timestamp pursuant to Rule 6.6860. Rule 6.6860(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.[20]

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 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.[21] 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 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(A) of Rule 6.6895, 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 June 22, 2020.''

Pursuant to paragraph (c)(2) of Rule 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraphs (c)(2)(A) and (B) of Rule 6.6895. Proposed paragraph (c)(2)(A) of Rule 6.6895 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 June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 6.6895 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.''

*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 July 20, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is approximately seventeen 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 paragraph (t)(2) to Rule 6.6810 and

[20] 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.

[21] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(2) to Rule 6.6810. 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.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

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.[22] 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 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(B) of Rule 6.6895, 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 July 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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 approximately 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 paragraph (t)(3) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(3) to Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.'' Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d 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. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

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 IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (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, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers[23] (''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[24] (as

[22] 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.

[23] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[24] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that the Exchange also proposes to amend the dates in the

Continued

applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[25]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''inter-dealer quotation system'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(C) of Rule 6.6895, 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 6.6895, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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, the Exchange proposes to add paragraph (t)(4) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(4) to Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.''[26]

''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired 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 with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts;[27] (6) 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; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market

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 6.6810 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[25] 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 OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

[26] 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.

[27] 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 6.6810 to replace the references to November 15, 2018 and 2019, with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(D) of Rule 6.6895, 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 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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, the Exchange proposes to add paragraph (t)(5) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(5) of Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan'' 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 6.6810 of the Compliance Rule.[28] The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(E) of Rule 6.6895, 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 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(D) of Rule 6.6895, 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 6.6880(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 6.6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6.6880(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

[28] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, dates of birth and SSNs. *See* Rule 6.6810. The Participants have received 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* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* 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 (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

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 (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.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed 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.[29] On April 8, 2020, the Participants received the exemptive relief.[30] 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. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 6.6860. Rule 6.6860(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 to read as follows to reflect the exemptive relief:

> 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 up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (''Introducing Industry Member'') from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (''Large Industry Members'').[31] Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.[32]

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of ''Introducing Industry Member'' and to revise Rule 6985 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define ''Introducing Industry Member'' in proposed paragraph (v) to Rule 6.6810, as ''a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.'' The Exchange also proposes to add a new paragraph (3) to Rule 6.6895(c) to state that ''Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.'' With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.[33] The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.[34] Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (''CCID'') without requiring Industry Members to report SSNs to the CAT (the ''CCID Alternative''). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in

[29] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

[30] *See* Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

[31] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

[32] *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

[33] *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 (Jan. 29, 2020).

[34] *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (''PII Exemption Order''). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the ''transformed value''). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem''). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, 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 SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers [35] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement 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 dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. NYSE National Rule 6.6830(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 6.6830(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, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 6.6840 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 6.6810(m) defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth'' and ''individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' Accordingly, the Exchange proposes to replace ''date of birth'' in the definition of ''Customer Identifying Information'' in Rule 6.6810(m) (now renumbered Rule 6.6810(n)) with ''year of birth'' and to delete ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from Rule 6.6810(m) (now renumbered Rule 6.6810(n)). In addition, currently, Rule 6.6810(l) defines ''Customer Account Information'' to include account numbers. The Exchange proposes to delete ''account number'' from the definition of ''Customer Account Information'' in Rule 6.6810(l) (now renumbered Rule 6.6810(m)).

The Exchange also proposes to add a definition of the term ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to Rule 6.6810. Specifically, the Exchange proposes to add paragraph (pp) to Rule 6.6810 to define ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to mean ''the interim value created by an Industry Member based on a Customer ITIN/SSN.''

The Exchange proposes to revise Rule 6.6830(a)(2)(C) to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''). Specifically, the Exchange proposes to revise Rule 6.6830(a)(2)(C) to state:

> [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 6.6830(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, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), and in accordance with Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') in the Customer information reporting required under Rule 6.6840. Specifically, the Exchange proposes to revise Rule 6.6840(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6.6880. The Exchange also proposes to revise Rule 6.6840(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 6.6840(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 6.6840(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each

[35] With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 6.6810(m), the definition of ''Customer Account Information'' 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 relationship identifier in lieu of the ''account number.'' As an account number will no longer be an element in ''Customer Account Information,'' the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6.6810(m)(a)(B) regarding relationship identifiers from Rule 6.6810(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 6.6830(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') and the year of birth to the Central Repository.[36]

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed 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.[37] The SEC provided this exemptive relief on June 11, 2020.[38] FINRA is required to 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 is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received 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, subject to certain conditions.

As a condition to this exemption, the Participants would continue to 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, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the 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 new paragraph (a)(2)(E) to Rule 6.6830, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, 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 and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository the 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 6.6830(a)(1)(E) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 6.6830, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of the 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 SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 6.6830(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 6.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) if the trade is cancelled and the Industry Member submits the cancellation to one of FINRA's Trade Reporting Facilities,

[36] The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

[37] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

[38] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

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 6.6830(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 6.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

NYSE National believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[39] which require, among other things, that the Exchange's 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,[40] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE National believes that this proposal is consistent with the Act because it is consistent with certain 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 SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [41] To the extent that this proposal implements the Plan, including the 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*

NYSE National 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. NYSE National notes that the proposed rule changes are consistent with certain 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. NYSE National 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.

*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. Discussion and Commission Findings**

After careful review the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchanges.[42] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(5) of the Act,[43] which, among other things, require that rules of a national securities exchange and national securities association be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and Section 6(b)(8) of the Act,[44] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

*A. CATS–OATS Data Gaps*

Rule 613(a)(1)(ix) of Regulation NMS requires that the CAT NMS Plan include a plan to eliminate existing rules and systems that would be rendered duplicative by the CAT.[45] The rule states that to the extent that any existing rules or systems related to monitoring quotes, orders, and executions provide information that is not rendered duplicative, the plan should assess whether it is appropriate to continue to collect this information, and if appropriate, decide whether to collect the information separately or as part of the CAT. The Exchange proposes to amend the Exchange's Compliance Rules to add additional data elements to the CAT reporting requirements for Industry Members that are currently reported to OATS, as set forth in FINRA's rules, but have not previously been required for CAT reporting.[46] The Commission finds that the requiring the reporting of additional OATS data elements is consistent with the Act as it represent a step forward to facilitating the retirement of duplicative systems.

*B. OTC Equity Securities*

The Commission finds that it is consistent with the Act to require the reporting to the CAT of certain data elements from ATSs that trade OTC Equity Securities. The Exchange proposes to require ATSs that trade OTC Equity Securities to report three data elements to CAT that are currently reported to FINRA but not CAT: (i) Bids and offers for OTC Equity Securities, (ii) unsolicited bid/offer flag and (iii) unpriced bids and offers.[47] The Exchange represents that the CAT NMS Plan Participants believe that such data will be important for regulators to oversee the OTC Equity Securities market and believe that the proposal would merely shift reporting from FINRA to the CAT and would not burden ATSs.

*C. Revised Industry Member Timeline*

The Commission finds that the proposed rule change concerning the reporting timeline for Industry Members is consistent with the Act as the changes are designed to reflect and implement the exemptive relief granted by the Commission. On April 24, 2020, the Commission granted exemptive relief relating to Industry Member reporting to CAT, and permitted the Participants to implement a phased reporting approach, where Large Industry Members and Small Industry Members would begin

[39] 15 U.S.C. 78f(b)(6).

[40] 15 U.S.C. 78f(b)(8).

[41] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[42] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78(f)(b)(5).

[44] 15 U.S.C. 78(f)(b)(8).

[45] *See* 17 CFR 262.613(a)(1)(ix).

[46] The additional data elements relate to information barrier identification, reporting requirements specific to alternative trading systems (including ATSs that trade OTC Equity Securities), customer instruction flags, department type, and account holder type. *See* Notice, *supra* note 4, at 3975–78.

[47] *See* Notice, *supra* note 4, at 3878–79.

reporting Industry Member Data in five phases, subject to certain conditions.[48] The proposed rule change implements this exemptive relief by, among other things, adding definitions of each of the five phases and amending testing and reporting dates for Large Industry Members and Small Industry Members for each of the five phases. The proposed rule change also states that the full scope of Industry Member Data required by the CAT NMS Plan must be reported to the Central Repository when the last phase of reporting have been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.

*D. Timestamp Granularity*

The Commission finds that the proposed rule change concerning the granularity of timestamps is consistent with the Act as it is designed to reflect the exemptive relief granted by the Commission. On April 8, 2020, the Commission granted exemptive relief relating the timestamp granularity, which permitted the Participants to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps after the nanosecond level for submission to CAT, for a period of five years.[49]

*E. Introducing Industry Members*

The Commission finds that the proposed rule change relating to Introducing Industry Members is consistent with the Act as it reflects and implements exemptive relief granted by the Commission. On April 20, 2020, the Commission granted exemptive relief to the Participants, permitting the Participants to consider broker-dealers that not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act to be subject to CAT NMS Plan requirements applicable to Small Industry Members.[50]

*F. CCID/PII*

The Commission finds that the proposed rule change amending reporting requirements related to CCID and PII are consistent with the Act as it is designed to reflect and implement exemptive relief granted by the Commission on March 17, 2020.[51] Among other things, instead of requiring the reporting of ITINs or SSNs, dates of birth and account numbers, the Compliance Rule would now require reporting of a transformed value in lieu of an ITIN or SSN, birth year and a Firm Designated ID by Industry Members.

*G. FINRA Facility Data Linkage*

The Commission finds that the proposed rule change amending the reporting timeline for Industry Members is consistent with the Act as it reflects and implements the exemptive relief granted by the Commission related to the reporting of clearing numbers and cancelled trade indicators. On June 11, 2020, the Commission granted the Participants exemptive relief that allows the Participants to implement an alternative approach to the reporting of clearing numbers and cancelled trade indicators, by utilizing data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility.[52]

For the foregoing reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

## IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 to 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–2020–01 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–2020–01. 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–NYSENAT–2020–01 and should be submitted on or before July 16, 2020.

## V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the publication of notice of the filing of the amendments in the **Federal Register**. As discussed above, Amendment No. 2 to the proposed rule change amends the proposed rule change by: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity.

Amendment No. 2 modifies the proposed rule change to, among other things, be consistent with exemptive relief granted by the Commission, which was granted after the initial filing of the proposed rule change.[53] Specifically, the proposal implements exemptive relief already granted by the Commission and modifies Industry Member CAT reporting requirements to be consistent with such exemptive relief. Granting accelerated approval of the proposed rule change, as modified by Amendment No. 2, would allow the Exchange to implement these changes at the start of Phase 2a Industry Member reporting to CAT, which is scheduled for June 22, 2020.[54] Accordingly, the

[48] *See, supra* note 7.

[49] *See, supra* note 7.

[50] *See, supra* note 7.

[51] *See, supra* note 7.

[52] *See, supra* note 7.

[53] *See, supra* note 7.

[54] *See* CAT Timeline, *available at: https://www.catnmsplan.com/timeline.*

Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[55] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSENAT–2020–01), as modified by Amendment No. 2, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–13668 Filed 6–24–20; 8:45 am]

**BILLING CODE 8011–01–P**

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89106; File No. SR–NYSECHX–2020–01]**

## Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3, To Amend Consolidated Audit Trail Compliance Rules

June 19, 2020.

## I. Introduction

On January 3, 2020, NYSE Chicago, Inc. (''Exchange'' or ''NYSE Chicago'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] On January 14, 2020, NYSE Chicago filed Amendment No. 1 to their proposed rule change. The proposed rule change was published for comment in the **Federal Register** on January 23, 2020.[4] On March 5, 2020, 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, to April 22, 2020 respectively.[5] On April 20, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2020, the Exchange filed Amendment No. 2 to its proposed rule change. On June 18, 2020, the Exchange filed Amendment No. 3 to its proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 3, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

## II. The Exchange's Description of the Proposal, as Modified by Amendment No. 3

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend the Rule 6.6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

This Amendment No. 3 supersedes the original proposal filed by the Exchange on January 3, 2020 and Amendment No. 1 filed by the Exchange on January 14, 2020, as well as Amendment No. 2 filed by the Exchange on May 8, 2020.[8]

As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (''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 alternative trading systems (''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'');
- 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;
- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;
- Revise the CAT reporting requirements so Industry Members would not be required to report to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[4] *See* Securities Exchange Act Release No. 87988 (January 16, 2020), 85 FR 4028 (''Notice'').

[5] *See* Securities Exchange Act Release No. 88335, 85 FR 14256 (March 11, 2020).

[6] *See* Securities Exchange Act Release No. 88698, 85 FR 23117 (April 24, 2020).

[7] Amendment No. 3 revised the proposed rule change to: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity. *See also* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020); Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020); Securities Exchange Act No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020); Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020); Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

[8] *See* Securities Exchange Act Release No. 87988 (January 16, 2020), 85 FR 4028 (January 23, 2020) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Rule 6.6800 Series, the Exchange's Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail) (SR–NYSECHX–2020–01). In Amendment No. 1, the Exchange made a technical correction to the text of the proposed rule change by deleting the word ''Plan'' from current Rules 6.6810(dd) and (kk) to maintain consistency with the definition in the Compliance Rule of the Exchange's affiliates, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc. and NYSE National, Inc.; Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE, to Secretary, SEC, re: Securities Exchange Act Release No. 87988 (SR–NYSECHX–2020–01) (May 8, 2020).

Central Repository dates of birth, ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' (collectively, referred to as ''SSNs'') or account numbers; and

• 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.

i. 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.'' [9] 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. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members [10] 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.'' [11] 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 6.6830, 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 6.6830 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 6.6830, 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 6.6830, 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.[12] 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 ATSs in FINRA Rule 4554,[13] but to expand such

[9] 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*).

[10] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[11] FINRA Rule 5320 prohibits trading ahead of customer orders.

[12] *See* FINRA *Regulatory Notice* 16–28 (August 2016).

[13] 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

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) of Rule 6.6810 to facilitate the addition to the CAT 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)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 6.6830.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 6.6830 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 6.6830 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 6.6830 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, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 6.6830 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)(2)–(3), (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 6.6830.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 6.6830 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 (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 6.6830 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 proposed paragraph (a)(1)(A)(xi)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(B)(viii) to Rule 6.6830, 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

tick size pilot, the Participants decided not to include those data elements into the CAT NMS Plan.

the ATS's matching engine.'' The Exchange also proposes to add proposed paragraph (a)(1)(C)(x)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(D)(ix)(4) to Rule 6.6830, 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 proposed paragraph (a)(1)(E)(viii)(3) to Rule 6.6830, 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)(5) to Rule 6.6830. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of Rule 6.6830 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 price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 6.6830 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 proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 6.6830. 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 6.6830 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 paragraph (a)(1)(A)(viii) to Rule 6.6830, 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 paragraph (a)(1)(C)(ix) to Rule 6.6830, 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 paragraph (a)(1)(D)(viii) to Rule 6.6830, 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 paragraph (a)(1)(A)(ix) to Rule 6.6830, 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 paragraph (a)(1)(C)(viii) to Rule 6.6830, 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 paragraph (a)(1)(A)(x) to Rule 6.6830, 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.''

ii. 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, 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.[14] Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 6.6830 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 6.6830 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.''

[14] Section 6.5(a)(ii) of the CAT NMS Plan.

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 paragraph (f)(2) to Rule 6.6830 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 6.6830 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 paragraph (f)(3) to Rule 6.6830, 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.''

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed 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'').[15] Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (''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 requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members [16] 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 requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan 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.''

[15] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

[16] *See* Section 1.1 of the CAT NMS Plan.

On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.[17]

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (''Small Industry OATS Reporters'') to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 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 July 20, 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

[17] *See* Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC's exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

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 required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, 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, the Exchange proposes to amend its Compliance Rule to be consistent with the 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 June 22, 2020.[18] To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 6.6810 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(1) of Rule 6.6810. 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.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.[19]

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 6.6830. Paragraph (a)(1)(A)(i) of Rule 6.6830 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 6.6830 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 6.6830, Industry Members would be required to provide a timestamp pursuant to Rule 6.6860. Rule 6.6860(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

[18] 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 approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[19] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

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.[20]

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 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.[21] 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 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(A) of Rule 6.6895, 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 June 22, 2020.''

Pursuant to paragraph (c)(2) of Rule 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraphs (c)(2)(A) and (B) of Rule 6.6895. Proposed paragraph (c)(2)(A) of Rule 6.6895 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 June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 6.6895 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.''

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 July 20, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is approximately seventeen 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 paragraph (t)(2) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(2) to Rule 6.6810. 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.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

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.[22] 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 6.6895, 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 delete the November 15,

[20] 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.

[21] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[22] 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.

2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(B) of Rule 6.6895, 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 July 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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 approximately 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 paragraph (t)(3) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(3) to Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.'' Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d 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. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

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 IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (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, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers [23] (''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 [24] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[25]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''inter-dealer quotation system'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph

[23] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[24] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that 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 6.6810 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[25] 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 OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

(c)(1) of Rule 6.6895 with new paragraph (c)(1)(C) of Rule 6.6895, 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 6.6895, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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, the Exchange proposes to add paragraph (t)(4) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(4) to Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.'' [26]

''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired 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 with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; [27] (6) 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; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(D) of Rule 6.6895, 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 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(C) of Rule 6.6895, 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,

[26] 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.

[27] 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 6.6810 to replace the references to November 15, 2018 and 2019, with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 6.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

2022. To implement the Phased Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 6.6810 and amend paragraphs (c)(1) and (2) of Rule 6.6895.

(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 paragraph (t)(5) of Rule 6.6810. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan'' 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 6.6810 of the Compliance Rule.[28] The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 6.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6.6895 with new paragraph (c)(1)(E) of Rule 6.6895, 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 6.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6.6895 with new paragraph (c)(2)(D) of Rule 6.6895, 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 6.6880(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 6.6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6.6880(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 (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.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed 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.[29] On April 8, 2020, the Participants received the exemptive relief.[30] 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. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 6.6860. Rule 6.6860(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 to read as follows to reflect the exemptive relief:

Subject to paragraph (b), to the extent that any Industry Member's order handling or execution systems utilize time stamps in increments finer than

[28] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, dates of birth and SSNs. *See* Rule 6.6810. The Participants have received 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* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* 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 (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

[29] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

[30] *See* Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

milliseconds, such Industry Member shall record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (''Introducing Industry Member'') from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (''Large Industry Members'').[31] Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.[32]

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of ''Introducing Industry Member'' and to revise Rule 6985 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define ''Introducing Industry Member'' in proposed paragraph (v) to Rule 6.6810, as ''a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.'' The Exchange also proposes to add a new paragraph (3) to Rule 6.6895(c) to state that ''Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.'' With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.[33] The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.[34] Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (''CCID'') without requiring Industry Members to report SSNs to the CAT (the ''CCID Alternative''). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the ''transformed value''). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem''). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, 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 SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers[35] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement 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 dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the

[31] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

[32] *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

[33] *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 (Jan. 29, 2020).

[34] *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (''PII Exemption Order''). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

[35] With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

exemptive relief. NYSE Chicago Rule 6.6830(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 6.6830(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, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 6.6840 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 6.6810(m) defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth'' and ''individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' Accordingly, the Exchange proposes to replace ''date of birth'' in the definition of ''Customer Identifying Information'' in Rule 6.6810(m) (now renumbered Rule 6.6810(n)) with ''year of birth'' and to delete ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from Rule 6.6810(m) (now renumbered Rule 6.6810(n)). In addition, currently, Rule 6.6810(l) defines ''Customer Account Information'' to include account numbers. The Exchange proposes to delete ''account number'' from the definition of ''Customer Account Information'' in Rule 6.6810(l) (now renumbered Rule 6.6810(m)).

The Exchange also proposes to add a definition of the term ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to Rule 6.6810. Specifically, the Exchange proposes to add paragraph (pp) to Rule 6.6810 to define ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to mean ''the interim value created by an Industry Member based on a Customer ITIN/SSN.''

The Exchange proposes to revise Rule 6.6830(a)(2)(C) to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''). Specifically, the Exchange proposes to revise Rule 6.6830(a)(2)(C) to state:

[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 6.6830(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, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), and in accordance with Rule 6.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') in the Customer information reporting required under Rule 6.6840. Specifically, the Exchange proposes to revise Rule 6.6840(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6.6880. The Exchange also proposes to revise Rule 6.6840(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 6.6840(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 6.6840(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 6.6810(m), the definition of ''Customer Account Information'' 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 relationship identifier in lieu of the ''account number.'' As an account number will no longer be an element in ''Customer Account Information,'' the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6.6810(m)(a)(B) regarding relationship identifiers from Rule 6.6810(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 6.6830(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') and the year of birth to the Central Repository.[36]

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed 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.[37] The SEC provided this exemptive relief on June 11, 2020.[38] FINRA is required to 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 is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members.

[36] The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

[37] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

[38] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

To implement this approach in a phased manner, the Participants received 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, subject to certain conditions.

As a condition to this exemption, the Participants would continue to 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, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the 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 new paragraph (a)(2)(E) to Rule 6.6830, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, 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 and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository the 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 6.6830(a)(1)(E) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 6.6830, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of the 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 SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 6.6830(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 6.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) 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 6.6830(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 6.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

NYSE Chicago believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[39] which require, among other things, that the Exchange's 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,[40] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE Chicago believes that this proposal is consistent with the Act because it is consistent with certain 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 SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [41] To the extent that this proposal implements the Plan, including the exemptive relief, and applies specific requirements to

[39] 15 U.S.C. 78f(b)(6).

[40] 15 U.S.C. 78f(b)(8)

[41] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

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*

NYSE Chicago 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. NYSE Chicago notes that the proposed rule changes are consistent with certain 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. NYSE Chicago 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.

*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. Discussion and Commission Findings**

After careful review the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchanges.[42] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 3, is consistent with Sections 6(b)(5) of the Act,[43] which, among other things, require that rules of a national securities exchange and national securities association be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and Section 6(b)(8) of the Act,[44] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

*A. CATS–OATS Data Gaps*

Rule 613(a)(1)(ix) of Regulation NMS requires that the CAT NMS Plan include a plan to eliminate existing rules and systems that would be rendered duplicative by the CAT.[45] The rule states that to the extent that any existing rules or systems related to monitoring quotes, orders, and executions provide information that is not rendered duplicative, the plan should assess whether it is appropriate to continue to collect this information, and if appropriate, decide whether to collect the information separately or as part of the CAT. The Exchange proposes to amend the Exchange's Compliance Rules to add additional data elements to the CAT reporting requirements for Industry Members that are currently reported to OATS, as set forth in FINRA's rules, but have not previously been required for CAT reporting.[46] The Commission finds that the requiring the reporting of additional OATS data elements is consistent with the Act as it represent a step forward to facilitating the retirement of duplicative systems.

*B. OTC Equity Securities*

The Commission finds that it is consistent with the Act to require the reporting to the CAT of certain data elements from ATSs that trade OTC Equity Securities. The Exchange proposes to require ATSs that trade OTC Equity Securities to report three data elements to CAT that are currently reported to FINRA but not CAT: (i) Bids and offers for OTC Equity Securities, (ii) unsolicited bid/offer flag and (iii) unpriced bids and offers.[47] The Exchange represents that the CAT NMS Plan Participants believe that such data will be important for regulators to oversee the OTC Equity Securities market and believe that the proposal would merely shift reporting from FINRA to the CAT and would not burden ATSs.

*C. Revised Industry Member Timeline*

The Commission finds that the proposed rule change concerning the reporting timeline for Industry Members is consistent with the Act as the changes are designed to reflect and implement the exemptive relief granted by the Commission. On April 24, 2020, the Commission granted exemptive relief relating to Industry Member reporting to CAT, and permitted the Participants to implement a phased reporting approach, where Large Industry Members and Small Industry Members would begin reporting Industry Member Data in five phases, subject to certain conditions.[48] The proposed rule change implements this exemptive relief by, among other things, adding definitions of each of the five phases and amending testing and reporting dates for Large Industry Members and Small Industry Members for each of the five phases. The proposed rule change also states that the full scope of Industry Member Data required by the CAT NMS Plan must be reported to the Central Repository when the last phase of reporting have been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.

*D. Timestamp Granularity*

The Commission finds that the proposed rule change concerning the granularity of timestamps is consistent with the Act as it is designed to reflect the exemptive relief granted by the Commission. On April 8, 2020, the Commission granted exemptive relief relating the timestamp granularity, which permitted the Participants to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps after the nanosecond level for submission to CAT, for a period of five years.[49]

*E. Introducing Industry Members*

The Commission finds that the proposed rule change relating to Introducing Industry Members is consistent with the Act as it reflects and implements exemptive relief granted by the Commission. On April 20, 2020, the Commission granted exemptive relief to the Participants, permitting the Participants to consider broker-dealers that not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act to be subject to CAT NMS Plan requirements applicable to Small Industry Members.[50]

*F. CCID/PII*

The Commission finds that the proposed rule change amending

[42] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78(f)(b)(5).

[44] 15 U.S.C. 78(f)(b)(8).

[45] *See* 17 CFR 262.613(a)(1)(ix).

[46] The additional data elements relate to information barrier identification, reporting requirements specific to alternative trading systems (including ATSs that trade OTC Equity Securities), customer instruction flags, department type, and account holder type. *See* Notice, *supra* note 4, at 4030–32.

[47] *See* Notice, *supra* note 4, at 4032–33.

[48] *See, supra* note 7.

[49] *See, supra* note 7.

[50] *See, supra* note 7.

reporting requirements related to CCID and PII are consistent with the Act as it is designed to reflect and implement exemptive relief granted by the Commission on March 17, 2020.[51] Among other things, instead of requiring the reporting of ITINs or SSNs, dates of birth and account numbers, the Compliance Rule would now require reporting of a transformed value in lieu of an ITIN or SSN, birth year and a Firm Designated ID by Industry Members.

*G. FINRA Facility Data Linkage*

The Commission finds that the proposed rule change amending the reporting timeline for Industry Members is consistent with the Act as it reflects and implements the exemptive relief granted by the Commission related to the reporting of clearing numbers and cancelled trade indicators. On June 11, 2020, the Commission granted the Participants exemptive relief that allows the Participants to implement an alternative approach to the reporting of clearing numbers and cancelled trade indicators, by utilizing data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility.[52]

For the foregoing reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 3, is consistent with the Act.

## IV. Solicitation of Comments on Amendment No. 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 3 to 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–NYSECHX–2020–01 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–NYSECHX–2020–01. 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–NYSECHX–2020–01 and should be submitted on or before July 16, 2020.

## V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 3, prior to the thirtieth day after the publication of notice of the filing of the amendments in the **Federal Register**. As discussed above, Amendment No. 3 to the proposed rule change amends the proposed rule change by: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity.

Amendment No. 3 modifies the proposed rule change to, among other things, be consistent with exemptive relief granted by the Commission, which was granted after the initial filing of the proposed rule change.[53] Specifically, the proposal implements exemptive relief already granted by the Commission and modifies Industry Member CAT reporting requirements to be consistent with such exemptive relief. Granting accelerated approval of the proposed rule change, as modified by Amendment No. 3, would allow the Exchange to implement these changes at the start of Phase 2a Industry Member reporting to CAT, which is scheduled for June 22, 2020.[54] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[55] to approve the proposed rule change, as modified by Amendment No. 3, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSECHX–2020–01), as modified by Amendment No. 3, is hereby approved on anaccelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–13669 Filed 6–24–20; 8:45 am]

**BILLING CODE 8011–01–P**

[51] *See, supra* note 7.

[52] *See, supra* note 7.

[53] *See, supra* note 7.

[54] *See* CAT Timeline, *available at: https://www.catnmsplan.com/timeline.*

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89103; File No. SR–NYSEAMER–2020–03]**

## Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, To Amend Consolidated Audit Trail Compliance Rules

June 19, 2020.

## I. Introduction

On January 3, 2020, NYSE American LLC (''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] The proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318

Continued

change was published for comment in the **Federal Register** on January 23, 2020.[4] On March 5, 2020 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, to April 22, 2020 respectively.[5] On April 20, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2020, the Exchange filed Amendment No. 1 to its proposed rule change. On June 18, 2020, the Exchange filed Amendment No. 2 to its proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## II. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend the Rule 6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

This Amendment No. 2 amends and replaces in its entirety the original proposal filed by the Exchange on January 3, 2020 as well as Amendment No. 1 filed by the Exchange on May 8, 2020.[8]

As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (''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 alternative trading systems (''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'');
- 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;
- Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;
- Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' (collectively, referred to as ''SSNs'') or account numbers; and
- 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.

i. 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.''[9] 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. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members[10] 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

(November 15, 2016), 81 FR 84696 (November 23, 2016).

[4] *See* Securities Exchange Act Release No. 87989 (January 16, 2020), 85 FR 3995 (''Notice'').

[5] *See* Securities Exchange Act Release No. 88331, 85 FR 14252 (March 11, 2020).

[6] *See* Securities Exchange Act Release No. 88699, 85 FR 23086 (April 24, 2020).

[7] Amendment No. 2 revised the proposed rule change to: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity. *See also* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020); Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020); Securities Exchange Act No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020); Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020); Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

[8] *See* Securities Exchange Act Release No. 87989 (January 16, 2020), 85 FR 3995 (January 23, 2020) (Notice of Filing of Proposed Rule Change to Amend the Rule 6800 Series, the Exchange's Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail) (SR–NYSEAMER–2020–03); Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE, to Secretary, SEC, re: Securities Exchange Act Release No. 87989 (SR–NYSEAMER–2020–03) (May 8, 2020).

[9] 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*).

[10] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

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.'' [11] 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 6830, 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 6830 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 6830, 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 6830, 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.[12] 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 ATSs in FINRA Rule 4554,[13] 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) of Rule 6810 to facilitate the addition to the CAT 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)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 6830.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 6830 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 6830 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 6830 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, as with the requirements in FINRA Rule 4554(b)(5),

[11] FINRA Rule 5320 prohibits trading ahead of customer orders.

[12] *See* FINRA *Regulatory Notice* 16–28 (August 2016).

[13] 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.

proposed paragraph (a)(2)(D) of Rule 6830 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)(2)–(3), (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 6830.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 6830 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 (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 6830 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 proposed paragraph (a)(1)(A)(xi)(4) to Rule 6830, 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 proposed paragraph (a)(1)(B)(viii) to Rule 6830, 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 proposed paragraph (a)(1)(C)(x)(4) to Rule 6830, 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 proposed paragraph (a)(1)(D)(ix)(4) to Rule 6830, 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 proposed paragraph (a)(1)(E)(viii)(3) to Rule 6830, 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)(5) to Rule 6830. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of Rule 6830 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 price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 6830 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 proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 6830. 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 6830 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 paragraph (a)(1)(A)(viii) to Rule 6830, 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 paragraph (a)(1)(C)(ix) to Rule 6830, 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 paragraph (a)(1)(D)(viii) to Rule 6830, 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 paragraph (a)(1)(A)(ix) to Rule 6830, 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 paragraph (a)(1)(C)(viii) to Rule 6830, 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 paragraph (a)(1)(A)(x) to Rule 6830, 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.''

ii. 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, 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.[14] Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 6830 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 6830 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 paragraph (f)(2) to Rule 6830 to require the reporting to the CAT of an indication as

[14] Section 6.5(a)(ii) of the CAT NMS Plan.

to whether a bid or offer was solicited or unsolicited. Specifically, proposed paragraph (f)(2) of Rule 6830 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 paragraph (f)(3) to Rule 6830, 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.''

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed 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'').[15] Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (''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 requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members [16] 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 requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan 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.''

On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.[17]

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (''Small Industry OATS Reporters'') to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 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 July 20, 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 required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, 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, the Exchange proposes to amend its Compliance Rule to be consistent with the 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 June 22, 2020.[18] To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 6810 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(1) of Rule 6810. 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

[15] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

[16] *See* Section 1.1 of the CAT NMS Plan.

[17] *See* Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC's exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

[18] 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 approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

commencing in Phase 2a.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.[19]

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 6830. Paragraph (a)(1)(A)(i) of Rule 6830 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 6830 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 6830, Industry Members would be required to provide a timestamp pursuant to Rule 6860. Rule 6860(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.[20]

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 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.[21] 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 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(A) of Rule 6895, 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 June 22, 2020.''

Pursuant to paragraph (c)(2) of Rule 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraphs (c)(2)(A) and (B) of Rule 6895. Proposed paragraph (c)(2)(A) of Rule 6895 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 June 22, 2020.

[19] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

[20] 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.

[21] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

Proposed paragraph (c)(2)(B) of Rule 6895 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.''

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 July 20, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is approximately seventeen 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 paragraph (t)(2) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(2) to Rule 6810. 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.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

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.[22] 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 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(B) of Rule 6895, 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 July 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, 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 approximately 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 paragraph (t)(3) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(3) to Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.'' Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d 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. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

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 IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (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

[22] 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.

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, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers [23] (''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 [24] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[25]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''inter-dealer quotation system'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(C) of Rule 6895, 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 6895, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, 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, the Exchange proposes to add paragraph (t)(4) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(4) to Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.'' [26]

''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired 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 with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; [27] (6) Allocation Reports as

[23] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[24] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that 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 6810 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange 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.

[25] 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 OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

[26] 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.

[27] As noted above, the Exchange also proposes to amend the dates in the definitions of ''Account Effective Date'' and ''Customer Account

Continued

required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(D) of Rule 6895, 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 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(C) of Rule 6895, 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, the Exchange proposes to add paragraph (t)(5) to Rule 6810 and amend paragraphs (c)(1) and (2) of Rule 6895.

(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 paragraph (t)(5) of Rule 6810. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan'' 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 6810 of the Compliance Rule.[28] The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 6895 with new paragraph (c)(1)(E) of Rule 6895, 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 6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 6895 with new paragraph (c)(2)(D) of Rule 6895, 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 6880(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

Information'' to reflect the Phased Reporting. Specifically, the Exchange proposes to amend paragraph (m)(2) of Rule 6810 to replace the references to November 15, 2018 and 2019, with references to the commencement of Phase 2c and Phase 2d. The Exchange 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.

[28] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, dates of birth and SSNs. *See* Rule 6810. The Participants have received 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* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* 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 (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

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 6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 6880(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 (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.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed 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.[29] On April 8, 2020, the Participants received the exemptive relief.[30] 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. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 6860. Rule 6860(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 to read as follows to reflect the exemptive relief:

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 up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (''Introducing Industry Member'') from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (''Large Industry Members'').[31] Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.[32]

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of ''Introducing Industry Member'' and to revise Rule 6985 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define ''Introducing Industry Member'' in proposed paragraph (v) to Rule 6810, as ''a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.'' The Exchange also proposes to add a new paragraph (3) to Rule 6895(c) to state that ''Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.'' With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.[33] The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.[34] Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs,

[29] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

[30] *See* Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

[31] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

[32] *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

[33] *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 (Jan. 29, 2020).

[34] *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (''PII Exemption Order''). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (''CCID'') without requiring Industry Members to report SSNs to the CAT (the ''CCID Alternative''). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the ''transformed value''). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem''). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, 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 SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers [35] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement 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 dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. NYSE American Rule 6830(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 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, the Firm Designated ID for the relevant Customer, and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 6840 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 6810(m) defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth'' and ''individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' Accordingly, the Exchange proposes to replace ''date of birth'' in the definition of ''Customer Identifying Information'' in Rule 6810(m) (now renumbered Rule 6810(n)) with ''year of birth'' and to delete ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from Rule 6810(m) (now renumbered Rule 6810(n)). In addition, currently, Rule 6810(l) defines ''Customer Account Information'' to include account numbers. The Exchange proposes to delete ''account number'' from the definition of ''Customer Account Information'' in Rule 6810(l) (now renumbered Rule 6810(m)).

The Exchange also proposes to add a definition of the term ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to Rule 6810. Specifically, the Exchange proposes to add paragraph (pp) to Rule 6810 to define ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to mean ''the interim value created by an Industry Member based on a Customer ITIN/SSN.''

The Exchange proposes to revise Rule 6830(a)(2)(C) to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''). Specifically, the Exchange proposes to revise Rule 6830(a)(2)(C) to state:

> [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 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, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), and in accordance with Rule 6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') in the Customer information reporting required under Rule 6840. Specifically, the Exchange proposes to revise Rule 6840(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 6880. The Exchange also proposes to revise Rule 6840(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule

[35] With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

6840(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 6840(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 6810(m), the definition of ''Customer Account Information'' 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 relationship identifier in lieu of the ''account number.'' As an account number will no longer be an element in ''Customer Account Information,'' the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 6810(m)(a)(B) regarding relationship identifiers from Rule 6810(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 6830(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') and the year of birth to the Central Repository.[36]

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed 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.[37] The SEC provided this exemptive relief on June 11, 2020.[38] FINRA is required to 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 is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received 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, subject to certain conditions.

As a condition to this exemption, the Participants would continue to 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, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the 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 new paragraph (a)(2)(E) to Rule 6830, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, 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 and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository the 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 6830(a)(1)(E) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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 6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except

[36] The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

[37] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

[38] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 6830, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of the 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 SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 6830(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) 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 6830(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

NYSE American believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[39] which require, among other things, that the Exchange's 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,[40] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE American believes that this proposal is consistent with the Act because it is consistent with certain 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 SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [41] To the extent that this proposal implements the Plan, including the 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*

NYSE American 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. NYSE American notes that the proposed rule changes are consistent with certain 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. NYSE American 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.

*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. Discussion and Commission Findings

After careful review the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchanges.[42] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(5) of the Act,[43] which, among other things, require that rules of a national securities exchange and national securities association be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and Section 6(b)(8) of the Act,[44] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

*A. CATS–OATS Data Gaps*

Rule 613(a)(1)(ix) of Regulation NMS requires that the CAT NMS Plan include a plan to eliminate existing rules and systems that would be rendered duplicative by the CAT.[45] The rule states that to the extent that any existing rules or systems related to monitoring quotes, orders, and executions provide information that is not rendered duplicative, the plan should assess whether it is appropriate to continue to collect this information, and if appropriate, decide whether to collect the information separately or as part of the CAT. The Exchange proposes to amend the Exchange's Compliance Rules to add additional data elements to the CAT reporting requirements for Industry Members that are currently reported to OATS, as set forth in FINRA's rules, but have not previously been required for CAT reporting.[46] The Commission finds that the requiring the reporting of additional OATS data elements is consistent with the Act as it represent a step forward to facilitating the retirement of duplicative systems.

*B. OTC Equity Securities*

The Commission finds that it is consistent with the Act to require the reporting to the CAT of certain data elements from ATSs that trade OTC Equity Securities. The Exchange proposes to require ATSs that trade OTC Equity Securities to report three data elements to CAT that are currently reported to FINRA but not CAT: (i) Bids and offers for OTC Equity Securities, (ii)

[39] 15 U.S.C. 78f(b)(6).

[40] 15 U.S.C. 78f(b)(8)

[41] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[42] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78(f)(b)(5).

[44] 15 U.S.C. 78(f)(b)(8).

[45] *See* 17 CFR 262.613(a)(1)(ix).

[46] The additional data elements relate to information barrier identification, reporting requirements specific to alternative trading systems (including ATSs that trade OTC Equity Securities), customer instruction flags, department type, and account holder type. *See* Notice, *supra* note 4, at 3996–99.

unsolicited bid/offer flag and (iii) unpriced bids and offers.[47] The Exchange represents that the CAT NMS Plan Participants believe that such data will be important for regulators to oversee the OTC Equity Securities market and believe that the proposal would merely shift reporting from FINRA to the CAT and would not burden ATSs.

*C. Revised Industry Member Timeline*

The Commission finds that the proposed rule change concerning the reporting timeline for Industry Members is consistent with the Act as the changes are designed to reflect and implement the exemptive relief granted by the Commission. On April 24, 2020, the Commission granted exemptive relief relating to Industry Member reporting to CAT, and permitted the Participants to implement a phased reporting approach, where Large Industry Members and Small Industry Members would begin reporting Industry Member Data in five phases, subject to certain conditions.[48] The proposed rule change implements this exemptive relief by, among other things, adding definitions of each of the five phases and amending testing and reporting dates for Large Industry Members and Small Industry Members for each of the five phases. The proposed rule change also states that the full scope of Industry Member Data required by the CAT NMS Plan must be reported to the Central Repository when the last phase of reporting have been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.

*D. Timestamp Granularity*

The Commission finds that the proposed rule change concerning the granularity of timestamps is consistent with the Act as it is designed to reflect the exemptive relief granted by the Commission. On April 8, 2020, the Commission granted exemptive relief relating the timestamp granularity, which permitted the Participants to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps after the nanosecond level for submission to CAT, for a period of five years.[49]

*E. Introducing Industry Members*

The Commission finds that the proposed rule change relating to Introducing Industry Members is consistent with the Act as it reflects and implements exemptive relief granted by the Commission. On April 20, 2020, the Commission granted exemptive relief to the Participants, permitting the Participants to consider broker-dealers that not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act to be subject to CAT NMS Plan requirements applicable to Small Industry Members.[50]

*F. CCID/PII*

The Commission finds that the proposed rule change amending reporting requirements related to CCID and PII are consistent with the Act as it is designed to reflect and implement exemptive relief granted by the Commission on March 17, 2020.[51] Among other things, instead of requiring the reporting of ITINs or SSNs, dates of birth and account numbers, the Compliance Rule would now require reporting of a transformed value in lieu of an ITIN or SSN, birth year and a Firm Designated ID by Industry Members.

*G. FINRA Facility Data Linkage*

The Commission finds that the proposed rule change amending the reporting timeline for Industry Members is consistent with the Act as it reflects and implements the exemptive relief granted by the Commission related to the reporting of clearing numbers and cancelled trade indicators. On June 11, 2020, the Commission granted the Participants exemptive relief that allows the Participants to implement an alternative approach to the reporting of clearing numbers and cancelled trade indicators, by utilizing data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility.[52]

For the foregoing reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

## IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2020–03 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–NYSEAMER–2020–03. 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–NYSEAMER–2020–03 and should be submitted on or before July 16, 2020.

## V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the publication of notice of the filing of the amendments in the **Federal Register**. As discussed above, Amendment No. 2 to the proposed rule change amends the proposed rule change by: (1) Reflect

[47] *See* Notice, *supra* note 4, at 3999.

[48] *See, supra* note 7.

[49] *See, supra* note 7.

[50] *See, supra* note 7.

[51] *See, supra* note 7.

[52] *See, supra* note 7.

exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity.

Amendment No. 2 modifies the proposed rule change to, among other things, be consistent with exemptive relief granted by the Commission, which was granted after the initial filing of the proposed rule change.[53] Specifically, the proposal implements exemptive relief already granted by the Commission and modifies Industry Member CAT reporting requirements to be consistent with such exemptive relief. Granting accelerated approval of the proposed rule change, as modified by Amendment No. 2, would allow the Exchange to implement these changes at the start of Phase 2a Industry Member reporting to CAT, which is scheduled for June 22, 2020.[54] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[55] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEAMER–2020–03), as modified by Amendment No. 2, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–13671 Filed 6–24–20; 8:45 am]

**BILLING CODE 8011–01–P**

[53] *See, supra* note 7.

[54] *See* CAT Timeline, *available at: https://www.catnmsplan.com/timeline.*

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89107; File No. SR–NYSEArca–2020–01]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, To Amend Consolidated Audit Trail Compliance Rules

June 19, 2020.

## I. Introduction

On January 3, 2020, NYSE Arca, Inc (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] The proposed rule change was published for comment in the **Federal Register** on January 23, 2020.[4] On March 5, 2020 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, to April 22, 2020 respectively.[5] On April 20, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[6] On May 8, 2020, the Exchange filed Amendment No. 1 to its proposed rule change. On June 18, 2020, the Exchange filed Amendment No. 2 to its proposed rule change, which superseded and replaced the proposed rule change in its entirety.[7] The Commission received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## II. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend the Rule 11.6800 Series, the Compliance Rule regarding the CAT NMS Plan, to be consistent with certain exemptions from the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems.

This Amendment No. 2 amends and replaces in its entirety the original proposal filed by the Exchange on January 3, 2020 as well as Amendment No. 1 filed by the Exchange on May 8, 2020.[8]

As described more fully below, the proposed rule change would make the following changes to the Compliance Rule:

- Add additional data elements to the consolidated audit trail (''CAT'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

[4] *See* Securities Exchange Act Release No. 87987 (January 16, 2020), 85 FR 4011 (''Notice'').

[5] *See* Securities Exchange Act Release No. 88330, 85 FR 14284 (March 11, 2020).

[6] *See* Securities Exchange Act Release No. 88696, 85 FR 23093 (April 24, 2020).

[7] Amendment No. 2 revised the proposed rule change to: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity. *See also* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020); Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020); Securities Exchange Act No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020); Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020); Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

[8] *See* Securities Exchange Act Release No. 87987 (January 16, 2020), 85 FR 4011 (January 23, 2020) (Notice of Filing of Proposed Rule Change to Amend the Rule 11.6800 Series, the Exchange's Compliance Rule Regarding the National Market System Plan Governing the Consolidated Audit Trail) (SR–NYSEArca–2020–01); Letter from Martha Redding, Associate General Counsel and Assistant Secretary, NYSE, to Secretary, SEC, re: Securities Exchange Act Release No. 87987 (SR–NYSEArca–2020–01) (May 8, 2020).

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 alternative trading systems (''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'');

• 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;

• Require Introducing Industry Members (as defined below) to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members;

• Revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' (collectively, referred to as ''SSNs'') or account numbers; and

• 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.

i. 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.'' [9] 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. With the addition of these OATS data elements to the CAT, the CAT will have the data elements necessary to retire OATS.

A. Information Barrier Identification

The FINRA OATS rules require OATS Reporting Members [10] 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.'' [11] 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 11.6830, 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 11.6830 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 11.6830, 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 11.6830, 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.[12] The Participants believe

[9] 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*).

[10] An OATS ''Reporting Member'' is defined in FINRA Rule 7410(o).

[11] FINRA Rule 5320 prohibits trading ahead of customer orders.

[12] *See* FINRA *Regulatory Notice* 16–28 (August 2016).

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 ATSs in FINRA Rule 4554,[13] 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) of Rule 11.6810 to facilitate the addition to the CAT 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)(1), (a)(1)(C)(x)(1), (a)(1)(D)(ix)(1) and (a)(2)(D) of Rule 11.6830.

Proposed paragraph (a)(1)(A)(xi)(1) of Rule 11.6830 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 11.6830 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 11.6830 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, as with the requirements in FINRA Rule 4554(b)(5), proposed paragraph (a)(2)(D) of Rule 11.6830 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)(2)–(3), (a)(1)(C)(x)(2)–(3), (a)(1)(D)(ix)(2)–(3) and (a)(1)(E)(viii)(1)–(2) of Rule 11.6830.

Specifically, proposed paragraph (a)(1)(A)(xi)(2)–(3) of Rule 11.6830 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 (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 11.6830 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

[13] 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.

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 proposed paragraph (a)(1)(A)(xi)(4) to Rule 11.6830, 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 proposed paragraph (a)(1)(B)(viii) to Rule 11.6830, 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 proposed paragraph (a)(1)(C)(x)(4) to Rule 11.6830, 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 proposed paragraph (a)(1)(D)(ix)(4) to Rule 11.6830, 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 proposed paragraph (a)(1)(E)(viii)(3) to Rule 11.6830, 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)(5) to Rule 11.6830. Specifically, proposed new paragraph (a)(1)(D)(ix)(5) of Rule 11.6830 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 price or size.'' Proposed paragraph (a)(1)(D)(ix)(5) of Rule 11.6830 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 proposed paragraphs (a)(1)(A)(xi)(5) and (a)(1)(C)(x)(5) of Rule 11.6830. 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 11.6830 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 paragraph (a)(1)(A)(viii) to Rule 11.6830, 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 paragraph (a)(1)(C)(ix) to Rule 11.6830, 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 paragraph (a)(1)(D)(viii) to Rule 11.6830, 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 paragraph (a)(1)(A)(ix) to Rule 11.6830, 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 paragraph (a)(1)(C)(viii) to Rule 11.6830, 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 paragraph (a)(1)(A)(x) to Rule 11.6830, 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.''

ii. 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, 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.[14] Accordingly, the Exchange proposes to add paragraph (f)(1) to Rule 11.6830 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 11.6830 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 paragraph (f)(2) to Rule 11.6830 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 11.6830 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 paragraph (f)(3) to Rule 11.6830, 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.''

iii. Revised Industry Member Reporting Timeline

On February 19, 2020, the Participants filed 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'').[15] Specifically, in their exemptive request, the Participants requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(v) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Industry Members other than Small Industry Members (''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 requested that the SEC exempt each Participant from the requirement in Section 6.7(a)(vi) of the CAT NMS Plan for each Participant, through its Compliance Rule, to require its Small Industry Members [16] 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 requested that the SEC provide an exemption from the requirement in Section 6.4 of the CAT NMS Plan 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.''

On April 20, 2020, the SEC granted the Participants exemptive relief to implement Phased Reporting, subject to certain timeline changes and conditions.[17]

As a condition to the exemption, each Participant would implement Phased Reporting through its Compliance Rule by requiring:

(1) Its Large Industry Members and its Small Industry Members that are required to record or report information to OATS pursuant to applicable SRO rules (''Small Industry OATS Reporters'') to commence reporting to the Central Repository Phase 2a Industry Member Data by June 22, 2020, and its Small Industry Non-OATS Reporters to commence reporting to the Central Repository Phase 2a Industry Member Data by December 13, 2021;

[14] Section 6.5(a)(ii) of the CAT NMS Plan.

[15] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020).

[16] *See* Section 1.1 of the CAT NMS Plan.

[17] *See* Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020). As discussed in the SEC's exemptive order, the Commission granted the Participants conditional exemptive relief from the CAT NMS Plan so that the Compliance Rules may require Phase 2a reporting to commence on June 22, 2020, rather than the April 20, 2020 date set forth in the exemptive request, and Phase 2b reporting to commence on July 20, 2020, rather than the May 18, 2020 date set forth in the exemptive request. As a condition to the exemptive relief, Industry Members who elect to report to the CAT prior to such dates will be permitted to report to the CAT as early as April 20, 2020 for Phase 2a reporting and as early as May 18, 2020 for Phase 2b reporting.

(2) its Large Industry Members to commence reporting to the Central Repository Phase 2b Industry Member Data by July 20, 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 required under the CAT NMS Plan will be required to be reported when all five phases of the Phased Reporting have been implemented, subject to any applicable exemptive relief or amendments related to the CAT NMS Plan.

As a further condition to the exemption, 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, the Exchange proposes to amend its Compliance Rule to be consistent with the 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 June 22, 2020.[18] To implement the Phased Reporting for Phase 2a, the Exchange proposes to add paragraph (t)(1) of Rule 11.6810 (previously paragraph (s)) and amend paragraphs (c)(1) and (2) of Rule 11.6895.

(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 paragraph (t)(1) of Rule 11.6810. 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.'' Phase 2a Industry Member Data would include Industry Member Data solely related to Eligible Securities that are equities. While the following summarizes categories of Industry Member Data required for Phase 2a, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2a.[19]

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 11.6830. Paragraph (a)(1)(A)(i) of Rule 11.6830 requires Industry Members to submit the Firm Designated ID for the original receipt or origination of an order. Paragraph (a)(2)(C) of Rule 11.6830 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 11.6830, Industry Members would be required to provide a timestamp pursuant to Rule 11.6860. Rule 11.6860(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

[18] 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 approximately seventeen months after Large Industry Members and Small Industry OATS Reporters begin reporting.

[19] The items required to be reported commencing in Phase 2a do not include the items required to be reported in Phase 2c or Phase 2d, as discussed below.

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.[20]

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 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.[21] 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 11.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 11.6895 with new paragraph (c)(1)(A) of Rule 11.6895, 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 June 22, 2020.''

Pursuant to paragraph (c)(2) of Rule 11.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 11.6895 with new paragraphs (c)(2)(A) and (B) of Rule 11.6895. Proposed paragraph (c)(2)(A) of Rule 11.6895 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 June 22, 2020.

Proposed paragraph (c)(2)(B) of Rule 11.6895 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.''

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 July 20, 2020. Small Industry Members would be required to report to the Central Repository ''Phase 2b Industry Member Data'' by December 13, 2021, which is approximately seventeen 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 paragraph (t)(2) to Rule 11.6810 and amend paragraphs (c)(1) and (2) of Rule 11.6895.

(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 paragraph (t)(2) to Rule 11.6810. 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.'' Phase 2b Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2b. While the following summarizes the categories of Industry Member Data required for Phase 2b, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2b.

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.[22] 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 11.6895, 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 delete the November 15, 2018 date and to supplement paragraph

[20] 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.

[21] This approach is comparable to the approach set forth in OATS Compliance FAQ 35.

[22] 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.

(c)(1) of Rule 11.6895 with new paragraph (c)(1)(B) of Rule 11.6895, 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 July 20, 2020.''

Pursuant to paragraph (c)(2) of Rule 11.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 11.6895 with new paragraph (c)(2)(C) of Rule 11.6895, 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 approximately 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 paragraph (t)(3) to Rule 11.6810 and amend paragraphs (c)(1) and (2) of Rule 11.6895.

(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 paragraph (t)(3) to Rule 11.6810. Specifically, the Exchange proposes to define the term ''Phase 2c Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2c.'' Phase 2c Industry Member Data would be Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d 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. While the following summarizes the categories of Industry Member Data required for Phase 2c, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2c.

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 IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (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, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of large trader identifiers [23] (''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 [24] (as applicable) for accounts and flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer order(s) being represented for all representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[25]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) An equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''inter-dealer quotation system'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.

(ii) Timing of Phase 2c Reporting

Pursuant to paragraph (c)(1) of Rule 11.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 11.6895 with new

[23] *See* definition of ''Customer Account Information'' in Section 1.1 of the CAT NMS Plan. *See also* Rule 13h–1 under the Exchange Act.

[24] *See* definition of ''Customer Account Information'' and ''Account Effective Date'' in Section 1.1 of the CAT NMS Plan. Note that 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 11.6810 to replace the references to November 15, 2018 and 2019 with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 11.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

[25] 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 OMS and represented by a principal order originated in an EMS that is not linked to the OMS, marking and linkages must be reported as required in the Industry Member Technical Specifications.

paragraph (c)(1)(C) of Rule 11.6895, 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 11.6895, Small Industry Members are required to begin reporting to the CAT by November 15, 2019. To implement the Phased Reporting for Phase 2c for Small Industry Members, the Exchange proposes to delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 11.6895 with new paragraph (c)(2)(C) of Rule 11.6895, 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, the Exchange proposes to add paragraph (t)(4) to Rule 11.6810 and amend paragraphs (c)(1) and (2) of Rule 11.6895.

(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 paragraph (t)(4) to Rule 11.6810. Specifically, the Exchange proposes to define the term ''Phase 2d Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2d.'' [26]

''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data is described in detail in the Industry Member Technical Specifications for Phase 2d. While the following summarizes the categories of Industry Member Data required for Phase 2d, the Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2d.

Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) Simple manual orders; (2) electronic and manual paired 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 with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; [27] (6) 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; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders.

Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: A listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition would be reportable in Phase 2d for options.

Phase 2d Industry Member Data also would include with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).

(ii) Timing of Phase 2d Reporting

Pursuant to paragraph (c)(1) of Rule 11.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 11.6895 with new paragraph (c)(1)(D) of Rule 11.6895, 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 11.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 11.6895 with new paragraph (c)(2)(C) of Rule 11.6895, 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

[26] 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.

[27] 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 11.6810 to replace the references to November 15, 2018 and 2019, with references to the commencement of Phase 2c and Phase 2d. The Exchange also proposes to amend paragraphs (a)(1)(A), (a)(1)(B) and (a)(2)–(5) of Rule 11.6810 regarding the definition of ''Account Effective Date'' with similar changes to the dates set forth therein.

Reporting for Phase 2e, the Exchange proposes to add paragraph (t)(5) to Rule 11.6810 and amend paragraphs (c)(1) and (2) of Rule 11.6895.

(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 paragraph (t)(5) of Rule 11.6810. Specifically, the Exchange proposes to define the term ''Phase 2e Industry Member Data'' as ''Industry Member Data required to be reported to the Central Repository commencing in Phase 2e. The full scope of Industry Member Data required by the CAT NMS Plan will be required to be reported to the CAT when Phase 2e has been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan'' 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 11.6810 of the Compliance Rule.[28] The Industry Member Technical Specifications provide detailed guidance regarding the reporting for Phase 2e.

(ii) Timing of Phase 2e Reporting

Pursuant to paragraph (c)(1) of Rule 11.6895, 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 delete the November 15, 2018 date and to supplement paragraph (c)(1) of Rule 11.6895 with new paragraph (c)(1)(E) of Rule 11.6895, 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 11.6895, 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 delete the November 15, 2019 date and to supplement paragraph (c)(2) of Rule 11.6895 with new paragraph (c)(2)(D) of Rule 11.6895, 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 11.6880(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 11.6880(a) with the testing milestones set forth in the exemptive relief. Specifically, the Exchange proposes to replace Rule 11.6880(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 (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.

iv. Granularity of Timestamps

On February 3, 2020, the Participants filed 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.[29] On April 8, 2020, the Participants received the exemptive relief.[30] 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. The timestamp granularity exemption remains in effect for five years, until April 8, 2025. After five years, the exemption would no longer be in effect unless the period the exemption is in effect is extended by the SEC.

Accordingly, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. Specifically, the Exchange proposes to amend paragraph (a)(2) of Rule 11.6860. Rule 11.6860(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 to read as follows to reflect the exemptive relief:

> 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

[28] The term ''Customer Account Information'' includes account numbers, and the term ''Customer Identifying Information'' includes, with respect to individuals, dates of birth and SSNs. *See* Rule 11.6810. The Participants have received 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* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). *See also* 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 (Jan. 29, 2020). Given the relief has been granted, Phase 2e Industry Member Data will not include account numbers, dates of birth and SSNs for individuals.

[29] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

[30] *See* Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

increment up to nanoseconds; provided, that Industry Members that capture timestamps in increments more granular than nanoseconds must truncate the timestamps after the nanosecond level for submission to CAT, rather than rounding such timestamps up or down, until April 8, 2025.

v. Introducing Industry Members

On February 3, 2020, the Participants requested that the Commission exempt broker-dealers that do not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act and, as a result, are deemed affiliated with an entity that is not a small business or small organization (''Introducing Industry Member'') from the requirements in the CAT NMS Plan applicable to Industry Members other than Small Industry Members (''Large Industry Members'').[31] Instead, such Introducing Industry Members would comply with the requirements in the CAT NMS Plan applicable to Small Industry Members. On April 20, 2020, the SEC granted the Participants exemptive relief with regard to Introducing Industry Members.[32]

As a result, the Exchange proposes to amend its Compliance Rule to adopt a definition of ''Introducing Industry Member'' and to revise Rule 6985 to require Introducing Industry Members to comply with the requirements of the CAT NMS Plan applicable to Small Industry Members. Specifically, the Exchange proposes to define ''Introducing Industry Member'' in proposed paragraph (v) to Rule 11.6810, as ''a broker-dealer that does not qualify as a Small Industry Member solely because such broker-dealer satisfies Rule 0–10(i)(2) under the Exchange Act in that it introduces transactions on a fully disclosed basis to clearing firms that are not small businesses or small organizations.'' The Exchange also proposes to add a new paragraph (3) to Rule 11.6895(c) to state that ''Introducing Industry Members must comply with the requirements of the CAT NMS Plan applicable to Small Industry Members.'' With these changes, Introducing Industry Members would be required to comply with the requirements in the CAT NMS Plan applicable to Small Industry Members, rather than the requirements in the CAT NMS Plan applicable to Large Industry Members.

vi. CCID/PII

On January 29, 2020, the Participants filed with the Commission a request for exemptive relief from certain requirements related to reporting SSNs, dates of birth and account numbers to the CAT.[33] The Commission, Participants and others indicated security concerns with maintaining such sensitive Customer information in the CAT. On March 17, 2020, the Participants received the exemptive relief, subject to certain conditions.[34] Assuming the Participants comply with the conditions set forth in the PII Exemption Order, Industry Members would not be required to report SSNs, dates of birth and account numbers to the CAT NMS Plan.

As described in the request for exemptive relief, the Participants requested exemptive relief to allow for an alternative approach to generating a CAT Customer ID (''CCID'') without requiring Industry Members to report SSNs to the CAT (the ''CCID Alternative''). In lieu of retaining such SSNs in the CAT, the Participants would use the CCID Alternative, a strategy developed by the Chief Information Security Officer for the CAT and the Chief Information Security Officers from each of the Participants, in consultation with security experts from member firms of Securities Industry and Financial Markets Association. The CCID Alternative facilitates the ability of the Plan Processor to generate a CCID without requiring the Plan Processor to receive SSNs or store SSNs within the CAT. Under the CCID Alternative, the Plan Processor would generate a unique CCID using a two-phase transformation process that avoids having SSNs reported to or stored in the CAT. In the first transformation phase, a CAT Reporter would transform the SSN to an interim value (the ''transformed value''). This transformed value, and not the SSN, would be submitted to a separate system within the CAT (''CCID Subsystem''). The CCID Subsystem would then perform a second transformation to create the globally unique CCID for each Customer that is unknown to, and not shared with, the original CAT Reporter. The CCID would then be sent to the customer and account information system of the CAT, where it would be linked with the other customer and account information. The CCID may then be used by the Participants' regulatory staff and the SEC in queries and analysis of CAT Data. To implement the CCID Alternative, 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 SSNs to the Central Repository for the original receipt of an order. As set forth in one condition of the PII Exemption Order, Industry Members would be required to transform an SSN to an interim value, and report the transformed value to the CAT.

The Participants also requested exemptive relief to allow for an alternative approach which would exempt the reporting of dates of birth and account numbers [35] to the CAT (''Modified PII Approach''), and instead would require Industry Members to report the year of birth and the Firm Designated ID for each trading account associated with the Customers. To implement 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 dates of birth and account numbers for Customers. As conditions to the exemption, Industry Members would be required to report the year of birth of an individual to the Central Repository, and to report the Firm Designated ID to the Central Repository.

To implement the request for exemptive relief and to eliminate the requirement to report SSNs, date of birth and account numbers to the CAT, the Exchange proposes to amend its Compliance Rule to reflect the exemptive relief. NYSE Arca Rule 11.6830(a)(2)(C) states that

[31] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Small Industry Members (Feb. 3, 2020).

[32] *See* Securities Exchange Act Release No. 88703 (April 20, 2020), 85 FR 23115 (April 24, 2020).

[33] *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 (Jan. 29, 2020).

[34] *See* Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020) (Order Granting Conditional Exemptive Relief, Pursuant to Section 36 and Rule 608(e) of the Securities Exchange Act of 1934, from Section 6.4(d)(ii)(C) and Appendix D Sections 4.1.6, 6.2, 8.1.1, 8.2, 9.1, 9.2, 9.4, 10.1, and 10.3 of the National Market System Plan Governing the Consolidated Audit Trail) (''PII Exemption Order''). The PII Exemption Order lists several conditions that must be met by the Exchange. If the Exchange does not satisfy the conditions, the PII Exemption Order would not apply to the Exchange.

[35] With respect to this aspect of the requested relief, the PII Exemption Order provided relief with regard to the reporting of all account numbers, not just account numbers for individuals as requested by the Participants.

[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 11.6830(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, the Firm Designated ID for the relevant Customer, and in accordance with Rule 11.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

Similarly, Rule 11.6840 requires the reporting of Customer Account Information and Customer Identifying Information to the Central Repository. Currently, Rule 11.6810(m) defines ''Customer Identifying Information'' to include, with respect to individuals, ''date of birth'' and ''individual tax payer identification number (''ITIN'')/social security number (''SSN'').'' Accordingly, the Exchange proposes to replace ''date of birth'' in the definition of ''Customer Identifying Information'' in Rule 11.6810(m) (now renumbered Rule 11.6810(n)) with ''year of birth'' and to delete ''individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' from Rule 11.6810(m) (now renumbered Rule 11.6810(n)). In addition, currently, Rule 11.6810(l) defines ''Customer Account Information'' to include account numbers. The Exchange proposes to delete ''account number'' from the definition of ''Customer Account Information'' in Rule 11.6810(l) (now renumbered Rule 11.6810(m)).

The Exchange also proposes to add a definition of the term ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to Rule 11.6810. Specifically, the Exchange proposes to add paragraph (pp) to Rule 11.6810 to define ''Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'')'' to mean ''the interim value created by an Industry Member based on a Customer ITIN/SSN.''

The Exchange proposes to revise Rule 11.6830(a)(2)(C) to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''). Specifically, the Exchange proposes to revise Rule 11.6830(a)(2)(C) to state:

[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 11.6830(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, the Firm Designated ID for the relevant Customer, Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), and in accordance with Rule 11.6840, Customer Account Information and Customer Identifying Information for the relevant Customer.

The Exchange also proposes to include the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') in the Customer information reporting required under Rule 11.6840. Specifically, the Exchange proposes to revise Rule 11.6840(a) to require each Industry Member to submit to the Central Repository the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN''), for each of its Customers with an Active Account prior to such Industry Member's commencement of reporting to the Central Repository and in accordance with the deadlines set forth in Rule 11.6880. The Exchange also proposes to revise Rule 11.6840(b) to require each Industry Member to submit to the Central Repository any updates, additions or other changes to the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account on a daily basis. In addition, the Exchange proposes to revise Rule 11.6840(c) to require, on a periodic basis as designated by the Plan Processor and approved by the Operating Committee, each Industry Member to submit to the Central Repository a complete set of the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account. The Exchange also proposes to revise Rule 11.6840(d) to require, for each Industry Member for which errors in the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') for each of its Customers with an Active Account submitted to the Central Repository have been identified by the Plan Processor or otherwise, such Industry Member to submit corrected data to the Central Repository by 5:00 p.m. Eastern Time on T+3.

Paragraph (1)(B) of Rule 11.6810(m), the definition of ''Customer Account Information'' 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 relationship identifier in lieu of the ''account number.'' As an account number will no longer be an element in ''Customer Account Information,'' the relationship identifier used in lieu of the account number will no longer be required as an element of Customer Account Information. Therefore, the Exchange proposes to delete the requirement set forth in Rule 11.6810(m)(a)(B) regarding relationship identifiers from Rule 11.6810(m).

With these changes, Industry Members would not be required to report to the Central Repository dates of birth, SSNs or account numbers pursuant to Rule 11.6830(a)(2)(C). However, Industry Members would be required to report the Transformed Value for individual tax payer identification number (''ITIN'')/social security number (''SSN'') and the year of birth to the Central Repository.[36]

vii. FINRA Facility Data Linkage

On June 5, 2020, the Participants filed 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.[37] The SEC provided this exemptive relief on June 11, 2020.[38] FINRA is required to 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 is the clearing number of the clearing broker for a reported trade as well as the cancelled trade indicator. Under this alternative approach, the clearing number and the cancelled trade indicator of the FINRA Facility Data that is reported to the CAT would be linked to the related execution reports reported by Industry Members. To implement this approach in a phased manner, the Participants received 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-

[36] The Exchange anticipates that the Compliance Rule may be further amended when further details regarding the CCID Alternative are finalized.

[37] *See* Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (June 5, 2020).

[38] *See* Securities Exchange Act Release No. 89051 (June 11, 2020), 85 FR 36631 (June 17, 2020).

Assigned Market Participant Identifier of the clearing broker, if applicable; and (2) if the trade is cancelled, a cancelled trade indicator, subject to certain conditions.

As a condition to this exemption, the Participants would continue to 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, Industry Members would be required to report to the Central Repository the unique trade identifier reported to a FINRA Facility with the corresponding trade report. Furthermore, if an Industry Member does not submit a cancellation to a FINRA Facility, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator and cancelled trade timestamp if the trade is cancelled. Similarly, if an Industry Member does not submit the clearing number of the clearing broker to a FINRA Facility for a trade, or is unable to provide a link between the execution reported to the Central Repository and the related FINRA Facility trade report, then the Industry Member would be required to record and report to the Central Repository the clearing number as well as contra party information.

As a result, the Exchange proposes to amend its Compliance Rule to reflect the 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 new paragraph (a)(2)(E) to Rule 11.6830, which states that:

(E) If an Industry Member is required to submit and submits a trade report for a trade, and, if the trade is cancelled, a cancellation, 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 and/or cancellation to the Central Repository:

(1) the Industry Member is required to report to the Central Repository the 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 11.6830(a)(1)(E) beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters, and such trade identifier must be unique beginning October 26, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

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 11.6830(a)(2)(A)(ii) and (B), respectively, as this data will be reported by FINRA to the CAT, except in certain circumstances. Accordingly, the Exchange proposes new paragraphs (a)(2)(E)(2) and (3) to Rule 11.6830, which would state:

(2) if the order is executed in whole or in part, and the Industry Member submits the trade report to one of the 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 SRO-Assigned Market Participant Identifier of the clearing broker pursuant to Rule 11.6830(a)(2)(A)(ii); provided, however, if the Industry Member does not report the clearing number of the clearing broker to such FINRA facility for a trade, or does not report the unique trade identifier to the Central Repository as required by Rule 11.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository the clearing number of the clearing broker as well as information about the contra party to the trade beginning April 26, 2021 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters; and

(3) 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 11.6830(a)(2)(B); provided, however, if the Industry Member does not report a cancellation for a canceled trade to such FINRA facility, or does not report the unique trade identifier as required by 11.6830(a)(2)(E)(1), then the Industry Member would be required to record and report to the Central Repository a cancelled trade indicator as well as a cancelled trade timestamp beginning June 22, 2020 for Large Industry Members and Small Industry OATS Reporters and beginning December 13, 2021 for Small Industry Non-OATS Reporters.

2. Statutory Basis

NYSE Arca believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[39] which require, among other things, that the Exchange's 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,[40] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

NYSE Arca believes that this proposal is consistent with the Act because it is consistent with certain 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 SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [41] To the extent that this proposal implements the Plan, including the 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*

NYSE Arca 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. NYSE Arca notes that the proposed rule changes are consistent with certain 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. NYSE Arca 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

[39] 15 U.S.C. 78f(b)(6).

[40] 15 U.S.C. 78f(b)(8)

[41] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

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*

No written comments were solicited or received with respect to the proposed rule change.

**III. Discussion and Commission Findings**

After careful review the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchanges.[42] Specifically, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(5) of the Act,[43] which, among other things, require that rules of a national securities exchange and national securities association be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and Section 6(b)(8) of the Act,[44] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

*A. CATS–OATS Data Gaps*

Rule 613(a)(1)(ix) of Regulation NMS requires that the CAT NMS Plan include a plan to eliminate existing rules and systems that would be rendered duplicative by the CAT.[45] The rule states that to the extent that any existing rules or systems related to monitoring quotes, orders, and executions provide information that is not rendered duplicative, the plan should assess whether it is appropriate to continue to collect this information, and if appropriate, decide whether to collect the information separately or as part of the CAT. The Exchange proposes to amend the Exchange's Compliance Rules to add additional data elements to the CAT reporting requirements for Industry Members that are currently reported to OATS, as set forth in FINRA's rules, but have not previously been required for CAT reporting.[46] The Commission finds that the requiring the reporting of additional OATS data elements is consistent with the Act as it represent a step forward to facilitating the retirement of duplicative systems.

*B. OTC Equity Securities*

The Commission finds that it is consistent with the Act to require the reporting to the CAT of certain data elements from ATSs that trade OTC Equity Securities. The Exchange proposes to require ATSs that trade OTC Equity Securities to report three data elements to CAT that are currently reported to FINRA but not CAT: (i) Bids and offers for OTC Equity Securities, (ii) unsolicited bid/offer flag and (iii) unpriced bids and offers.[47] The Exchange represents that the CAT NMS Plan Participants believe that such data will be important for regulators to oversee the OTC Equity Securities market and believe that the proposal would merely shift reporting from FINRA to the CAT and would not burden ATSs.

*C. Revised Industry Member Timeline*

The Commission finds that the proposed rule change concerning the reporting timeline for Industry Members is consistent with the Act as the changes are designed to reflect and implement the exemptive relief granted by the Commission. On April 24, 2020, the Commission granted exemptive relief relating to Industry Member reporting to CAT, and permitted the Participants to implement a phased reporting approach, where Large Industry Members and Small Industry Members would begin reporting Industry Member Data in five phases, subject to certain conditions.[48] The proposed rule change implements this exemptive relief by, among other things, adding definitions of each of the five phases and amending testing and reporting dates for Large Industry Members and Small Industry Members for each of the five phases. The proposed rule change also states that the full scope of Industry Member Data required by the CAT NMS Plan must be reported to the Central Repository when the last phase of reporting have been implemented, subject to any applicable exemptive relief or amendments to the CAT NMS Plan.

*D. Timestamp Granularity*

The Commission finds that the proposed rule change concerning the granularity of timestamps is consistent with the Act as it is designed to reflect the exemptive relief granted by the Commission. On April 8, 2020, the Commission granted exemptive relief relating the timestamp granularity, which permitted the Participants to require Industry Members that capture timestamps in increments more granular than nanoseconds to truncate the timestamps after the nanosecond level for submission to CAT, for a period of five years.[49]

*E. Introducing Industry Members*

The Commission finds that the proposed rule change relating to Introducing Industry Members is consistent with the Act as it reflects and implements exemptive relief granted by the Commission. On April 20, 2020, the Commission granted exemptive relief to the Participants, permitting the Participants to consider broker-dealers that not qualify as Small Industry Members solely because they satisfy Rule 0–10(i)(2) under the Exchange Act to be subject to CAT NMS Plan requirements applicable to Small Industry Members.[50]

*F. CCID/PII*

The Commission finds that the proposed rule change amending reporting requirements related to CCID and PII are consistent with the Act as it is designed to reflect and implement exemptive relief granted by the Commission on March 17, 2020.[51] Among other things, instead of requiring the reporting of ITINs or SSNs, dates of birth and account numbers, the Compliance Rule would now require reporting of a transformed value in lieu of an ITIN or SSN, birth year and a Firm Designated ID by Industry Members.

*G. FINRA Facility Data Linkage*

The Commission finds that the proposed rule change amending the reporting timeline for Industry Members is consistent with the Act as it reflects and implements the exemptive relief granted by the Commission related to the reporting of clearing numbers and cancelled trade indicators. On June 11, 2020, the Commission granted the Participants exemptive relief that allows the Participants to implement an

[42] In approving this proposed rule change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[43] 15 U.S.C. 78(f)(b)(5).

[44] 15 U.S.C. 78(f)(b)(8).

[45] *See* 17 CFR 262.613(a)(1)(ix).

[46] The additional data elements relate to information barrier identification, reporting requirements specific to alternative trading systems (including ATSs that trade OTC Equity Securities), customer instruction flags, department type, and account holder type. *See* Notice, *supra* note 4, at 4012–15.

[47] *See* Notice, *supra* note 4, at 4015–16.

[48] *See supra* note 7.

[49] *See supra* note 7.

[50] *See supra* note 7.

[51] *See supra* note 7.

alternative approach to the reporting of clearing numbers and cancelled trade indicators, by utilizing data collected by FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility.[52]

For the foregoing reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act.

## IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–01 and should be submitted on or before July 16, 2020.

## V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the publication of notice of the filing of the amendments in the **Federal Register**. As discussed above, Amendment No. 2 to the proposed rule change amends the proposed rule change by: (1) Reflect exemptive relief granted by the Commission subsequent to the initial filing of this proposed rule change; (2) removing from the proposed rule change revisions that are subject to a proposed amendment that has not yet been approved by the Commission; and (3) making other edits and corrections for consistency and clarity.

Amendment No. 2 modifies the proposed rule change to, among other things, be consistent with exemptive relief granted by the Commission, which was granted after the initial filing of the proposed rule change.[53] Specifically, the proposal implements exemptive relief already granted by the Commission and modifies Industry Member CAT reporting requirements to be consistent with such exemptive relief. Granting accelerated approval of the proposed rule change, as modified by Amendment No. 2, would allow the Exchange to implement these changes at the start of Phase 2a Industry Member reporting to CAT, which is scheduled for June 22, 2020.[54] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[55] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSEArca–2020–01), as modified by Amendment No. 2, is hereby approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–13667 Filed 6–24–20; 8:45 am]

**BILLING CODE 8011–01–P**

[52] *See supra* note 7.

[53] *See, supra* note 7.

[54] *See* CAT Timeline, *available at: https://www.catnmsplan.com/timeline.*

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

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## DEPARTMENT OF STATE

**[Public Notice 11081]**

## Notice of Department of State Sanctions Actions on March 17, 2020 Pursuant to Executive Order 13894 of October 14, 2019, Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria

**SUMMARY:** The Secretary of State imposed sanctions on one individual on March 17, 2020 pursuant to E.O. 13894, Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Syria.

**DATES:** The Secretary of State's determination and selection of certain sanctions to be imposed upon the one individual identified in the **SUPPLEMENTARY INFORMATION** section were effective on March 17, 2020.

**FOR FURTHER INFORMATION CONTACT:** Taylor Ruggles, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *RugglesTV@state.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 2(a) of E.O. 13894, the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Homeland Security, and the United States Trade Representative, and with the President of the Export-Import Bank, the Chairman of the Board of Governors of the Federal Reserve System, and other agencies and officials as appropriate, is authorized to impose on a person any of the sanctions described in section 2(c) of E.O. 13894 upon determining that the person met any criteria set forth in section 2(a)(i)(A) of E.O. 13894.

In an action on March 17, 2020, the Secretary of State determined, pursuant to Section 2(a)(i)(A) of E.O. 13894, that Syrian Defense Minister Ali Abdullah Ayoub is responsible for or complicit in, has directly or indirectly engaged in, attempted to engage in, or financed, the obstruction, disruption, or prevention of a ceasefire in northern Syria.

Pursuant to Section 2(c) of E.O. 13894, the Secretary of State selected the following sanctions to be imposed upon Ali Abdullah Ayoub:

- Prohibit any United States financial institution that is a U.S. person from making loans or providing credits to Ali Abdullah Ayoub totaling more than $10,000,000 in any 12-month period, unless Ali Abdullah Ayoub is engaged in activities to relieve human suffering and the loans or credits are provided for such activities (Section 2(c)(i) of E.O. 13894)
- prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Ali Abdullah Ayoub has any interest (Section 2(c)(ii) of E.O. 13894);
- prohibit any transfers of credit or payments between banking institutions or by, through, or to any banking institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Ali Abdullah Ayoub (Section 2(c)(iii) of E.O. 13894);
- block all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of Ali Abdullah Ayoub, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in (Section 2(c)(iv) of E.O. 13894);
- prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of Ali Abdullah Ayoub (Section 2(c)(v) of E.O. 13894);
- restrict or prohibit imports of goods, technology, or services, directly or indirectly, into the United States from Ali Abdullah Ayoub (Section 2(c)(vi) of E.O. 13894).

**Taylor V. Ruggles,**

*Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State.*

[FR Doc. 2020–13722 Filed 6–24–20; 8:45 am]

**BILLING CODE 4710–07–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. AB 303 (Sub-No. 55X)]**

### Wisconsin Central Ltd.—Discontinuance of Service Exemption—in Manitowoc County, Wis.

Wisconsin Central Ltd. (WCL) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately five miles of rail line between milepost 74.00 at Manitowoc and milepost 69.00 at Newton, all of which is in Manitowoc County, Wis. (the Line). The Line traverses U.S. Postal Service Zip Codes 54220 and 53063.

WCL has certified that: (1) No local traffic has moved over the Line for at least two years; (2) overhead traffic (to the extent any exists) can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] to subsidize continued rail service has been received, this exemption will be effective on July 25, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by July 2, 2020, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [2] must be filed by July 6, 2020.[3] Petitions for reconsideration must be filed by July 15, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to WCL's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 N Wacker Drive, Suite 800, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 22, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

**Kenyatta Clay,**

*Clearance Clerk.*

[FR Doc. 2020–13687 Filed 6–24–20; 8:45 am]

**BILLING CODE 4915–01–P**

[1] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2020–0025]**

### Request for Comments Concerning the Extension of Particular Exclusions Granted Under the September 2019 Product Exclusion Notice From the $16 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 August 23, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $16 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 September 2018 and granted multiple sets of exclusions. The second set of exclusions was granted in September 2019, and are scheduled to expire on September 20, 2020. The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in September 2019. The Office of the U.S. Trade Representative (USTR) invites public comment on whether to extend particular exclusions.

**DATES:**

*July 1, 2020 at 12:01 a.m. ET:* The public docket on the web portal at *https://comments.USTR.gov* will open for parties to submit comments on the possible extension of particular exclusions.

*July 30, 2020 at 11:59 p.m. ET:* To be assured of consideration, submit written comments on the public docket by this deadline.

**ADDRESSES:** You must submit all comments through the online portal: *https://comments.USTR.gov.*

**FOR FURTHER INFORMATION CONTACT:** Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen at (202) 395–5725.

**SUPPLEMENTARY INFORMATION:**

## A. Background

For background on the proceedings in this investigation, please see prior notices 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 40823 (August 16, 2018), 83 FR 47236 (September 18, 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 29576 (June 24, 2019), 84 FR 37381 (July 31, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52553 (October 2, 2019), 84 FR 69011 (December 17, 2019), 85 FR 10808 (February 25, 2020), and 85 FR 28691 (May 13, 2020).

Effective August 23, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 279 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $16 billion. *See* 83 FR 40823. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $16 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 47236 (September 18 notice).

The September 18 notice required submission of requests for exclusion from the $16 billion action no later than December 18, 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 second set of exclusions was granted in September 2019, and are scheduled to expire on September 20, 2020. *See* 84 FR 49600 (September 20, 2019) (the September 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 September 2019 notice. Accordingly, USTR invites public comments on whether to extend particular exclusions granted in the September 2019 notice. For exclusions amended or corrected by a later issued notice of product exclusions, parties should provide their extension comments on the docket corresponding to the initial notice of product exclusions.

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 August 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 August 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 August 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.

## C. Procedures To Comment on the Extension of Particular Exclusions

To submit a comment regarding the extension of a particular exclusion granted in the September 2019 notice, commenters must first register on the portal at *https://comments.USTR.gov.* As noted above, the public docket on the portal will be open from July 1, 2020, to July 30, 2020. After registration, the commenter may submit an exclusion extension comment form to the public docket.

Fields on the comment form marked with an asterisk (*) are required fields. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, parties will be able to upload documents and indicate whether the documents are BCI or public. Commenters will be able to review the public version of their comments before they are posted.

In order to facilitate the preparation of comments prior to the July 1 opening of the public docket, a facsimile of the exclusion extension comment form parties will use on the portal is annexed to this notice. Please note that the color-coding of public fields and BCI fields is not visible on the attached facsimile, but will be apparent on the actual comment form used on the portal.

Set out below is a summary of the information to be entered on the exclusion extension comment form.

- 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 number for the exclusion on which you are commenting as provided in the Annex of the **Federal Register** notice granting the exclusion and the description. For descriptions amended or corrected by a later issued notice of product exclusions, parties should use the amended or corrected description.
- 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 intends to submit a more detailed business confidential rationale.
- 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 August 2018 with respect to the particular product.
- The efforts you have undertaken since August 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 and 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 and 2019.
- If applicable, the commenter's gross revenue for 2018 and 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 of or in opposition to extending the exclusion.

Commenters also may provide any other information or data that they consider relevant.

**D. Submission Instructions**

To be assured of consideration, you must submit your comment between the opening of the public docket on the portal on July 1, 2020, and the July 30, 2020 submission deadline. Parties seeking to comment on two or more exclusions must submit a separate comment for each exclusion.

By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

**E. Paperwork Reduction Act**

In accordance with the requirements of the Paperwork Reduction Act of 1995 and its implementing regulations, the Office of Management and Budget assigned control number 0350–0015, which expires January 31, 2023.

**Joseph Barloon,**

*General Counsel, Office of the United States Trade Representative.*

BILLING CODE 3290–F0–P

**ANNEX**

OMB Control Number: 0350-0015 Expiration Date: January 31, 2023

# Exclusion Extension Comment Form

**1. Submitter Information**

| | |
|---|---|
| Full Organization Legal Name **(Public)** | |
| Commenter First Name **(BCI)** | |
| Commenter Last Name **(BCI)** | |
| Commenter Phone Number **(BCI)** | |
| Commenter Mailing Address **(BCI)** | |
| Contact Email Address **(BCI)** | |

**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 **(BCI)** | |
| Third Party Last Name **(BCI)** | |
| Third Party Phone Number **(BCI)** | |
| Third Party Mailing Address **(BCI)** | |
| Third Party Email Address **(BCI)** | |

**2. a) From the Annex of the Federal Register Notice granting the exclusion, please provide the number and product description for the exclusion you are commenting on. For descriptions subsequently amended or corrected by a later notice, parties should use the amended or corrected description. Click the magnifying glass in the box below to search for and select the number and product description applicable to your comment. You may search by the HTS code or key words in the exclusion. (Public)**

**b) 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.) (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 August 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 August 2018 with respect to the particular product.) (Public)**

**6. 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 and 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:** | |
| **2019 Value:** | | **2019 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)**

**7. 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 and 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:** | |
| **2019 Value:** | | **2019: Quantity:** | |

**Are the provided figures estimates? (BCI)**

**8. 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 and 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:** | |
| **2019 Value:** | | **2019 Quantity:** | |

**Are the provided figures estimates? (BCI)**

**9. Please discuss any efforts you have undertaken since August 2018 to source this product from United States or third countries. (BCI)**

**10 Please provide information regarding your company's gross revenue in USD for 2018 and 2019. (BCI)**

| | |
|---|---|
| **2018 Gross Revenue:** | |
| **2019 Gross Revenue:** | |

**Are the provided gross revenue figures estimates? (BCI)**

**11 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)**

**12 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)**

**13 Please provide any additional information in support of your comment, taking account of the instructions provided in Section B of the Federal Register notice. (BCI)**

**14 You may upload additional attachments in support of your comment. Please specify whether the attachment is Public or contains Business Confidential Information. (Submitter Determines Public or BCI)**

[FR Doc. 2020–13708 Filed 6–24–20; 8:45 am]
BILLING CODE 3290–F0–C

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2020–0026]**

## Request for Comments Concerning the Extension of Particular Exclusions Granted Under the October 2019 Product Exclusion Notice From the $16 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 August 23, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $16 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 September 2018 and granted multiple sets of exclusions. The third set of exclusions was granted in October 2019, and are scheduled to expire on October 2, 2020. The U.S. Trade Representative has decided to consider a possible extension for up to 12 months of particular exclusions granted in October 2019. The Office of the U.S. Trade Representative (USTR) invites public comment on whether to extend particular exclusions.

**DATES:** July 1, 2020 at 12:01 a.m. ET: The public docket on the web portal at *https://comments.USTR.gov* will open for parties to submit comments on the possible extension of particular exclusions. July 30, 2020 at 11:59 p.m. ET: To be assured of consideration, submit written comments on the public docket by this deadline.

**ADDRESSES:** You must submit all comments through the online portal: *https://comments.USTR.gov.*

**FOR FURTHER INFORMATION CONTACT:** Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen at (202) 395–5725.

**SUPPLEMENTARY INFORMATION:**

### A. Background

For background on the proceedings in this investigation, please see prior notices 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 40823 (August 16, 2018), 83 FR 47236 (September 18, 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 29576 (June 24, 2019), 84 FR 37381 (July 31, 2019), 84 FR 49600 (September 20, 2019), 84 FR 52553 (October 2, 2019), 84 FR 69011 (December 17, 2019), 85 FR 10808 (February 25, 2020), and 85 FR 28691 (May 13, 2020).

Effective August 23, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 279 eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $16 billion. *See* 83 FR 40823. The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $16 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 47236 (September 18 notice).

The September 18 notice required submission of requests for exclusion from the $16 billion action no later than December 18, 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 October 2019, and are scheduled to expire on October 2, 2020. *See* 84 FR 52553 (October 2, 2019) (the October 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 October 2019 notice. Accordingly, USTR invites public comments on whether to extend particular exclusions granted in the October 2019 notice. For exclusions amended or corrected by a later issued notice of product exclusions, parties should provide their extension comments on the docket corresponding to the initial notice of product exclusions.

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 August 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 August 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 August 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.

### C. Procedures To Comment on the Extension of Particular Exclusions

To submit a comment regarding the extension of a particular exclusion granted in the October 2019 notice, commenters must first register on the portal at *https://comments.USTR.gov.* As noted above, the public docket on the portal will be open from July 1, 2020, to July 30, 2020. After registration, the commenter may submit an exclusion extension comment form to the public docket.

Fields on the comment form marked with an asterisk (*) are required fields. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Fields with a green (Public) notation will be publicly available. Additionally, parties will be able to upload documents and indicate whether the documents are BCI or public. Commenters will be able to review the public version of their comments before they are posted.

In order to facilitate the preparation of comments prior to the July 1 opening of the public docket, a facsimile of the exclusion extension comment form parties will use on the portal is annexed to this notice. Please note that the color-coding of public fields and BCI fields is not visible on the attached facsimile, but will be apparent on the actual comment form used on the portal.

Set out below is a summary of the information to be entered on the exclusion extension comment form.

- 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 number for the exclusion on which you are commenting as provided in the Annex of the **Federal Register** notice granting the exclusion and the description. For descriptions amended or corrected by a later issued notice of product exclusions, parties should use the amended or corrected description.
- 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 intends to submit a more detailed business confidential rationale.
- 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 August 2018 with respect to the particular product.
- The efforts you have undertaken since August 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 and 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 and 2019.
- If applicable, the commenter's gross revenue for 2018 and 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 of or in opposition to extending the exclusion.

Commenters also may provide any other information or data that they consider relevant.

### D. Submission Instructions

To be assured of consideration, you must submit your comment between the opening of the public docket on the portal on July 1, 2020, and the July 30, 2020 submission deadline. Parties seeking to comment on more than one exclusion must submit a separate comment for each exclusion.

By submitting a comment, the commenter certifies that the information provided is complete and correct to the best of their knowledge.

### E. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 and its implementing regulations, the Office of Management and Budget 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

**1. Submitter Information**

| | |
|---|---|
| Full Organization Legal Name **(Public)** | |
| Commenter First Name **(BCI)** | |
| Commenter Last Name **(BCI)** | |
| Commenter Phone Number **(BCI)** | |
| Commenter Mailing Address **(BCI)** | |
| Contact Email Address **(BCI)** | |

**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 **(BCI)** | |
| Third Party Last Name **(BCI)** | |
| Third Party Phone Number **(BCI)** | |
| Third Party Mailing Address **(BCI)** | |
| Third Party Email Address **(BCI)** | |

**2. a) From the Annex of the Federal Register Notice granting the exclusion, please provide the number and product description for the exclusion you are commenting on. For descriptions subsequently amended or corrected by a later notice, parties should use the amended or corrected description. Click the magnifying glass in the box below to search for and select the number and product description applicable to your comment. You may search by the HTS code or key words in the exclusion. (Public)**

**b) 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.) (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 August 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 August 2018 with respect to the particular product.) (Public)**

**6. 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 and 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:** | |
| **2019 Value:** | | **2019 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)**

**7. 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 and 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:** | |
| **2019 Value:** | | **2019: Quantity:** | |

**Are the provided figures estimates? (BCI)**

**8. 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 and 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:** | |
| **2019 Value:** | | **2019 Quantity:** | |

**Are the provided figures estimates? (BCI)**

**9. Please discuss any efforts you have undertaken since August 2018 to source this product from United States or third countries. (BCI)**

**10 Please provide information regarding your company's gross revenue in USD for 2018 and 2019. (BCI)**

| | |
|---|---|
| **2018 Gross Revenue:** | |
| **2019 Gross Revenue:** | |

**Are the provided gross revenue figures estimates? (BCI)**

**11 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)**

**12 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)**

**13 Please provide any additional information in support of your comment, taking account of the instructions provided in Section B of the Federal Register notice. (BCI)**

**14 You may upload additional attachments in support of your comment. Please specify whether the attachment is Public or contains Business Confidential Information. (Submitter Determines Public or BCI)**

[FR Doc. 2020–13660 Filed 6–24–20; 8:45 am]
BILLING CODE 3290–F0–C

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2020–51]**

### Petition for Exemption; Summary of Petition Received; Lufthansa Technik AG

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before July 15, 2020.

**ADDRESSES:** Send comments identified by docket number FAA–2020–0571 using any of the following methods:

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

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

**FOR FURTHER INFORMATION CONTACT:** Deana Stedman, AIR–673, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198, phone and fax 206–231–3187, email *deana.stedman@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Des Moines, Washington, on June 22, 2020.

**Paul R. Siegmund,**

*Acting Manager, Transport Standards Branch.*

### Petition for Exemption

*Docket No.:* FAA–2020–0571.

*Petitioner:* Lufthansa Technik AG.

*Section(s) of 14 CFR Affected:* Special Aviation Regulation No. 109, sec. 7(a).

*Description of Relief Sought:* The petitioner is seeking FAA design approval to install an executive-style interior in a Boeing Model 787–8 airplane. The airplane is intended for private use only, not for-hire, and not for common carriage. The petitioner's proposed design requires relief from section 7(a) of Special Aviation Regulation No. 109, which relates to the requirements for the maximum distance between emergency exits and maximum distance between each passenger seat and the nearest exit.

[FR Doc. 2020–13732 Filed 6–24–20; 8:45 am]
BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2006–26367]**

### Meetings: Motor Carrier Safety Advisory Committee (MCSAC); Public Meeting

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** FMCSA announces a meeting of the MCSAC, which will take place via videoconference.

**DATES:** The meeting will be held Monday, July 13, and Tuesday, July 14, 2020, from 9:15 a.m. to 4:30 p.m., Eastern Time. Requests for accommodations because of a disability must be received by Thursday, July 2, 2020. Requests to submit written materials to be reviewed during the meeting must be received no later than July 2, 2020.

**ADDRESSES:** The meeting will be held via videoconference. Those members of the public who would like to participate should go to *https://www.fmcsa.dot.gov/advisory-committees/mcsac/meetings* to access the meeting, task statements, a detailed agenda for the entire meeting, meeting minutes and additional information on the committee and its activities.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–5221, *mcsac@dot.gov.* Any committee-related request or submission should be sent via email to the person listed in this section.

Information may also be submitted by docket through Docket Number FMCSA–2006–26367 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*Purpose of the Committee*

MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations. MCSAC is composed of up to 25 voting representatives from safety advocacy, safety enforcement, labor, and industry stakeholders of motor carrier safety. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. The committee operates as a discretionary committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended 5 U.S.C. App. 2.

*Meeting Agenda*

The MCSAC will take up the following issues:

• Task 20–1 will provide the MCSAC with the opportunity to discuss changes to the package and small goods delivery sector. A number of companies are now using small vehicles (*e.g.,* vehicles with a gross vehicle weight rating less than 10,000 pounds, etc.) to deliver goods and there appears to be a gap in safety oversight of both drivers and vehicles. For this task, members will hear from Agency experts on trends in the Fatality Analysis Reporting System (FARS) and Motor Carrier Management Information System (MCMIS) crash and highway safety data.

• Task 20–2 will focus on the impact of the aging demographic of the commercial motor vehicle driver workforce on the truck and bus industries and whether this trend will exacerbate the driver shortage problem. Stakeholders have expressed concerns about the need to address the driver shortage, including options for allowing younger drivers to enter the industry. How would an aging workforce impact motor carriers' ability to deliver services and goods safely in interstate commerce? For this task, FMCSA will consider data by agency experts on the distribution of age among CMV drivers.

• Additionally, FMCSA will brief the MCSAC members on the impact of the legalization of hemp on the safety oversight of CMV drivers. While FMCSA's safety regulations prohibit drivers' use or transportation of illegal drugs, what actions should be considered to ensure motor carriers, drivers and enforcement officials have appropriate guidance concerning hemp and what happens if drivers test positive for tetrahydrocannabinol.

## II. Meeting Participation

While not required, advance registration is encouraged. To indicate that you will attend, please email the person listed in the **FOR FURTHER INFORMATION CONTACT** section by the deadline referenced in the **DATES** section. The meeting will be open to the public for its entirety. The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Oral comments from the public will be heard throughout the meeting, at the discretion of the MCSAC chairman and designated federal officer. Additionally, to ensure that all participants have had the opportunity to have their comments heard, the agenda will include a public comment period at the end of each day's session. Members of the public may submit written comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section on the topics to be considered during the meeting by the deadline referenced in **DATES** section. Any member of the public may submit a written statement after the meeting deadline, and it will be presented to the committee.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2020–13709 Filed 6–24–20; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2020–0027–N–11]**

### Proposed Agency Information Collection Activities; Comment Request

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On April 15, 2020, FRA published a notice providing a 60-day period for public comment on the ICR.

**DATES:** Interested persons are invited to submit comments on or before July 27, 2020.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the particular ICR by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, telephone (202) 493–0440, email: *Hodan.wells@dot.gov.*

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On April 15, 2020, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which it is now seeking OMB approval. *See* 85 FR 21064. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

*Comments are invited on the following ICR regarding:* (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Track Safety Standards.

*OMB Control Number:* 2130–0010.

*Abstract:* The information collection associated with 49 CFR part 213 is used by FRA to ensure and enhance rail safety by monitoring complete compliance with all regulatory requirements. Part 213 prescribes minimum safety requirements for railroad track that is part of the general railroad system of transportation. While the requirements prescribed in this part generally apply to specific track

conditions existing in isolation, a combination of track conditions, none of which individually amounts to a deviation from the requirements in this part, may require remedial action to provide safe operations over that track. Qualified persons inspect track and take action to allow safe passage of trains and ensure compliance with the prescribed standards.

*Type of Request:* Extension with change (revised estimates) of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 746 railroads.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 1,404,410.

*Total Estimated Annual Burden:* 233,899 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $17,776,417.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2020–13716 Filed 6–24–20; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2013–0181]**

### Pipeline Safety: Request for Special Permit; Fairbanks Natural Gas, L.L.C.

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

**ACTION:** Notice.

**SUMMARY:** PHMSA is publishing this notice to solicit public comments on a request from Fairbanks Natural Gas, L.L.C. (FNG) to renew a previously issued special permit. The special permit renewal request is seeking continued relief from compliance with certain requirements in the Federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit renewal.

**DATES:** Submit any comments regarding this special permit request by July 27, 2020.

**ADDRESSES:** Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Instructions:* You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

*Note:* There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

*Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

**FOR FURTHER INFORMATION CONTACT:**

*General:* Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

*Technical:* Mr. Thach Nguyen by telephone at 909–262–4464, or by email at *thach.d.nguyen@dot.gov.*

**SUPPLEMENTARY INFORMATION:** PHMSA received a special permit renewal request from FNG to renew the special permit and to continue the exemption from 49 CFR 193.2155(b): Structural requirements. Although the present special permit term ended on May 13, 2019, in accordance with 49 CFR 190.341(e), the special permit will not expire until final administrative action on the application for renewal has been taken. The original special permit was granted to FNG by PHMSA on May 13, 2014. FNG's special permit renewal request, submitted on November 5, 2018, seeks to waive compliance from the requirements in 49 CFR 193.2155(b) that an LNG storage tank must not be located within one (1) mile from the ends, or ¼ mile from the nearest point of an airport runway, whichever is longer.

FNG installed one (1) 125,000-barrel (5,250,000 gallons) LNG storage tank at its existing storage and vaporization site (FNG LNG Plant) located in Fairbanks, Alaska and includes all ancillary facilities required to operate the LNG storage tank. The special permit renewal request includes a design change of the LNG storage tank at the FNG LNG Plant from a single containment LNG storage tank to a full-containment LNG storage tank. The secondary containment for the full-containment LNG storage tank consists of a concrete outer wall around the primary liquid container, whereas the design for the single containment LNG storage tank had an outer dike around the LNG storage tank as secondary containment. The 125,000-barrel full-containment storage tank was also relocated from the original location of the single containment tank to better fit the property for setbacks and other

design parameters. However, the LNG storage tank location is 0.8 miles from the Metro Field airport in Fairbanks, Alaska.

The special permit renewal request, proposed special permit with modified conditions, and Final Environmental Assessment (FEA) for the FNG LNG storage tank are available for review and public comment in the Docket No. PHMSA–2013–0181. We invite interested persons to review and submit comments on the special permit renewal request, special permit with modified conditions, and FEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is renewed. Comments may include relevant data.

Before issuing a decision on the special permit renewal request, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay.

PHMSA will consider each relevant comment it receives in making a decision to grant or deny this special permit renewal request.

**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2020–13731 Filed 6–24–20; 8:45 am]

BILLING CODE 4910–60–P

## DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

**FOR FURTHER INFORMATION CONTACT:** *OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480.

**SUPPLEMENTARY INFORMATION:**

### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

### Notice of OFAC Actions

On June 17, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

**Individuals**

1. AL-OLABI, Adel Anwar (Arabic: العلبي انـور عادل) (a.k.a. AL-OLABI, Adil Anwar; a.k.a. AL-'ULABI, 'Adel Anwar; a.k.a. EL-OULABI, Adel Anouar), Damascus, Syria; DOB 1976; POB Damascus, Syria; nationality Syria; Gender Male (individual) [SYRIA].

   Designated pursuant to section 1(b)(i) of Executive Order 13573 of May 18, 2011, "Blocking Property of Senior Officials of the Government of Syria," 76 FR 29143, 3 CFR 13573 (E.O. 13573) for being a senior official of the Government of Syria.

2. JAMALEDDINE, Nazir Ahmad Mohammed (Arabic: ير احمد محمد جمال الدينـذ) (a.k.a. JAMAL EDDIN, Mohammed Nazer; a.k.a. JAMAL EDDINE, Natheer Ahmed Mohammed; a.k.a. JAMAL EDDINE, Nathier Ahmed Mohammed), Damascus, Syria; DOB 02 Jan 1962; POB Damascus, Syria; nationality Syria; Gender Male; Passport N011612445 (Syria); alt. Passport 002-17-L022286 (Syria); National ID No. 010-30208342 (Syria) (individual) [SYRIA] [SYRIA-CAESAR].

   Designated pursuant to section 1(b)(i) of Executive Order 13582 of August 17, 2011, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria" (69 FR 26749) (3 CFR 13582) (E.O. 13582), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Syria Civilian Protection Act of 2019 (the Caesar Act), Public Law 116-92, § 7401 et seq. (Dec. 20, 2019), for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the Government of Syria (including any entity owned or controlled by the Government of Syria) or a senior political figure of the Government of Syria.

3. AL-ZUBAIDI, Khaled (Arabic: خالد الزبيدي) (a.k.a. AL-ZUBAIDI, Khaled Bassam; a.k.a. AL-ZUBAIDI, Mohammed Khaled Bassam; a.k.a. ZUBAIDI, Mohammed Khaled; a.k.a. ZUBEDI, Khalid), Syria; Canada; DOB 10 Apr 1976; nationality Syria; alt. nationality Canada; Gender Male; Passport N 006540969 (Syria); alt. Passport HC246053 (Canada) (individual) [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

4. KALAI, Nader (Arabic: نادر قلعي) (a.k.a. AL KALAI, Nadir; a.k.a. KALAI, Nader Mohamad; a.k.a. KALAI, Nader Mohammed Wajieh; a.k.a. KALEI, Nader; a.k.a. QALAI, Nader; a.k.a. QALEI, Nader), 871 Young Avenue, Halifax, Nova Scotia B3H 2V8, Canada; Ain El Mraisse, Beirut, Lebanon; Saifi Street, Jemayzeh, Beirut, Lebanon; Capsurville, Dekwaneh, El Metn Jemayzeh, Beirut, Lebanon; Ghrayeb Bldg, Sami Soloh St, Badaro, Beirut, Lebanon; DOB 09 Jul 1965; POB Damascus, Syria; nationality Syria; alt. nationality Canada; Gender Male; Passport N 010170320 (Syria); National ID No. 010-40036453 (Syria); alt. National ID No. 34191608 (Canada) (individual) [SYRIA] [SYRIA-CAESAR].

   Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

**Entities**

1. BUNYAN DAMASCUS PRIVATE JOINT STOCK COMPANY (Arabic: المساهمة دمشق بنيان شركة الخاصة المغلقة) (a.k.a. BUNYAN DAMASCUS), Marota City, Eastern Villas, Mazeh, Damascus 096311, Syria; Organization Established Date Apr 2018; Organization Type Construction of buildings; alt. Organization Type Real estate activities with own or leased property [SYRIA] (Linked To: DAMASCUS CHAM HOLDING COMPANY).

   Designated pursuant to section 1(b)(iv) of E.O. 13573, for being owned or controlled by, having acted or purported to act for or on behalf of, directly or indirectly, DAMASCUS CHAM HOLDING COMPANY, a person whose property and interests in property are blocked pursuant to this E.O. 13573.

2. DAMASCUS CHAM FOR MANAGEMENT LLC (Arabic: الادارة الشام دمشق) (a.k.a. DAMASCUS CHAM MANAGEMENT CO. LTD.; a.k.a. DAMASCUS CHAM MANAGEMENT ONE-PERSON CO. LTD.),

Marota City, Eastern Villas, Mazeh, Damascus 096311, Syria; Organization Established Date 2018; Organization Type Real estate activities with own or leased property [SYRIA] (Linked To: DAMASCUS CHAM HOLDING COMPANY).

Designated pursuant to section 1(b)(iv) of E.O. 13573, for being owned or controlled by, having acted or purported to act for or on behalf of, directly or indirectly, DAMASCUS CHAM HOLDING COMPANY, a person whose property and interests in property are blocked pursuant to this E.O. 13573.

3. DAMASCUS CHAM HOLDING COMPANY (Arabic: القابضة الشـــام دمشـق شــركة) (a.k.a. DAMASCUS CHAM HOLDING PRIVATE JSC; a.k.a. DAMASCUS CHAM PRIVATE JOINT STOCK COMPANY), Marota City, Eastern Villas, Mazeh, Damascus 096311, Syria; Organization Established Date 17 Dec 2016; Business Registration Number 17951 (Syria) [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13573, for being an agency or instrumentality of the Government of Syria, or owned or controlled, directly or indirectly, by the Government of Syria or by an official or officials of the Government of Syria.

4. MIRZA COMPANY (Arabic: ميرزا شــركة) (a.k.a. MIRZA CO.), Marota City, Eastern Villas, Mazeh, Damascus 096311, Syria; Organization Established Date 14 Jan 2018; Organization Type Construction of buildings; alt. Organization Type Real estate activities with own or leased property [SYRIA] (Linked To: DAMASCUS CHAM HOLDING COMPANY).

Designated pursuant to section 1(b)(iv) of E.O. 13573, for being owned or controlled by, having acted or purported to act for or on behalf of, directly or indirectly, DAMASCUS CHAM HOLDING COMPANY, a person whose property and interests in property are blocked pursuant to this E.O. 13573.

5. AL-AMAR ONE-PERSON LLC (Arabic: شركة العمار ذات الشخص الواحد المحدودة المسؤولية) (a.k.a. AL-AMMAR LLC ONE PERSON COMPANY; a.k.a. "AL-AMMAR"), Rural Damascus, Syria; Organization Established Date 18 Jan 2017; Organization Type: Real estate activities with own or leased property [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any

entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

6. APEX DEVELOPMENT AND PROJECTS LLC (Arabic: شركة القمة للتطوير والمشاريع المحدودة المسؤولية) (a.k.a. AL 'QIMA DEVELOPMENT AND PROJECTS LLC; a.k.a. SUMMIT DEVELOPMENT AND PROJECTS LLC), Rural Damascus, Syria; Organization Established Date 17 Jan 2018; Organization Type Real estate activities with own or leased property [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

7. RAMAK DEVELOPMENT AND HUMANITARIAN PROJECTS LLC (Arabic: راماك للمشاريع التنموية و الانسانية) (a.k.a. RAMAK COMPANY FOR DEVELOPMENT AND HUMANITARIAN PROJECTS LLC), Rural Damascus, Syria; Organization Established Date 08 Aug 2011; Organization Type Real estate activities with own or leased property; alt. Organization Type Construction of buildings [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

8. RAWAFED DAMASCUS PRIVATE JOINT STOCK COMPANY (Arabic: المساهمة دمشق روافد شركة الخاصة المغفلة) (a.k.a. RAWAFED DAMASCUS INVESTMENTS COMPANY; a.k.a. RAWAFED DAMASCUS PRIVATE JSC; a.k.a. RAWAFID DAMASCUS PRIVATE JOINT STOCK COMPANY; a.k.a. TRIBUTARIES DAMASCUS PRIVATE JSC), Marota City, Damascus, Syria; Organization Established Date 08 Apr 2018; Organization Type Real estate activities with own or leased property; alt. Organization Type Construction of buildings [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, RAMAK

DEVELOPMENT AND HUMANITARIAN PROJECTS LLC, AL-AMAR ONE-PERSON LLC, TIMEET TRADING LLC, and WINGS PRIVATE JSC, persons whose property and interests in property are blocked pursuant to E.O. 13582.

9. TAMAYOZ LLC (Arabic: المسؤولية المحدودة تمـــيز شـركة) (a.k.a. EXCELLENCE LIMITED LIABILITY COMPANY), Damascus, Syria; alt. [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

10. TIMEET TRADING LLC (Arabic: المسؤولية المحدودة للتجـــارة التيميـــت شـركة) (a.k.a. ULTIMATE TRADING LLC), Rural Damascus, Syria; alt. [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

11. WINGS PRIVATE JSC (Arabic: الخاصة المغفلـــة المساهمة الاجنحـة شـركة) (a.k.a. WINGS PRIVATE JOINT STOCK COMPANY), Rural Damascus, Syria; alt. [SYRIA] [SYRIA-CAESAR].

Designated pursuant to section 1(b)(i) of E.O. 13582, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582. Also designated pursuant to Section 7412(a)(2)(A)(i) of the Caesar Act, for being a foreign person that knowingly provides significant financial, material, or technological support to, or knowingly engages in a significant transaction with the GOVERNMENT OF SYRIA (including any entity owned or controlled by the GOVERNMENT OF SYRIA) or a senior political figure of the GOVERNMENT OF SYRIA.

12. ART HOUSE GMBH, Sieveringerstrasse 164, Vienna 1190, Austria; National ID No. FN292891 y (Austria) [SYRIA] (Linked To: CASTLE HOLDING GMBH).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CASTLE HOLDING GMBH, a person whose property and interests in property are blocked pursuant to E.O. 13582.

13. CASTLE HOLDING GMBH (a.k.a. "CASTLE HOLDING"; a.k.a. "CASTLE HOLDING INVESTMENT"; a.k.a. "CASTLE INVEST"; a.k.a. "CASTLE INVEST HOLDING"), Sieveringerstrasse 164, Vienna 1190, Austria; National ID No. FN292092Y (Austria) [SYRIA] (Linked To: KALAI, Nader).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI, a person whose property and interests in property are blocked pursuant to E.O. 13582.

14. CASTLE INVESTMENT HOLDING (Arabic: كاسل إنفست هولدنغ ش.م.ل.) (a.k.a. CASTLE INVEST HOLDING COMPANY SAL; a.k.a. CASTLE INVEST HOLDING SAL; a.k.a. CASTLE INVESTMENT HOLDING PRIVATE JSC; a.k.a. "CASTLE HOLDINGS"), West Mazzeh, Damascus, Syria; First Floor, Sami Saleh Avenue, Beirut, Lebanon; Registration Number 1900127 (Lebanon) [SYRIA] (Linked To: KALAI, Nader).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI, a person whose property and interests in property are blocked pursuant to E.O. 13582.

15. EBLA HOTEL (Arabic: إيبلا فندق) (a.k.a. EBLA HOTEL AND OMAYAD PALACE FOR CONFERENCES), Airport Road - 4th Bridge, Damascus, Syria; P.O. Box 6416, Damascus, Syria; Organization Established Date 1989; Organization Type Short term accommodation activities [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the GOVERNMENT OF SYRIA, a person whose property and interests in property are blocked pursuant to E.O. 13582.

16. GRAND TOWN TOURIST CITY (Arabic: السياحة المدينة تاون غراند) (a.k.a. GRAND TOWN; a.k.a. GRAND TOWN TOURISM PROJECT (Arabic: السياحي تاون غراند مشروع); a.k.a. ZK GRAND TOWN), Airport Road, after the Fourth Bridge, Damascus, Syria; Website

www.facebook.com/ZKGrandTown/; Organization Established Date 2017; Organization Type: Real estate activities on a fee or contract basis [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI and KHALED AL-ZUBAIDI, persons whose property and interests in property are blocked pursuant to E.O. 13582.

17. KALAI INDUSTRIES (Arabic: للصناعات قلعـــي) (a.k.a. KALAI INDUSTRIES MANAGEMENT; a.k.a. MOHAMMED KALAI), Dara Autostrad (Amman Highway), Kessweh, 500m after the Katakir Bridge, Damascus, Syria; Organization Established Date 1990; Registration Number 38372 (Syria) [SYRIA] (Linked To: KALAI, Nader).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI, a person whose property and interests in property are blocked pursuant to E.O. 13582.

18. TELEFOCUS CONSULTANTS INC (a.k.a. TELEFOCUS CONSULTANTS INC CANADA), 871 Young Ave, Halifax, Nova Scotia B3H 2V8, Canada; Commercial Registry Number 3234614 (Canada) [SYRIA] (Linked To: KALAI, Nader).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI, a person whose property and interests in property are blocked pursuant to E.O. 13582.

19. TELEFOCUS SAL OFFSHORE (Arabic: ش.م.ل تيليفوكـــــــوس (شـور اوف)), Mir Bachir St, Riad El Solh, Beirut, Lebanon; 7th Floor-Riad-Solh Lazarieh Tower, Beirut, Lebanon; 1470 Bachoura - Azaria Building - 7th Floor, Beirut, Lebanon; Registration Number 1802940 (Lebanon) [SYRIA] (Linked To: KALAI, Nader).

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI, a person whose property and interests in property are blocked pursuant to E.O. 13582.

20. ZUBAIDI AND QALEI LLC (Arabic: المسؤولية المحـدودة وقلعـــي زبيـــدي شـركة) (a.k.a. ZUBEDI & KALAI; a.k.a. ZUBEDI AND KALAI; a.k.a. "ZK HOLDING"), Airport Road, Damascus, Syria; P.O. Box 6416, Damascus, Syria; alt. [SYRIA].

Designated pursuant to section 1(b)(ii) of E.O. 13582, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NADER KALAI and KHALED AL-ZUBAIDI, persons whose property and interests in property are blocked pursuant to E.O. 13582.

Dated: June 19, 2020.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2020–13653 Filed 6–24–20; 8:45 am]

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# FEDERAL REGISTER

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Part II

## The President

Proclamation 10052—Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak

Federal Register
Vol. 85, No. 123
Thursday, June 25, 2020

# Presidential Documents

Title 3—

The President

Proclamation 10052 of June 22, 2020

## Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak

**By the President of the United States of America**

**A Proclamation**

The 2019 Novel Coronavirus (COVID–19) has significantly disrupted Americans' livelihoods. Since March 2020, United States businesses and their workers have faced extensive disruptions while undertaking certain public health measures necessary to flatten the curve of COVID–19 and reduce the spread of SARS–CoV–2, the virus that causes COVID–19. The overall unemployment rate in the United States nearly quadrupled between February and May of 2020—producing some of the most extreme unemployment ever recorded by the Bureau of Labor Statistics. While the May rate of 13.3 percent reflects a marked decline from April, millions of Americans remain out of work.

In Proclamation 10014 of April 22, 2020 (Suspension of Entry of Immigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak), I determined that, without intervention, the United States faces a potentially protracted economic recovery with persistently high unemployment if labor supply outpaces labor demand. Consequently, I suspended, for a period of 60 days, the entry of aliens as immigrants, subject to certain exceptions. As I noted, lawful permanent residents, once admitted pursuant to immigrant visas, are granted ''open-market'' employment authorization documents, allowing them immediate eligibility to compete for almost any job, in any sector of the economy. Given that 60 days is an insufficient time period for the United States labor market, still stalled with partial social distancing measures, to rebalance, and given the lack of sufficient alternative means to protect unemployed Americans from the threat of competition for scarce jobs from new lawful permanent residents, the considerations present in Proclamation 10014 remain.

In addition, pursuant to Proclamation 10014, the Secretary of Labor and the Secretary of Homeland Security reviewed nonimmigrant programs and found that the present admission of workers within several nonimmigrant visa categories also poses a risk of displacing and disadvantaging United States workers during the current recovery.

American workers compete against foreign nationals for jobs in every sector of our economy, including against millions of aliens who enter the United States to perform temporary work. Temporary workers are often accompanied by their spouses and children, many of whom also compete against American workers. Under ordinary circumstances, properly administered temporary worker programs can provide benefits to the economy. But under the extraordinary circumstances of the economic contraction resulting from the COVID–19 outbreak, certain nonimmigrant visa programs authorizing such employment pose an unusual threat to the employment of American workers.

For example, between February and April of 2020, more than 17 million United States jobs were lost in industries in which employers are seeking

to fill worker positions tied to H–2B nonimmigrant visas. During this same period, more than 20 million United States workers lost their jobs in key industries where employers are currently requesting H–1B and L workers to fill positions. Also, the May unemployment rate for young Americans, who compete with certain J nonimmigrant visa applicants, has been particularly high—29.9 percent for 16–19 year olds, and 23.2 percent for the 20–24 year old group. The entry of additional workers through the H–1B, H–2B, J, and L nonimmigrant visa programs, therefore, presents a significant threat to employment opportunities for Americans affected by the extraordinary economic disruptions caused by the COVID–19 outbreak.

As I described in Proclamation 10014, excess labor supply is particularly harmful to workers at the margin between employment and unemployment—those who are typically ''last in'' during an economic expansion and ''first out'' during an economic contraction. In recent years, these workers have been disproportionately represented by historically disadvantaged groups, including African Americans and other minorities, those without a college degree, and Americans with disabilities.

In the administration of our Nation's immigration system, we must remain mindful of the impact of foreign workers on the United States labor market, particularly in the current extraordinary environment of high domestic unemployment and depressed demand for labor. Historically, when recovering from economic shocks that cause significant contractions in productivity, recoveries in employment lag behind improvements in economic activity. This predictive outcome demonstrates that, assuming the conclusion of the economic contraction, the United States economy will likely require several months to return to pre-contraction economic output, and additional months to restore stable labor demand. In light of the above, I have determined that the entry, through December 31, 2020, of certain aliens as immigrants and nonimmigrants would be detrimental to the interests of the United States.

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 entry into the United States of persons described in section 1 of Proclamation 10014, except as provided in section 2 of Proclamation 10014, and persons described in section 2 of this proclamation, except as provided for in section 3 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**. *Continuation of Proclamation 10014.* (a) Section 4 of Proclamation 10014 is amended to read as follows:

''**Sec. 4**. *Termination.* This proclamation shall expire on December 31, 2020, and may be continued as necessary. Within 30 days of June 24, 2020, and every 60 days thereafter while this proclamation is in effect, the Secretary of Homeland Security shall, in consultation with the Secretary of State and the Secretary of Labor, recommend any modifications as may be necessary.''

(b) This section shall be effective immediately.

**Sec. 2**. *Suspension and Limitation on Entry.* The entry into the United States of any alien seeking entry pursuant to any of the following nonimmigrant visas is hereby suspended and limited, subject to section 3 of this proclamation:

(a) an H–1B or H–2B visa, and any alien accompanying or following to join such alien;

(b) a J visa, to the extent the alien is participating in an intern, trainee, teacher, camp counselor, au pair, or summer work travel program, and any alien accompanying or following to join such alien; and

(c) an L visa, and any alien accompanying or following to join such alien.

**Sec. 3**. *Scope of Suspension and Limitation on Entry.* (a) The suspension and limitation on entry pursuant to section 2 of this proclamation shall apply only to any alien who:

(i) is outside the United States on the effective date of this proclamation;

(ii) does not have a nonimmigrant visa that is valid on the effective date of this proclamation; and

(iii) does not have an official travel document other than a visa (such as a transportation letter, an appropriate boarding foil, or an advance parole document) that is valid on the effective date of this proclamation or issued on any date thereafter that permits him or her to travel to the United States and seek entry or admission.

(b) The suspension and limitation on entry pursuant to section 2 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

(ii) any alien who is the spouse or child, as defined in section 101(b)(1) of the INA (8 U.S.C. 1101(b)(1)), of a United States citizen;

(iii) any alien seeking to enter the United States to provide temporary labor or services essential to the United States food supply chain; and

(iv) any alien whose entry would be in the national interest as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees.

**Sec. 4**. *Implementation and Enforcement.* (a) The consular officer shall determine, in his or her discretion, whether a nonimmigrant has established his or her eligibility for an exception in section 3(b) of this proclamation. 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 and the Secretary of Labor, may establish in the Secretary of State's discretion. 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 in the Secretary of Homeland Security's discretion.

(i) The Secretary of State, the Secretary of Labor, and the Secretary of Homeland Security shall establish standards to define categories of aliens covered by section 3(b)(iv) of this proclamation, including those that: are critical to the defense, law enforcement, diplomacy, or national security of the United States; are involved with the provision of medical care to individuals who have contracted COVID–19 and are currently hospitalized; are involved with the provision of medical research at United States facilities to help the United States combat COVID–19; or are necessary to facilitate the immediate and continued economic recovery of the United States. The Secretary of State and the Secretary of Homeland Security shall exercise the authority under section 3(b)(iv) of this proclamation and section 2(b)(iv) of Proclamation 10014 to exempt alien children who would as a result of the suspension in section 2 of this proclamation or the suspension in section 1 of Proclamation 10014 age out of eligibility for a visa.

(ii) Aliens covered by section 3(b)(iv) of this proclamation, under the standards established in section 4(a)(i) of this proclamation, shall be identified by the Secretary of State, the Secretary of Homeland Security, or their respective designees, in his or her sole discretion.

(b) 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.

(c) Nothing in this proclamation shall be construed to limit the ability of an individual to seek asylum, refugee status, withholding of removal,

or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws of the United States.

**Sec. 5**. *Additional Measures.* (a) The Secretary of Health and Human Services, through the Director of the Centers for Disease Control and Prevention, shall, as necessary, provide guidance to the Secretary of State and the Secretary of Homeland Security for implementing measures that could reduce the risk that aliens seeking admission or entry to the United States may introduce, transmit, or spread SARS–CoV–2 within the United States.

(b) The Secretary of Labor shall, in consultation with the Secretary of Homeland Security, as soon as practicable, and consistent with applicable law, consider promulgating regulations or take other appropriate action to ensure that the presence in the United States of aliens who have been admitted or otherwise provided a benefit, or who are seeking admission or a benefit, pursuant to an EB–2 or EB–3 immigrant visa or an H–1B nonimmigrant visa does not disadvantage United States workers in violation of section 212(a)(5)(A) or (n)(1) of the INA (8 U.S.C. 1182(a)(5)(A) or (n)(1)). The Secretary of Labor shall also undertake, as appropriate, investigations pursuant to section 212(n)(2)(G)(i) of the INA (8 U.S.C. 1182(n)(2)(G)(i)).

(c) The Secretary of Homeland Security shall:

(i) take appropriate action, consistent with applicable law, in coordination with the Secretary of State, to provide that an alien should not be eligible to apply for a visa or for admission or entry into the United States or other benefit until such alien has been registered with biographical and biometric information, including but not limited to photographs, signatures, and fingerprints;

(ii) take appropriate and necessary steps, consistent with applicable law, to prevent certain aliens who have final orders of removal; who are inadmissible or deportable from the United States; or who have been arrested for, charged with, or convicted of a criminal offense in the United States, from obtaining eligibility to work in the United States; and

(iii) as soon as practicable, and consistent with applicable law, consider promulgating regulations or take other appropriate action regarding the efficient allocation of visas pursuant to section 214(g)(3) of the INA (8 U.S.C. 1184(g)(3)) and ensuring that the presence in the United States of H–1B nonimmigrants does not disadvantage United States workers.

**Sec. 6**. *Termination.* This proclamation shall expire on December 31, 2020, and may be continued as necessary. Within 30 days of the effective date of this proclamation and every 60 days thereafter while this proclamation is in effect, the Secretary of Homeland Security shall, in consultation with the Secretary of State and the Secretary of Labor, recommend any modifications as may be necessary.

**Sec. 7**. *Effective Date.* Except as provided in section 1 of this proclamation, this proclamation is effective at 12:01 a.m. eastern daylight time on June 24, 2020.

**Sec. 8**. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the 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. 9**. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

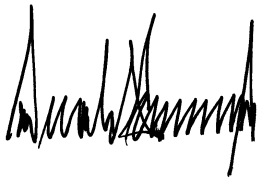
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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 twenty-second day of June, 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 Thursday,

No. 123 June 25, 2020


Part III

## The President

Notice of June 24, 2020—Continuation of the National Emergency With Respect to the Western Balkans

Federal Register
Vol. 85, No. 123
Thursday, June 25, 2020

# Presidential Documents

**Title 3—**

## The President

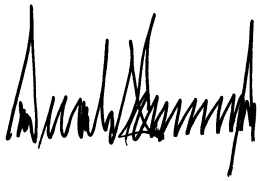
**Notice of June 24, 2020**

## Continuation of the National Emergency With Respect to the Western Balkans

On June 26, 2001, by Executive Order 13219, the President declared a national emergency with respect to the Western Balkans, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting, (i) extremist violence in the former Republic of Macedonia (what is now the Republic of North Macedonia) and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo. The President subsequently amended that order in Executive Order 13304 of May 28, 2003, to take additional steps with respect to acts obstructing implementation of the Ohrid Framework Agreement of 2001 relating to Macedonia.

The actions of persons threatening the peace and international stabilization efforts in the Western Balkans, including acts of extremist violence and obstructionist activity, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on June 26, 2001, and the measures adopted on that date and thereafter to deal with that emergency, must continue in effect beyond June 26, 2020. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the Western Balkans declared in Executive Order 13219.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
*June 24, 2020.*

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