applicable provisions of this section and part 385 of this title, sufficient to allow each applicable copyright owner to assess the manner in which the digital music provider determined the adjustment and the accuracy of the adjustment. As appropriate, an adjustment may be calculated using estimates permitted under paragraph (d)(2) of this section.

(iii) Where applicable, the particular sound recordings and uses to which the adjustment applies.

(iv) A description of the reason(s) for the adjustment.

(4) In the case of an underpayment of royalties, the digital music provider shall pay the difference to the mechanical licensing collective contemporaneously with delivery of the statement of adjustment or promptly after being notified by the mechanical licensing collective of the amount due. A statement of adjustment and its related royalty payment may be delivered together or separately, but if delivered separately, the payment must include information reasonably sufficient to allow the mechanical licensing collective to match the statement of adjustment to the payment.

(5) In the case of an overpayment of royalties, the mechanical licensing collective shall appropriately credit or offset the excess payment amount and apply it to the digital music provider's account, or upon request, issue a refund within a reasonable period of time.

(6)(i) A statement of adjustment must be delivered to the mechanical licensing collective no later than 6 months after the occurrence of any of the scenarios specified by paragraph (k)(6)(ii) of this section, where such an event necessitates an adjustment. Where more than one scenario applies to the same cumulative statement of account at different points in time, a separate 6-month period runs for each such triggering event.

(ii) A statement of adjustment may only be made:

(A) Except as otherwise provided for by paragraph (c)(5) of this section, where the digital music provider discovers, or is notified of by the mechanical licensing collective or a copyright owner, licensor, or author (or their respective representatives, including by an administrator or a collective management organization) of a relevant sound recording or musical work that is embodied in such a sound recording, an inaccuracy in the cumulative statement of account, or in the amounts of royalties owed, based on information that was not previously known to the digital music provider despite its good-faith efforts;

(B) When making an adjustment to a previously estimated input under paragraph (d)(2) of this section;

(C) Following an audit of a digital music provider that concludes after the cumulative statement of account is delivered and that has the result of affecting the computation of the royalties payable by the digital music provider (*e.g.,* as applicable, an audit by a sound recording copyright owner concerning the amount of applicable consideration paid for sound recording copyright rights); or

(D) In response to a change in applicable rates or terms under part 385 of this title.

(7) A statement of adjustment must be certified in the same manner as a cumulative statement of account under paragraph (j) of this section.

(l)(1) Subject to the provisions of 17 U.S.C. 115, a digital music provider and the mechanical licensing collective may agree in writing to vary or supplement the procedures described in this section, including but not limited to pursuant to an agreement to administer a voluntary license, provided that any such change does not materially prejudice copyright owners owed royalties required to be transferred to the mechanical licensing collective for the digital music provider to be eligible for the limitation on liability described in 17 U.S.C. 115(d)(10). The procedures surrounding the certification requirements of paragraph (j) of this section may not be altered by agreement. This paragraph (l)(1) does not empower the mechanical licensing collective to agree to alter any substantive requirements described in this section, including but not limited to the required royalty payment and accounting information and sound recording and musical work information.

(2) The mechanical licensing collective shall maintain a current, free, and publicly accessible online list of all agreements made pursuant to paragraph (l)(1) of this section that includes the name of the digital music provider (and, if different, the trade or consumer-facing brand name(s) of the services(s), including any specific offering(s), through which the digital music provider engages, or has engaged at any time during the period identified in paragraph (c)(1) of this section, in covered activities) and the start and end dates of the agreement. Any such agreement shall be considered a record that a copyright owner may access in accordance with 17 U.S.C. 115(d)(3)(M)(ii). Where an agreement made pursuant to paragraph (l)(1) of this section is made pursuant to an agreement to administer a voluntary license or any other agreement, only those portions that vary or supplement the procedures described in this section and that pertain to the administration of a requesting copyright owner's musical works must be made available to that copyright owner.

(m) Each digital music provider shall, for a period of at least seven years from the date of delivery of a cumulative statement of account or statement of adjustment to the mechanical licensing collective, keep and retain in its possession all records and documents necessary and appropriate to support fully the information set forth in such statement (except that such records and documents that relate to an estimated input permitted under paragraph (d)(2) of this section must be kept and retained for a period of at least seven years from the date of delivery of the statement containing the final adjustment of such input).

Dated: October 30, 2020.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2020–24528 Filed 11–4–20; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 70

RIN 2900–AP89

Change in Rates VA Pays for Special Modes of Transportation

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning beneficiary travel. The revisions would amend the Veterans Health Administration's (VHA) beneficiary travel regulations to establish a new payment methodology for special modes of transportation. The new payment methodology would apply in the absence of a contract between VA and a vendor of the special mode of transportation. For transport by ambulance, VA proposes to pay the lesser of the actual charge or the amount determined by the Medicare Part B Ambulance Fee Schedule (AFS) established by the Centers for Medicare & Medicaid Services (CMS). For travel by modes other than ambulance, VA proposes to establish a payment methodology based on states' posted rates or the actual charge. VA would replace this payment methodology for travel by modes other than ambulance at

some time in the future, once VA has collected enough data to develop a new methodology.

DATES: Comments must be received on or before January 4, 2021.

ADDRESSES: Comments may be submitted through *www.Regulations.gov.* Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Paul Perry, Deputy Director, Veterans Transportation Program (10NB2G), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (404) 828–5691 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 111, VA provides beneficiary travel benefits to eligible veterans who need to travel in connection with vocational rehabilitation, counseling required by the Secretary pursuant to chapter 34 or 35 of Title 38, U.S.C., or for the purpose of examination, treatment, or care. Regulations governing beneficiary travel benefits provided by the Veterans Health Administration (VHA) are in part 70 of title 38, CFR. See also Executive Order 11302. Under part 70, VA pays for a ''special mode of transportation'' when that travel is medically required, the beneficiary is unable to defray the cost of that transportation, and VHA approved the travel in advance or the travel was undertaken in connection with a medical emergency. See 38 CFR 70.2 (defining the term ''[s]pecial mode of transportation''), and 38 CFR 70.4(d) (establishing criteria for approval of special mode travel). We propose to amend these regulations to implement the discretionary authority in 38 U.S.C. 111(b)(3)(C), which permits VA to pay the lesser of the actual charge for ambulance transportation or the amount determined by the Medicare Part B AFS established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), unless VA has entered into a contract for that transportation. Additionally, VA proposes to establish a payment methodology for other types of special modes of transportation, including wheelchair and stretcher van services. VA would use this payment methodology while VA collects data for the purpose of developing a new payment methodology. In doing so, VA would establish two (2) categories of special modes of transportation for purposes of determining the payment rate: Travel by ambulance, which would be defined in 38 CFR 70.2, and travel by modes other than ambulance. We believe that these changes would reduce improper payments and help eliminate payment error, waste, and abuse in line with the goals of Executive Order 13520.

§70.2 Definitions

We propose to add a definition of ''ambulance'' that would be necessary in administering payments for special mode transportation. VA would define ambulance by cross-referencing the CMS regulations related to coverage and payment for ambulance services. See 42 CFR 410.40, 410.41, and Part 414, Subpart H. VA proposes to define ambulance to mean advanced life support, level 1 (ALS1); advanced life support, level 2 (ALS2); basic life support (BLS); fixed wing air ambulance (FW); rotary wing air ambulance (RW); and specialty care transport (SCT), as those services are defined in 42 CFR 414.605. Consistent with 42 CFR 414.605, the definitions of these terms would apply to ground (both land and water) ambulance services and to air ambulance services unless otherwise specified. Currently Medicare Part B covers these levels of ambulance services under 42 CFR 410.40(c), as well as paramedic ALS intercept, when applicable criteria are met. VA would exclude paramedic ALS intercept (PI) because this service involves arriving on scene, providing initial care, and intermittent accompaniment of a person on an ambulance. Paramedic ALS intercept does not involve actual transport of the person, and the vendor may charge for mere arrival on scene rather than providing care during transport. VA would not pay for this charge because PI does not involve active care during transportation from the point of emergency to the final location. CMS regulations are an appropriate reference source in our proposed definition of ''ambulance'' because VA is proposing to rely on the Medicare Part B AFS payment rates in its new ambulance payment methodology as authorized by 38 U.S.C. 111(b)(3)(C). VA would make this change in an effort to maintain uniformity with CMS and eliminate confusion for vendors.

§70.30 Payment Principles

Under current 38 CFR 70.30(a)(4), VA pays the ''actual cost of a special mode of transportation.'' Current 38 CFR 70.30(a)(4) has not been revised to reflect VA's payment authority for travel by ambulance in 38 U.S.C. 111(b)(3)(C), and this proposed rule would implement that authority in 38 CFR 70.30(a)(4). Moreover, VA would revise 38 CFR 70.30(a)(4) to prescribe a payment methodology for travel by modes other than ambulance while VA collects data for the purpose of developing a new payment methodology. The new payment methodology would be the subject of a separate and later rulemaking.

We would restructure the current language in 38 CFR 70.30(a)(4) to distinguish between travel by ambulance and travel by modes other than ambulance in new 38 CFR 70.30(a)(4)(i) and 70.30(a)(4)(ii), respectively. Additionally, VA would state that the proposed payment methodologies for special modes of transportation would apply notwithstanding 38 CFR 17.55 and 17.56 for purposes of 38 CFR 17.120, which relates to payment or reimbursement of the expenses of emergency treatment under 38 U.S.C. 1728. Proposed 70.30(a)(4) would also specify that the payment methodologies for travel by ambulance and travel by modes other than ambulance would not apply when VA has entered into a contract with the vendor. When VA has entered into a contract with the vendor, the terms of the contract would govern VA's payments. Finally, proposed 70.30(a)(4) would define the term ''posted rate'' for purposes of the payment methodology for travel by modes other than ambulance, discussed further below.

Proposed 38 CFR 70.30(a)(4)(i) would establish in regulation a new payment methodology for travel by ambulance. VA would adopt the Medicare Part B AFS for transport by ambulance, and we would pay for ambulance services based on the lesser of either the AFS payment amount or the actual charge, unless (as would be stated in 38 CFR 70.30(a)(4)) VA has executed a contract for ambulance services from the vendor in which case the terms of the contract would govern VA payments. For ALS1 and BLS, the AFS includes rates for emergency and nonemergency transportation. For purposes of proposed section 70.30(a)(4)(i), VA would apply the applicable CMS rate based on the vendor's coded invoice. New 38 CFR 70.30(a)(4)(i) would read as follows: ''Travel by ambulance: VA will pay the lesser of the actual charge for ambulance transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)).''

Proposed 38 CFR 70.30(a)(4)(ii) would establish in regulation a payment methodology for travel by modes other than ambulance. Unlike travel by ambulance, there are no existing Medicare Part B payment rates for transport by modes other than

ambulance to include wheelchair and stretcher van services. While Medicare Part B does not currently cover these services, there are Healthcare Common Procedure Coding System (HCPCS) codes for them, and CMS makes reference to the published Medicaid rates in each respective state. In this proposed rule, we refer to the published Medicaid rates in each respective state as ''posted rates.'' If a state has a posted rate, then VA would be able to access it. Relying on posted rates alone, however, would present two challenges: (1) VA cannot direct vendors to one source to obtain the posted rate for these services, and (2) not every state has posted rates for these services or makes them available. Because of this, VA proposes to establish a payment methodology for these other types of special mode of transportation services, while VA collects data for the purpose of developing a new payment methodology, which would be the subject of a separate and later rulemaking.

Proposed 38 CFR 70.30(a)(4) would define the term ''posted rate'' for purposes of section 70.30(a)(4)(ii) to mean ''the applicable Medicaid rate for the special mode transport in the state or states where the vendor is domiciled or where transport occurred (''involved states'').'' Proposed 38 CFR 70.30(a)(4)(ii)(A)–(C) would create a payment methodology to pay the lesser of either: (1) A state's posted rate for these services, or (2) the vendor's actual charge. VA would undertake this action as stated above to comport with Executive Order 13520. By paying the lowest rate between a state's posted rate or the vendor's actual charge, VA would actively reduce the possibility of waste and abuse in a major VA program.

VA recognizes that some vendors provide services only in states where they are domiciled or are domiciled in states other than the ones in which they provide services. VA would attempt to account for both singular and multi-jurisdictional vendors. VA also recognizes that transport can occur across state lines, and we would account for this in the payment methodology. For situations where the vendor provides services in a state or states other than where the vendor is domiciled, or where special mode transport occurs across state lines, VA would pay the lowest posted rate among the states involved or the actual charge, whichever is lowest. If the states involved have no posted rate, then VA would pay the vendor's actual charge. We would make this change in an effort to control costs where we work with regional or national vendors who provide services in multiple jurisdictions, and the posted rates in the areas where they deliver services are lower or higher than the vendor's state or states of domicile. In the absence of a posted rate for an involved state, VA would pay the lowest among the posted rates of the other state or states or the vendor's actual charge. Proposed 70.30(a)(4)(ii) would read as follows: ''Travel by modes other than ambulance: VA will pay the lesser of: (A) The vendor's actual charge. (B) The posted rate in the state where the vendor is domiciled. If the vendor is domiciled in more than one state, the lowest posted rate among all involved states. (C) The posted rate in the state where transport occurred. If transport occurred in more than one state, the lowest posted rate among all involved states. NOTE TO PARAGRAPH (a)(4)(ii): In the absence of a posted rate for an involved state, VA will pay the lowest among the available posted rates or the vendor's actual charge.''

After utilizing this methodology for an initial 90 calendar day period after this rule becomes final in the **Federal Register**, VA would analyze the payments made to vendors for travel by modes other than ambulance and determine whether we have enough payment data (*e.g.,* arithmetic average of actual charges, locality rates, or posted rates) to develop a new methodology. If VA determines that it has enough payment data, then VA would develop a payment methodology using the lowest possible rate. If VA does not have enough payment data to create a methodology after the initial 90 calendar day period, then VA would continue to collect data for as many 90 calendar day intervals as VA would deem necessary to gather sufficient payment data, which we do not anticipate exceeding 18 months from the effective date of the final rule. Subsequently, VA would propose a new methodology for travel by modes other than ambulance in a separate rulemaking in the **Federal Register**.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. VA estimates that this proposed rule would potentially impact 2,979 small entities within NAICS Code 621910 (Ambulance Services), which represents 97 percent of the total entities covered by NAICS Code 621910. However, VA assumes that all entities within NAICS Code 621910 would bear VA's cost avoidance equally. The per entity burden is estimated to be less than 1% of preliminary receipts for all entities in NAICS Code 621910. VA does not believe the impact on vendors within NAICS Code 621999 (All Other Miscellaneous Ambulatory Health Care

Services) or NAICS Code 485991 (Special Needs Transportation) will be significant because we do not typically pay for non-contract wheelchair or stretcher van services. Because VA estimates that over 99% of its payments to vendors potentially covered within NAICS Codes 621999 and 485991 are made pursuant to a contract, less than 1% of small entities within these NAICS Codes are estimated to be impacted by this proposed rule. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.008—Veterans Domiciliary Care; 64.012—Veterans Prescription Service; 64.013—Veterans Prosthetic Appliances; 64.014—Veterans State Domiciliary Care; 64.015—Veterans State Nursing Home Care; 64.026—Veterans State Adult Day Health Care; 64.029—Purchase Care Program; 64.035—Veterans Transportation Program; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.043—VHA Mental Health Residential; 64.044—VHA Home Care; 64.045—VHA Outpatient Ancillary Services; 64.046—VHA Inpatient Psychiatry; 64.047—VHA Primary Care; 64.048—VHA Mental Health clinics; 64.049—VHA Community Living Center; 64.050—VHA Diagnostic Care.

List of Subjects in 38 CFR Part 70

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Brooks D. Tucker, Assistant Secretary for Congressional and Legislative Affairs, Performing the Delegable Duties of the Chief of Staff, Department of Veterans Affairs, approved this document on October 28, 2020, for publication.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 70 as follows:

PART 70—VETERANS TRANSPORTATION PROGRAMS

■ 1. The authority citation for part 70 is revised to read as follows:

Authority: 38 U.S.C. 101, 111, 111A, 501, 1701, 1714, 1720, 1728, 1782, 1783, E.O. 11302, and E.O. 13520.

■ 2. Amend § 70.2, by adding in alphabetical order the definition ''Ambulance'' to read as follows:

Ambulance for this subpart, means advanced life support, level 1 (ALS1); advanced life support, level 2 (ALS2); basic life support (BLS); fixed wing air ambulance (FW); rotary wing air ambulance (RW); and specialty care transport (SCT), as those terms are defined in 42 CFR 414.605.

* * * * *

■ 3. In § 70.30 amend paragraph (a)(4) to read as follows:

§ 70.30 Payment principles.

(a) * * *

(4) VA payments for special modes of transportation will be made in accordance with this section, unless VA has entered into a contract with the vendor in which case the terms of the contract will govern VA payments. This section applies notwithstanding 38 CFR 17.55 and 17.56 for purposes of 38 CFR 17.120. For purposes of paragraph (ii), the term ''posted rate'' refers to the applicable Medicaid rate for the special mode transport in the state or states where the vendor is domiciled or where transport occurred (''involved states'').

(i) Travel by ambulance: VA will pay the lesser of the actual charge for ambulance transportation or the amount determined by the fee schedule established under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)).

(ii) Travel by modes other than ambulance: VA will pay the lesser of:

(A) The vendor's actual charge.

(B) The posted rate in the state where the vendor is domiciled. If the vendor is domiciled in more than one state, the lowest posted rate among all involved states.

(C) The posted rate in the state where transport occurred. If transport occurred in more than one state, the lowest posted rate among all involved states.

Note to paragraph (a)(4)(ii) of this section: In the absence of a posted rate for an involved state, VA will pay the lowest among the available posted rates or the vendor's actual charge.

* * * * *

[FR Doc. 2020–24261 Filed 11–4–20; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0388; FRL–10016–08–Region 5]

Air Plan Approval; Ohio; Base Year Emission Inventories and Emissions Statement Rule Certification for the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), a revision to the State Implementation Plan (SIP) submitted by the Ohio Environmental Protection Agency on July 24, 2020. The CAA establishes emission inventory requirements for all ozone nonattainment areas. The revision will address the emission inventory requirements for the Cleveland, Ohio (OH) nonattainment area and the Ohio portion of the Cincinnati, Ohio-Kentucky (Cincinnati) ozone nonattainment area, as designated under the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard). Also, EPA is proposing to approve Ohio's certification that its stationary annual emissions statement regulation, which has been previously approved by EPA under a prior ozone standard, satisfies the CAA emissions statement rule requirement for the Cleveland and Cincinnati nonattainment areas under the 2015 ozone NAAQS.

DATES: Comments must be received on or before December 7, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0388 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of